

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
ANTHONY J. MANUEL, ) CASE NO. 07-23364 JPK  
 ) Chapter 13  
Debtor. )

ORDER DENYING MOTION TO REINSTATE AUTOMATIC  
STAY AS TO THE BANK OF NEW YORK TRUST COMPANY, N.A. ("MOTION")

The Motion, filed on July 1, 2008, requests that the Court reinstate the automatic stay of 11 U.S.C. § 362 with respect to New York Trust Company, N.A. The circumstances are that this case was initially a Chapter 7 case, pursuant to voluntary petition filed by the debtor. On April 14, 2008, the Court entered an order with respect to a motion for stay relief/abandonment filed by New York Trust Company, N.A. on March 12, 2008. In doing so, the Court overruled by separate order an objection to that motion filed by the debtor. The order entered on April 14, 2008 not only relieved the Bank of New York from the operation of the automatic stay with respect to *in rem* actions concerning the real estate which was the subject of the motion, but – in accordance with the relief requested by the creditor – the subject real estate was abandoned from the debtor’s bankruptcy estate.

On June 27, 2008, the debtor’s motion to convert his Chapter 7 case to a case under Chapter 13 – filed on May 19, 2008 – was granted. Apparently now the debtor seeks to arrange, by means of his Chapter 13 plan, a mechanism for retaining the property which was the subject of the New York Trust Company’s prior motion.

First, the order providing for relief from stay/abandonment was a final order. The Motion comes too late to be construed as an appeal of that order, and apparently it seeks relief pursuant to Fed.R.Bankr.P. 9024/Fed.R.Civ.P. 60(b). Apart from the fact that the Motion does not comply with N.D.Ind.L.B.R. B-9023-1 (in that it is not accompanied by a supporting brief, and in fact does not even designate the rule or statute under which it seeks relief), the Motion

fails to state any grounds for setting aside a final judgment. The Motion seeks merely to reinstate the automatic stay – again without any cognizable grounds for doing so. However, the order/judgment to which it is directed also abandoned the property from the debtor’s bankruptcy estate, and, once abandoned, even if the automatic stay were reinstated there would be nothing to preclude the creditor from pursuing its *in rem* remedy with respect to the sale of the subject real estate.

IT IS ORDERED that the Motion is denied.

Dated at Hammond, Indiana on July 10, 2008.

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

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee  
Attorney for Creditor