

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

In re:

GREATER HARTFORD ARCHITECTURE  
CONSERVANCY, INC.

[Bankruptcy File No. 00-21425]

Debtor

MARC J. GLASS

Appellant

CIVIL ACTION NO.  
3:04cv97(GLG)

v.

GREATER HARTFORD ARCHITECTURE  
CONSERVANCY, INC., *et al.*

APRIL 27, 2004

Appellees

FILED  
APR 28 2 17 PM '04  
U.S. DISTRICT COURT  
MIDDLETOWN, CT

**APPELLEES' MOTION TO DISMISS BANKRUPTCY APPEAL  
FOR LACK OF JURISDICTION**

The appellees Nevets, Inc. and Steven C. Brigham (hereinafter "Appellees") hereby move to dismiss this bankruptcy appeal. Dismissal is mandated because timely filing of a notice of appeal is a jurisdictional prerequisite to District Court review of a final Bankruptcy Court order. The notice of appeal filed by the appellant Marc J. Glass (hereinafter "Appellant") in this case was, without question, untimely. Accordingly, this Court lacks jurisdiction over the subject matter of this case. In support of their motion, Appellees state as follows:

ORAL ARGUMENT IS NOT REQUESTED

1. This appeal challenges a bankruptcy court's approval, by order entered on May 1, 2003, of a Chapter 7 trustee's sale of certain real estate located at 140-144 Retreat Avenue, Hartford, Connecticut. Appellant objected unsuccessfully to the sale.<sup>1</sup> Appellant then moved for reconsideration. By memorandum of decision and separate judgment entered on Thursday, December 18, 2003, the Bankruptcy Court (Krechevsky, J.) denied Appellant's motion for reconsideration.

2. Under the Federal Rules of Bankruptcy Procedure, a notice of appeal "...shall be filed with the Clerk *within ten days of the date of the entry of the judgment, order, or decree appealed from.*" Rule 8002(a), Fed. R. Bankr. P. (emphasis supplied). Applying the pertinent time computation standards set forth in the Federal Rules of Bankruptcy Procedure, the very last date upon which Appellant could timely file his appeal was Monday, December 29, 2003. Rule 9006, Fed. R. Bankr. P.<sup>2</sup>

3. Appellant did not file a notice of appeal until Thursday, January 8, 2004. Beyond that, at no point did Appellant seek an enlargement of time to file his appeal or otherwise seek to excuse his untimely filing.

4. The time period for filing a notice of appeal from an adverse ruling of a Bankruptcy Court is jurisdictional. There is not so much as an iota of legal debate on this

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<sup>1</sup> Appellant purports to hold a lien on the subject property securing a *non-recourse* debt (*i.e.*, Appellant has no claim against any other property of the debtor, or against the debtor's estate) of the Chapter 7 debtor, Greater Hartford Architecture Conservancy, Inc. That lien was left undisturbed by the sale to which Appellant objected and seeks to challenge on appeal here, such that Appellant has, and can have, no personal stake in the outcome of this matter. If this case is not dismissed on jurisdictional grounds, as Appellees assert it should be, Appellees will not only argue the validity of the sale on the merits, but will also contest Appellant's standing to object. Indeed, Appellees believe that Appellant's position on standing is utterly frivolous, and may in fact warrant sanctions under Rule 8020, Fed. R. Bankr. P.

<sup>2</sup> Bankruptcy Rule 9006 mandates that where, as here, a prescribed time limitation is eight days or more, intermediate Saturdays, Sundays and legal holidays are included in the computation. If the period ends on such a date, the filing period is extended until the end of the next day which is not a Saturday, Sunday or legal holiday.

point. See, e.g., *In re White*, 183 B.R. 356, 358-9 (D. Conn. 1995) (Nevas, J.) (appeal held untimely and dismissed because ten day period is jurisdictional); *In re C.R. Davidson Co., Inc.*, 232 B.R. 549, 551 (2d Cir. B.A.P. 1999) (confirming, in dicta, that untimely appeal fails to confer appellate jurisdiction); *In re Wechsler*, 246 B.R. 490, 492 (S.D.N.Y. 2000) (holding that district courts have no jurisdiction to review order of bankruptcy court if notice of appeal not timely filed).

5. Manifestly, the notice of appeal filed in this case was untimely. Accordingly, this Court must dismiss this matter for lack of jurisdiction.

6. The Court's attention is directed to the attached memorandum of law for a more complete explanation of the grounds for this motion.

WHEREFORE, the appellees Nevets, Inc. and Steven C. Brigham pray that this Court dismiss this bankruptcy appeal, with prejudice, and with costs and fees to be assessed against Appellant.

NEVETS, INC. and  
STEVEN C. BRIGHAM

By 

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**CERTIFICATE OF SERVICE**

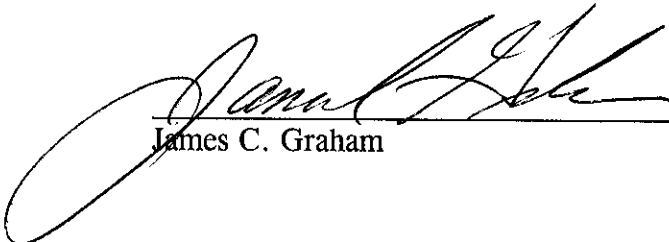
This is to certify that a copy of the foregoing motion to dismiss was served by U. S. mail, postage prepaid, this 27th day of April 2004 upon each of:

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