UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE: CASE NO. 05-15813	)	
	)	
DAWN VANAE STANLEY	)	
	)	
Debtor	)	
	)	
	)	
DUSTIN M. ROACH	)	
	)	
Plaintiff	)	
	)	
vs.	)	PROC. NO. 06-1189
	)	
FIRST FEDERAL SAVINGS BANK OF ANGOLA	)	
	)	
	)	
Defendant	)	

DECISION AND ORDER

At Fort Wayne, Indiana, on July 27, 2006.

This matter is before the court on the plaintiff's motion for a default judgment. On June 15, 2006, the plaintiff filed a return indicating that the summons and the complaint had been served upon the defendant by first class mail on June 15, 2006. The court notes that this service does not fulfill the requirements of Rule 7004(h) of the Federal Rules of Bankruptcy Procedure.

In adversary proceedings, Rule 7004 governs service of process. In most instances, Rule 7004 authorizes service by first-class mail. See, Fed. R. Bankr. P. Rule 7004(b). But where the defendant is an "insured depository institution" (as defined by section 3 of the Federal Depository Insurance Act), service by first-class mail under Rule 7004(b) is not an option. Instead, Rule 7004(h) requires that service "shall be made by certified mail addressed to an officer of the institution unless" one of three specific exceptions applies. See, Fed. R. Bankr. P. Rule 7004(h)(1)-(3). None of those

exceptions are applicable here. Nothing in the court's file indicates that it has authorized service by first-class mail, the Bank has not filed a written waiver of the right to service by certified mail, and no attorney has filed an appearance on its behalf. Id. Therefore, service is defective because the plaintiff failed to serve the Bank by "certified mail addressed to an officer of the institution . . . ."

Service of process is the procedure by which a court obtains personal jurisdiction over the party being sued. See, Silva v. City of Madison, 69 F.3d 1368, 1376 (7th Cir. 1995). Where service is defective, the court lacks personal jurisdiction over the defendant and any default judgment entered under such circumstances is necessarily void. See, In re Campbell, 105 B.R. 19, 21 (9th Cir. BAP 1989); In re Cappuccilli, 193 B.R. 483, 488 (Bankr. N.D. Ill. 1996). Even if the Bank received actual notice of the plaintiff's complaint, this would not remedy the lack of valid service of process. Mid-Continent Wood Products, Inc. v. Harris, 936 F.2d 297, 300 (7th Cir. 1991). Plaintiff's motion for default judgment is therefore DENIED.

SO ORDERED.

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