

NOT FOR PUBLICATION OR CITATION

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

IN RE: CASE NO. 09-41122)	
)	
KODY LEE KEYS)	
)	
Debtor)	
)	
KODY LEE KEYS)	
)	
Plaintiff)	
)	
vs.)	PROC. NO. 10-4007
)	
MEYER & NAJEM CONSTRUCTION LLC)	
)	
Defendant)	
)	
MEYER & NAJEM CONSTRUCTION LLC)	
)	
Counter-Plaintiff)	
)	
vs.)	
)	
KODY LEE KEYS)	
)	
Counter-Defendant)	
)	
MEYER & NAJEM CONSTRUCTION LLC)	
)	
Third Party Plaintiff)	
)	
vs.)	
)	
ALFREDO RUIZ, et. al.)	
)	
Third Party Defendants)	

DECISION AND ORDER OF DISMISSAL

At Fort Wayne, Indiana, on September 14, 2010.

The debtor/plaintiff is the sole shareholder of a small corporation. By this adversary

proceeding he seeks to collect amounts due the corporation from various parties. The court previously questioned the debtor's standing to collect debts owed to his corporation, as well as the court's subject matter jurisdiction over a proceeding to collect a debt owed to an entity other than the bankruptcy estate. See, Order dated June 15, 2010. Before those issues could be addressed, the court was advised that the matter had been settled. See, Agreed Motion to Continue, filed July 9, 2010. As a result, it established a deadline for filing a motion to compromise and indicated that if the motion was not filed within the time required the issues it raised would be taken under advisement. See, Order on Agreed Motion, dated July 12, 2010. The anticipated/hoped-for motion was never filed and so the questions of standing and subject matter jurisdiction are now before the court for a decision.

As to the first issue – the plaintiff's standing – a corporation and its shareholders are separate entities. See, Fowler v. Shadel, 400 F.3d 1016 (7th Cir. 2005). This remains so even if, as here, the corporation has but a single shareholder. Thus, an individual shareholder does not have standing to collect a debt owed to the corporation. See, Franchise Tax Bd. of Cal. v. Alcan Aluminum Ltd., 493 U.S. 331, 335, 110 S.Ct. 661, 664 (1990); PricewaterhouseCoopers, LLP v. Massey, 860 N.E.2d 1252 (Ind. Ct. App. 2007) .

As to the second issue – the court's subject matter jurisdiction – the court concludes that it lacks subject matter jurisdiction over this proceeding. That jurisdiction is conferred by 28 U.S.C. § 1334(b) (jurisdiction over “all civil proceedings arising under title 11, or arising in or related to cases under title 11.”).¹ Since this proceeding does not involve a cause of action created by title 11

¹Although bankruptcy jurisdiction is initially vested in the district courts, 28 U.S.C. § 157(a) allows the district courts to refer that jurisdiction to bankruptcy judges. Paragraphs (b) and (c) of § 157 then go on to describe how the bankruptcy judges are to exercise that jurisdiction. This makes

or rights that would have no existence outside the bankruptcy case, the only available basis for jurisdiction is the “related to” jurisdiction of § 1334(b). That jurisdictional grant encompasses the various proceedings, based upon non-bankruptcy law, which affect the amount of property of the bankruptcy estate or its distribution among the debtor’s creditors. See, In re Spaulding, 131 B.R. 84, 88 (Bankr. N.D. Ill. 1990). Although potentially quite broad, in the Seventh Circuit related to jurisdiction is interpreted narrowly. Zerand-Bernal Group, Inc. v. Cox, 23 F.3d 159, 161 (7th Cir. 1994); Home Ins. Co. v. Cooper & Cooper, Ltd., 889 F.2d 746, 749 (7th Cir. 1989). It is not broad enough to include actions designed to collect debts owed to entities other than the bankruptcy estate, see, Fort Wayne Telsat, Inc. v. Simon, 403 B.R. 590, 594-95 (Bankr. N.D. Ind. 2009); In re Doctors Hospital of Hyde Park, Inc., 308 B.R. 311, 317-18 (Bankr. N.D. Ill. 2004) and that is the purpose of the present action: to collect a debt owed to an entity other than the bankruptcy estate. The fact that the debtor happens to own all the stock in the corporation, making the stock property of the bankruptcy estate, 11 U.S.C. § 541, does not change that analysis. See, Fowler, 400 F.3d at 1019. This action does not involve property of the bankruptcy estate or the estate’s distribution to debtor’s creditors. Consequently, the court lacks jurisdiction over it.

For all of these reasons, this adversary proceeding is DISMISSED.

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court

the bankruptcy court’s jurisdiction derivative of that given to the district court, see, Matter of Fedpak Systems, Inc., 80 F.3d 207, 213 (7th Cir. 1996), and is the reason that some decisions talk about the bankruptcy court having jurisdiction under different parts of § 157(b) or § 157(c), rather than § 1334. See e.g., Matter of Xonics, 813 F.2d 127, 131 (7th Cir. 1987).