

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| IN RE: | : | |
| | : | Appellate Case No. 17-cv-00611 |
| TOBIAS HAROLD ELSASS | : | Bankruptcy Case No. 16-bk-57091 |
| | : | JUDGE ALGENON L. MARBLEY |
| DEBTOR. | : | |
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| TOBIAS HAROLD ELSASS, | : | |
| | : | |
| APPELLANT, | : | |
| v. | : | |
| | : | |
| JPMORGAN CHASE BANK, N.A., | : | |
| | : | |
| APPELLEE. | : | |

ORDER GRANTING MOTION TO DISMISS APPEAL

Before the Court is Appellee JPMorgan Chase Bank, N.A.’s (“Chase”) Motion to Dismiss the above-captioned appeal filed by Appellant Tobias Harold Elsass (“Debtor”). Specifically, Chase requests that this Court dismiss Debtor’s appeal based on a lack of jurisdiction resulting from Debtor’s failure to timely file a Notice of Appeal pursuant to Bankruptcy Rule 8002.

This Court has reviewed the Motion. 28 U.S.C. § 158(c)(2) mandates that an appeal to the district court from a bankruptcy court must be taken within the time specified by Fed. R. Bankr. P. 8002. Pursuant to Rule 8002, “a notice of appeal must be filed with the bankruptcy clerk within 14 days after entry of the judgment, order, or decree being appealed.” Fed. R. Bankr. P. 8002(a). The Sixth Circuit has held that Rule 8002’s 14-day period is a jurisdictional requirement and shall be strictly construed. *See Schwab Indus. v. Huntington Nat’l Bank*, 679 F.

App’x. 397, 399 (6th Cir. 2017). A failure to timely file a notice of appeal precludes a district court from reaching the merits. *See Walker v. Bank of Cadiz (In re LBL Sports Center, Inc.)*, 684 F.2d 410, 412 (6th Cir. 1982) (“[A] district court lacks jurisdiction over an appeal that is not timely filed pursuant to Rule [8002(a)]”).

Here, the undisputed record reflects that the bankruptcy court entered an Order granting Chase’s Motion for Relief on June 14, 2017 (Doc. 66). Pursuant to Rule 8002, Debtor had until June 28, 2017 to timely file an appeal to this Court. However, Debtor failed to file his appeal until July 13, 2017 (Doc. 70).

Accordingly, the Appellee’s Motion to Dismiss Appeal is **GRANTED**. As a result, Appellee’s Motion for Extension of Time to File Appellee’s Brief is **MOOT**.

IT IS SO ORDERED.

/s/ Algenon L. Marbley
ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

DATED: October 30, 2017