

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
LARRY ELLIS MITCHELL, ) CASE NO. 05-65332 JPK  
 ) Chapter 13  
Debtor. )

ORDER DENYING MOTION TO APPOINT RECEIVER

On June 16, 2006, creditor Centier Bank filed a Motion to Appoint Receiver Pursuant to Second Agreed Order, requesting that the Court appoint a receiver to act as a receiver over the debtor's commercial property located at 5660-5664 Harrison Avenue, Merrillville, Indiana pursuant to the terms of an order entered by the Court on June 6, 2006. The Court must decline to grant the motion because it lacks jurisdiction to do so.

On February 22, 2006, the United States of America, Internal Revenue Service, filed a motion to dismiss the debtor's case. The motion was premised upon the eligibility requirements stated in 11 U.S.C. § 109(e). At pre-hearing conferences held with respect to the motion, the debtor's counsel stated that it might be possible for the debtor to file amended federal tax returns which would reduce his federal tax liabilities to an amount which would bring his case within the eligibility requirements of § 109(e). As a result of the hearing held on May 15, 2006, which was attended by counsel for Centier Bank, the Court scheduled the government's motion to dismiss for hearing on June 19, 2006. The result of that hearing was that the debtor's case was dismissed due to his ineligibility to be a debtor under the provisions of 11 U.S.C. § 109(e); the order of dismissal was entered on June 20, 2006.

The issue before the Court on the creditor's motion is whether the Court has jurisdiction to enter an order or judgment with respect to an order entered prior to dismissal of the case – subsequent to dismissal of the case. The Court's jurisdiction of course derives from 28 U.S.C. § 1334(a), 28 U.S.C. § 157 and N.D.Ind.L.R. 200.1 of the United States District Court for the

Northern District of Indiana which delegates that Court's bankruptcy jurisdiction to the United States Bankruptcy Court for the Northern District of Indiana. All jurisdiction to be exercised by a United States Bankruptcy Court depends upon there being pending a matter within the provisions of 28 U.S.C. § 1334(a) or (b). That is no longer the case here: when the debtor's case was dismissed, the Court's jurisdiction over matters relating to the debtor ceased.

The Court notes that there are cases which have determined that a United States Bankruptcy Court has jurisdiction following the dismissal of a case to enter an order which resolves a matter pending before the Court prior to dismissal; *See, e.g., In re Post*, 119 B.R. 566 (Bankr. S.D.Ohio 1989); *In re Eighty South Lake, Inc.*, 81 B.R. 580 (9<sup>th</sup> Cir. BAP 1987). Without deciding whether or not there might be circumstances in which this Court might follow the determination made in the foregoing cases, those cases involve the entry of one discrete order which finally and fully resolves a matter pending in the bankruptcy court prior to dismissal of a case. In contrast, Centier Bank's motion contemplates the United States Bankruptcy Court appointing a receiver, which then involves this Court's involvement in matters relating to the receivership. It is absolutely clear to this Court that it has no jurisdiction whatsoever to involve itself in a receivership action which comes into being subsequent to the dismissal of the debtor's bankruptcy case.

For the reasons stated above, the Court finds that the motion of Centier Bank must be denied.

IT IS ORDERED that the foregoing motion is denied.

Dated at Hammond, Indiana on July 27, 2006.

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

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