

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In re:)
) CAUSE NO. 1:15-cv-1318-WTL-DKL
DONALD WAYNE BUSH and)
KIMBERLY ANN BUSH,) Bankruptcy Cause No. 14-9053-JMC
) Chapter 7
Debtors.)

ENTRY ON MOTION FOR LEAVE TO APPEAL

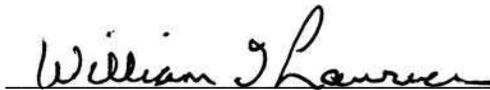
This cause is before the Court on the United States' Motion that District Court Grant Interlocutory Appeal from Order Denying Dismissal for Lack of Jurisdiction (or Abstention) (Dkt. No. 1), as amended by the United States in its Clarification of Statements in United States' Request to Expedite and/or in Its Motion for Leave to Appeal (Dkt. No. 5). The Debtors have indicated that they do not intend to file an opposition to the motion as amended. The Court, being duly advised, **GRANTS** the motion for the reasons set forth below. This ruling renders moot the United States' motion for emergency hearing (Dkt. No. 4).

In a nutshell, the dispute in this case is whether the bankruptcy court or the tax court is the proper forum in which to resolve the question of whether certain of the Debtors' tax returns were fraudulent. The United States brings its motion pursuant to 28 U.S.C. § 158(a)(3), which provides "[t]he district courts of the United States shall have jurisdiction to hear appeals . . . with leave of court, from other interlocutory orders and decrees" of a bankruptcy court. Although the statute gives no guidance regarding the standard to be applied to determine whether leave of court should be granted, the Court agrees with the United States that it has broad discretion to determine whether to accept an appeal under § 158(a)(3).

The interlocutory order the United States wishes to appeal in this case is the bankruptcy court's order in which it (1) ruled that it had jurisdiction to decide the issue of whether the

Debtors' tax returns were fraudulent; and (2) declined to abstain from deciding the issue so that the tax court could do so. There is no controlling authority on the jurisdictional issue, and there appears to be disagreement among the courts that have considered the issue; the issue of abstention is also one about which reasonable minds could disagree. It appears that the bankruptcy judge agrees that the law is far from settled, as he has recommended that this Court accept the appeal. *See* Dkt. No. 4-1. There does not seem to be any dispute that deciding the issue now will best serve the interests of judicial economy and will not prejudice either party. Accordingly, the motion for leave to appeal is **GRANTED**.

SO ORDERED: 9/4/15

A handwritten signature in cursive script, reading "William T. Lawrence", is written over a horizontal line.

Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

Copies to all counsel of record via electronic notification