

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
SECURITY FENCE & DOOR CORP.) CASE NO. 00-63755 JPK  
 ) Chapter 7  
Debtor. )  
\*\*\*\*\*  
DAVID R. DUBOIS, TRUSTEE, )  
 ) Plaintiff, )  
 )  
v. ) ADVERSARY NO. 02-6295  
RALPH STEIGER, )  
 ) Defendant. )

ORDER CONCERNING FURTHER PROCEEDINGS

This adversary proceeding was initiated by a complaint filed on November 27, 2002. The underlying bankruptcy case – that of Security Fence & Door Corp. – was initiated as a voluntary Chapter 11 case, but it was subsequently converted to a case under Chapter 7. Some of the delay involved in concluding this case is attributable to the transition between the Chapter 11 and the Chapter 7, and the substitution of the party plaintiff and counsel for the plaintiff. By far the most significant factor in delaying conclusion of this case has been the filing of personal Chapter 13 cases by the defendant Ralph Steiger, during which further proceedings in this adversary proceeding were suspended. The last of these Chapter 13 cases, case number 05-65295, was dismissed on November 8, 2007.

By order entered on January 30, 2008, the Court scheduled a status conference in this case. The Court's record discloses that notice of this conference was provided to the defendant Ralph Steiger. At the February 22, 2008 conference, the plaintiff David R. DuBois appeared personally; the defendant Ralph Steiger did not appear.

The conference held on February 22, 2008 is within the provisions of Fed.R.Bankr.P. 7016/Fed.R.Civ.P. 16. As noted previously, the defendant Ralph Steiger – now proceeding *pro se* – did not appear at the conference, despite the Court's record establishing that he received notice of the hearing. Fed.R.Civ.P. 16(f) provides for sanctions if a party fails to appear at a

scheduling or pre-trial conference, including the sanctions provided by Fed.R.Civ.P. 37(b)(2)(C). Included within the sanctions in this latter Rule are those provided by Rule 37(b)(2)(C), one of which is “rendering a judgment by default against the disobedient party”.

In reviewing the record, the Court determines that the sanction of judgment by default against the defendant Ralph Steiger may be appropriate in this case. The Court also determines that if judgment by default is entered, in order to determine the extent and amount of the judgment to be entered, a hearing is required pursuant to Fed.R.Bankr.P. 7055/ Fed.R.Civ.P. 55(b)(2).

IT IS ORDERED as follows:

1. A hearing will be held on **April 18, 2008, at 10:00 A.M.** to determine whether judgment by default should be entered against the defendant Ralph Steiger due to his failure to attend the conference held on February 22, 2008. If the defendant fails to appear at this hearing, the Court will determine that the sanction to be imposed against the defendant is the entry of a judgment of default.

2. No less than five days prior to the hearing scheduled by the immediately preceding sub-paragraph, the plaintiff shall file an affidavit, and serve that affidavit upon the defendant Ralph Steiger, which states – to the extent the plaintiff is able to do so – the date and amount of each transfer made by Security Fence & Door Corp. to the defendant Ralph Steiger encompassed within the complaint filed in this adversary proceeding, and the circumstances of each such transfer. Contemporaneously with the filing of this affidavit, the plaintiff shall file a proposed form of judgment with respect to the contentions under the complaint which the plaintiff asserts are supported by the filed affidavit.

Dated at Hammond, Indiana on March 4, 2008.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:

Plaintiff

Ralph Steiger, 39 Shore Drive #820, Ogden Dunes, IN 46368