

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
ZIVOJIN MITICH, ) CASE NO. 08-22933 JPK  
 ) Chapter 13  
Debtor. )

ORDER OF DISMISSAL OF CHAPTER 13 CASE WITH PREJUDICE

On November 13, 2008, a hearing was held pursuant to the court's Order for Hearing Regarding Dismissal entered on October 15, 2008, and with respect to the Chapter 13 Trustee's Amended Motion to Dismiss and Injunction Against Refiling filed on October 29, 2008. The record establishes that notice of the hearings on both of the foregoing matters was properly provided to the debtor. At the November 13, 2008 hearing, the Trustee appeared by counsel Amy Godshalk; the debtor failed to appear.

As outlined in the October 15, 2008 order, the debtor's conduct in relation to orders of the United States Bankruptcy Court is as egregious as this court has ever observed in terms of total disregard of the process and procedure in relation to cases filed by the debtor established by those orders.

But wait, there's more.

Let's recount the debtor's history in the United States Bankruptcy Court for the Northern District of Indiana. The debtor began with case number 02-64818, a Chapter 13 case filed on October 4, 2002. This case was dismissed by order entered on November 26, 2002 due to the debtor's failure to timely file a Chapter 13 plan, and a 180-day bar to filing a subsequent case was imposed pursuant to 11 U.S.C. § 109(g)(1). On December 18, 2003, a voluntary Chapter 13 case was commenced in case number 03-66036. This case was dismissed by order entered on June 15, 2004, due to the debtor's failure to file an amended plan pursuant to an order of the court. The next hop-stop was case number 05-62374, a Chapter 13 case filed on

May 5, 2005. This case was dismissed on August 15, 2005 due to the debtor's failure to comply with an order of the court requiring filing of tax returns. On August 17, 2007, the debtor filed a voluntary petition to initiate a Chapter 13 case in case number 07-22206, a case which was dismissed pursuant to 11 U.S.C. § 521(i)(1) due to the debtor's failure to timely file a Statement of Financial Affairs. On January 4, 2008, the debtor initiated case number 08-20035, another Chapter 13 case, which was dismissed by order entered on March 12, 2008 which included a bar to refiling a case under Title 11 for a period of 180 days. Not to be deterred in the quintessential quest for bankruptcy redemption, the debtor then initiated case number 08-22203 by a petition filed on July 11, 2008. This case was met with a dismissal order entered on July 18, 2008, which barred filing a subsequent case under Title 11 until after November 11, 2008.

And now we come to the latest stop on the debtor's journey through the bankruptcy universe. Case number 08-22933 was initiated by a voluntary petition filed on September 5, 2008. This filing is in direct violation of the order of dismissal entered on August 14, 2008 in case number 08-22203, and in fact is in violation of the order of dismissal entered on March 13, 2008 in case number 08-22035, the latter of which precluded filing of a case under Title 11 until after September 8, 2008.

It goes without saying that the instant case – case number 08-22933 – is a nullity due to the debtor's violation of not one, but two, orders of the United States Bankruptcy Court with respect to preclusion from filing of this case. The debtor's conduct with respect to repetitive filings evidences such a total disregard of the bankruptcy system – and of orders of the United States Bankruptcy Court for the Northern District of Indiana – that a remedy more comprehensive than the preclusion of filing is necessitated.

The United States Bankruptcy Court has the authority and power, pursuant to 11 U.S.C. § 105(a), to issue any order or take any action necessary to prevent an abuse of process, or to

enforce or implement court orders or rules. The court thus has the authority effectively preclude the filing of any bankruptcy case for an extended period of time.

The court finds that the debtor's consistent conduct in failing to comply with orders of the court in prior bankruptcy cases evidences total disregard for the system of laws of the United States, and constitutes an abuse of the process of the bankruptcy system to the extent of invoking the court's jurisdiction to enter an order pursuant to 11 U.S.C. § 105(a) which bars the debtor from any effective bankruptcy relief, in any manner, for an extended period of time.

The court determines that pursuant to orders entered in case numbers 08-20035 and 08-22203, the filing of the petition in this case was barred, and was ineffective to initiate a case under the Bankruptcy Code. The court further finds that the debtor's conduct in consistently evading and avoiding orders of the United States Bankruptcy Court constitutes a willful abuse of the process of law with respect to the Bankruptcy Code. The court further finds that an appropriate remedy is the barring of the debtor from filing any case under Title 11 of the United States Bankruptcy Code for a period of two (2) years from the date of entry of this order, and the entry of an order which provides that in the event the debtor violates the prohibition of this order, the case will be a nullity from its inception and the automatic stay of 11 U.S.C. § 362(a) will never be in effect with respect to the debtor.

The court further finds that the debtor's conduct compels a determination which bars dischargeability of any debts, as defined by 11 U.S.C. § 101(12), from dischargeability in any case subsequently filed by the debtor under Title 11 of the United States Code, for cause pursuant to 11 U.S.C. § 349(a). [See, *In re Hall*, 304 F.3d 743 (7<sup>th</sup> Cir. 2002)].

IT IS THEREFORE ORDERED that the petition of the debtor should be, and is hereby **DISMISSED** pursuant to §1307(c)(1) and (c)(3).

IT IS FURTHER ORDERED:

1. That if the debtor's plan is not confirmed, the Trustee and all parties in interest are hereby allowed leave of Court of twenty (20)

days from the date of this Order to apply to this Court pursuant to §503(b) for any actual and necessary expenses of administration pursuant to §1326(a)(2). If the Plan of the debtor has been confirmed the Trustee shall distribute any payment by debtor in accordance with the Plan pursuant to §1326(a)(2).

2. That the Trustee is directed to order his final report and account, and he is relieved of his trust and is discharged from his duties.
3. That the bond of said Trustee be and it hereby is canceled, and that the surety or sureties thereon be and they hereby are released from further liability thereunder, except any liability which may have accrued during the time such bond was in effect.
4. That if there is an income deduction order pending, the employer is hereby ordered to terminate deductions.
5. That the case shall be terminated and closed after completion of the foregoing.

IT IS FURTHER ORDERED, that pursuant to 11 U.S.C. § 105(a), and 11 U.S.C. § 349(a) that the debtor is enjoined from filing any case under Title 11 of the United States Code for a period of two (2) years from the date of entry of this order.

IT IS FURTHER ORDERED that in the event the debtor violates the prohibitions of the foregoing paragraph, with respect to any case filed in violation of those provisions, the automatic stay of 11 U.S.C. § 362(a) shall not be effective in any manner in any such case so filed by the debtor.

IT IS FURTHER ORDERED pursuant to 11 U.S.C. § 105(a) and 11 U.S.C. § 349(a) that the dismissal of this Chapter 13 case shall be with prejudice, and that as a result no debt of the debtor existing on or before September 5, 2008 shall be dischargeable in any case subsequently filed by the debtor under Title 11 of the United States Code.

Dated at Hammond, Indiana on November 20, 2008.

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

Distribution:  
Debtor, Trustee, US Trustee, All Creditors, All Parties-in-Interest