UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

FILED
U.S. BANKRUPTCY COURT
2004 JUN 17 AM 9:35
JOHN A. O'NEAL
CLERK

IN RE:	)	
	)	
KIEL BROS. OIL COMPANY, INC. and KP OIL, INC.,	)	CASE NO. 04-92128-BHL-11
	)	Jointly Administered
	)	
Debtors.	)	

UNITED STATES TRUSTEE'S MOTION TO TRANSFER CASE TO INDIANAPOLIS DIVISION IN ACCORDANCE WITH LOCAL RULE B-1002-1(c) AND REQUEST FOR EXPEDITED DETERMINATION

Nancy J. Gargula, United States Trustee, by Kevin P. Dempsey, Assistant U.S. Trustee, respectfully requests that this Court transfer this case to the Indianapolis Division and states:

1. Kiel Bros. Oil Company, Inc. and KP Oil, Inc. (collectively, "Kiel"), filed these Chapter 11 cases in the New Albany Division on June 15, 2004.

2. Kiel's corporate headquarters are in Columbus, Indiana.

3. Columbus, Indiana, is in Bartholomew County, which is in the Indianapolis Division of this District.

4. On September 30, 2003, this Court amended S.D.Ind. B-1002-1(c) by General Order 03-12 to provide as follows:

> All petitions, schedules, statements, pleadings and other documents required by the Bankruptcy Court to commence a case shall be filed with the Bankruptcy Clerk **for the division** of the district where the domicile, residence or principal assets of the debtor have been located for such a period of time as required by 28 U.S.C. §1408. All papers tendered for

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filing after the commencement of a case shall be filed with the office of the Bankruptcy Clerk in the division where the case is pending. (Emphasis added.)[1/] (Copy of General Order attached.)

5. From the United States Trustee's perspective, the Court has generally been strict about enforcing its Divisions. In fact, the Court has delegated authority for enforcing its divisions to the Clerk. If this case had been filed as a Chapter 7 or a Chapter 13, the Clerk would have transferred it to the Indianapolis Division, without any direct judicial involvement. On its face, the Order makes no distinction between cases filed under Chapter 11 and those filed under other Chapters.

6. The Court should strictly enforce its General Order. Any deviation from strict enforcement opens the floodgates to arguments from all debtors that their particular circumstances should permit them to file in a division other than the "proper" one.

7. Enforcement is particularly important here. This case is likely to be a liquidating Chapter 11, and every dollar that goes to professionals is a dollar less for creditors. Given that the Court permits compensation at the full hourly rate for travel, the estate will have to bear the costs of travel for Kiel's Indianapolis-based counsel, and may also have to bear the costs for National City Bank's Indianapolis counsel, whose fees and expenses may be part of that entity's secured claim.

8. To the extent that it is determined that it would be more convenient for affected parties to have a particular contested matter or adversary proceeding heard in New Albany or another division, all the judges of this District have demonstrated a

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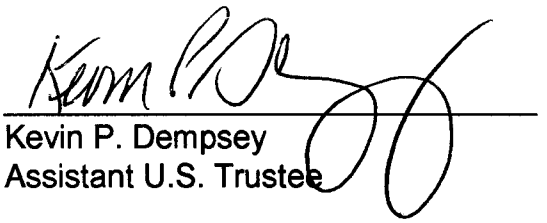
[1/]Kiel may contend that its "principal assets" are located in the New Albany Division. Schedules have not yet been filed. Given the nature of Kiel's business, it is more likely that its assets are widely distributed amongst all of this District's divisions AND the Districts of other states.

willingness to accommodate the parties. (Cf. Evansville cases properly filed in that Division set for hearings in New Albany; Terre Haute cases properly filed in that Division set for hearing in Indianapolis.)

9. Prompt resolution of this matter is in the best interests of the parties and the Court. As Kiel has been aware of the United States Trustee's concerns since prior to the filing, it would not seem that further notice or hearing would be needed, and after giving Kiel an opportunity to respond it would seem the Court could rule without further notice or hearing.

WHEREFORE, the United States Trustee prays that this Court enforce the Local Rule, direct the transfer of this case to the Indianapolis Division (which transfer would in no way affect the filing date), and that this Court grant such other relief as is just and proper.

NANCY J. GARGULA
UNITED STATES TRUSTEE

By: 
Kevin P. Dempsey
Assistant U.S. Trustee

OFFICE OF UNITED STATES TRUSTEE
101 W. Ohio Street, Suite 1000
Indianapolis, IN 46204
317-226-6101

Certificate of Service

I certify that a copy of the foregoing has been sent by fax or hand delivery, as well as by first class U.S. mail, to the following:

Jay Jaffe
John F.W. Fleming
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600 E. 96th Street
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Indianapolis, IN 46240

Terry Hall
BAKER & DANIELS
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George W. Hopper
HOPPER BLACKWELL
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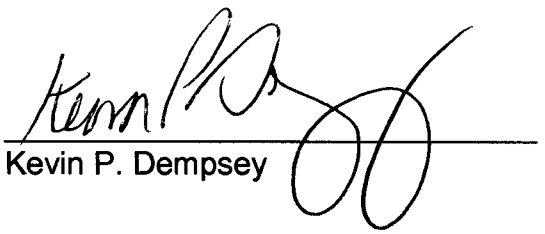

Kevin P. Dempsey

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA

IN RE:	)	
	)	
LOCAL RULES OF PRACTICE	)	**GENERAL ORDER 03-12**
	)	

ORDER AMENDING LOCAL BANKRUPTCY RULES

IT IS ORDERED that, effective immediately, paragraph (c) of Local Rule S.D. Ind. B-1002-1 of this Court is amended as follows:

(c) Place of Filing. All petitions, schedules, statements, pleadings and other documents required by the Bankruptcy Court to commence a case shall be filed with the Bankruptcy Clerk for the division of the district where the domicile, residence or principal assets of the debtor have been located for such a period of time as required by 28 U.S.C. § 1408. All papers tendered for filing after the commencement of a case shall be filed with the office of the Bankruptcy Clerk in the division where the case is pending.

IT IS FURTHER ORDERED that, effective immediately, paragraph (a)(4)(d) of Local Rule S.D. Ind. B-5005-1 of this Court is stricken as follows:

~~(d) Filing in Another Division. In the case of an emergency, a paper or pleading may be delivered to the Bankruptcy Clerk located in another division; accompanied by a completed Certificate of Emergency that conforms substantially with Local Bankruptcy Form LBF-1. The Bankruptcy Clerk shall promptly filemark all pleadings and papers upon receipt. The date of filing shall be the earliest date that the Bankruptcy Clerk actually receives and file marks any pleading or paper at any office of the Bankruptcy Clerk in accordance with this rule.~~

Dated this 30th day of September 2003.

FOR THE COURT:

Basil H. Lorch, III, Chief Bankruptcy Judge
United States Bankruptcy Court for the
Southern District of Indiana