

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION AT HAMMOND

M-2B

IN RE: )  
CHESTER BACHORSKI )  
 ) BANKRUPTCY NO. 07-22642  
 )  
Debtor )

**ORDER**

The Court finds that Fed. R. Bk. P. 9014 relating to contested matters applies to the Objection to Claim of the Internal Revenue Service filed by the Debtors (“Objectant”) on the 13 day of August, 2008.

The Court further finds that since this is a contested matter pursuant to Fed. R. Bk. P. 9014(b), Service, Fed. R. Bk. P. 7004, Process; Service of Summons, Complaint, is applicable, and inasmuch as the United States is a party to said Objection to Claim, the Objectant has not made proper service on the United States as required by Fed. R. Bk. P. 7004(b)(4) and (5), in that service was made on the Internal Revenue Service in Philadelphia, Pennsylvania, not on the Internal Revenue Service in Indianapolis effective April 13, 2007, the U. S. Attorney, but not on the United States Attorney General.<sup>1</sup> See In re Laughlin, 210 B.R. 659, 660-661 (1<sup>st</sup> Cir. BAP 1997); In re Levoy, 182 B.R. 827, 834

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<sup>1</sup>Fed. R. Bk. P. 7004(b)(4) and (5), as amended effective December 1, 1996, provide in part as follows:

(B) **Service by First Class Mail.** Except as provided in subdivision (h), in addition to the methods of service authorized by Rule 4(e)-(j) FR Civ. P., service may be made within the United States by first class mail postage prepaid as follows:

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(4) Upon the United States, by mailing a copy of the summons and complaint addressed to the civil process clerk at the office of the United States attorney for the district in which the action is brought and by mailing a copy of the summons and complaint to the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or an agency of the United States not made a party, by also mailing a copy of the summons and complaint to that officer or agency. The court shall allow a reasonable time for service pursuant to this subdivision for the purpose of curing the failure to mail a copy of the summons and complaint to multiple officers, agencies, or corporations of the United States if the plaintiff has mailed a copy of the summons and complaint either to the civil process clerk at the office of the United States attorney or to the Attorney General of the United States.

(9<sup>th</sup> Cir. BAP 1985); In re Hernandez 173 B.R. 430, 431-432 (N.D. Ala. 1994). Compare, In re J.B. Winchells, Inc., 106 B.R. 384, 394-399 (Bankr. E.D. Pa. 1989) (motion to sell free and clear of liens).

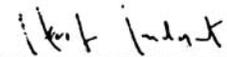
In addition, N.D. Ind. L.B.R. B-3007-1(b) provides, in part, as follows:

If the objection is to a claim of the United States of America, or any agency, instrumentality, or department thereof, the objection shall also be served on the appropriate office of the United States Attorney as designated in the list filed with the clerk pursuant to N.D. Ind. L.B.R. B-1007-5.

It is therefore,

**ORDERED** that proper service be made by the Objectant as required by Fed. R. Bk. P. 7004(b)(4) and (5), and a certificate of such service be filed with the Court in compliance with Fed. R. Bk P. 9013 and N.D. Ind. L.B.R. B-9013-4(a) within sixty (60) days from the date of this Order, or the Court may sua sponte dismiss said Objection to Claim without further notice and hearing.

Dated: September 18, 2008

  
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**JUDGE, U. S. BANKRUPTCY COURT**

Distribution

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(5) Upon any officer or agency of the United States, by mailing a copy of the summons and complaint to the United States as prescribed in paragraph (4) of this subdivision and also to the officer or agency. If the agency is a corporation, the mailing shall be as prescribed in paragraph (3) of this subdivision of this rule. The court shall allow a reasonable time for service pursuant to this subdivision for the purpose of curing the failure to mail a copy of the summons and complaint to multiple officers, agencies, or corporations of the United States if the plaintiff has mailed a copy of the summons and complaint either to the civil process clerk at the office of the United States attorney or the Attorney General of the United States.