

United States District Court
Southern District of Texas

ENTERED

August 21, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE CURTIS G. TEGELER <i>et al.</i> ,	§	
	§	
Debtors.	§	CIVIL ACTION NO. H-18-2126
	§	
TEGELER <i>et al.</i> ,	§	
	§	
Appellant,	§	
	§	
v.	§	
	§	
TRUSTMARK NATIONAL BANK	§	BANKRUPTCY NO. 16-35634-H4-7
	§	
Appellee.	§	

ORDER OF DISMISSAL

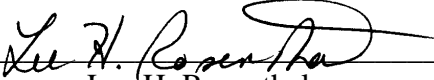
Curtis and Sandy Tegeler, Chapter 7 debtors, filed a notice of appeal from rulings of the bankruptcy court, No. 16-35634-H4-7. (Docket Entry No. 1). The appellants have not filed a designation of items to be included in the record on appeal. (Docket Entry No. 2).

Rule 8009(a) of the Federal Rules of Bankruptcy Procedure requires an appellant to “file with the bankruptcy clerk and serve on the appellee a designation of the items to be included in the record on appeal and statement of the issue to be presented.” FED. R. BANKR. P. 8009(a). The designation and statement must be filed and served within 14 days after the appellant’s notice of appeal as of right becomes effective or an order granting leave to appeal is entered. *Id.* Failure to comply with Rule 8009 is a ground for the district court to dismiss the appeal. FED. R. BANKR. P. 8001(a). Although a district court need not “invariably dismiss” the appeal, *In re CPDA*, 221 F.3d 693, 698–99 (5th Cir. 2000), it is “generally within the court’s discretion to do so.” *In re 2646 S. Loop W. Ltd. P’ship*, 494 F. App’x 463, 466 (5th Cir. 2012) (affirming the district court’s dismissal for appellant’s failure to file the designation of record); *In re M.A.*

Baheth Const. Co., Inc., 118 F.3d 1082, 1083–84 (5th Cir. 1997) (same).

Curtis and Sandy Tegeler filed their notice of appeal with the federal court on June 22, 2018, making the designation of record due on July 6, 2018. (Docket Entry No. 2). The Clerk of Court notified them of the deficiency in writing on July 9, 2018. (*Id.*). There is no designation on file and no explanation for the appellants' failure to file the designation. This appeal is dismissed.

SIGNED on August 21, 2018, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge