

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE: )  
TRI COR OIL PRODUCERS, INC., ) Bankruptcy Case No. 90-41336  
Debtor. )

OPINION

This matter having come before the Court on a Motion to Reopen Bankruptcy Estate to Clarify, Modify, or Vacate Orders and upon a Motion to Clarify, Modify, or Vacate Orders filed by the Debtor; the Court, having heard arguments of counsel and being otherwise fully advised in the premises, makes the following findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure.

Pursuant to 11 U.S.C. § 350(b), a case may be reopened in the Court in which such case was closed to administer assets, to accord relief to the Debtor, or for other cause. In the instant matter, the main owners and operators of Tri Cor Oil Producers, Inc., namely William E. Porter and David O. Ekstedt, are asking the Court to reopen Debtor's bankruptcy case in order to clarify certain issues concerning liens on property and assets of the bankruptcy estate entitled thereto. The Orders which the Debtor Corporation desires clarification on are Orders which were entered in the year 1992. Having heard the arguments of the parties, the Court notes that the relief requested in this matter really is relief for the main operators and owners of Tri Cor Oil Producers, Inc. rather than for the Debtor itself. The owners raise issues concerning title to certain assets which were sold as part of the bankruptcy estate, liens which may have attached to those assets, and other issues surrounding the sale of the assets through the bankruptcy estate. The relief requested in this matter is not relief for the Debtor, but is rather relief for the main owners and operators of the Debtor. As such, the Court finds that the Debtor has not shown a proper basis for a bankruptcy case to be reopened pursuant to 11 U.S.C. § 350(b).

Even if the Court were to allow the bankruptcy case to be reopened pursuant to § 350(b), the Court finds that it is now without jurisdiction to enter any Order on the Motion to Clarify, Modify, or Vacate Orders filed herein in that said Motion is filed too late pursuant to the Federal Rules of Bankruptcy Procedure. Pursuant to Rule 9023 of the Federal Rules of Bankruptcy Procedure, any motion to alter or amend a judgment must be filed within 10 days of the date of that judgment. As one can easily see, the Motion herein has been filed much longer than 10 days past the judgment. Given that the Debtor cannot rely on Rule 9023, the Court next turns to Rule 9024, which makes applicable Rule 60 of the Federal Rules of Civil Procedure. Although the Motion in question has been filed in a time period that is appropriate under Rule 9024, the Court can find no basis under Rule 9024 on which to grant the relief requested. In order for Rule 9024 to apply, the Court must find a basis under that rule in which to grant a motion to clarify, modify, or vacate orders. In reviewing Rule 9024, the Court can find no basis in the instant situation upon which to grant the relief requested.

The issues before the Court in the Motion to Clarify, Modify, or Vacate Orders all concern matters of state law. The Court is advised that there are proceedings presently ongoing in State Court to clarify certain liens against assets of the bankruptcy estate and also to clear up certain title questions which have arisen since the original sale in that there is already litigation pending in this matter, part of which has already been decided by summary judgment. The Court can find no basis upon which to bring the matter into Bankruptcy Court at this time. As such, the Motion to Reopen and the Motion to Clarify, Modify, or Vacate Orders must be denied.

ENTERED: July 8, 1996.

/s/ Gerald D. Fines  
United States Bankruptcy Judge