

FEB 11 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In the Matter of: DEAN KALIVAS,

Debtor,

No. 07-35608

BAP No. WW-06-01345-KMoR

DEAN KALIVAS,

Appellant,

MEMORANDUM*

v.

D. GERARD MCALEESE; et al.,

Appellees.

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Riblet, Klein, and Montali, Bankruptcy Judges, Presiding

Submitted January 13, 2009**

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Attorney Dean Kalivas appeals pro se from the Bankruptcy Appellate Panel's ("BAP") order affirming the bankruptcy court's order dismissing his adversary complaint. We have jurisdiction under 28 U.S.C. § 158(d). We review BAP decisions de novo and use the same standard used by the BAP to review the bankruptcy court's decision. *Busseto Foods, Inc. v. Laizure (In re Laizure)*, 548 F.3d 693, 696 (9th Cir. 2008). We affirm.

The BAP properly affirmed the bankruptcy court's conclusion that the district court did not act until it had obtained relief from the automatic stay, and therefore did not violate the automatic stay. The BAP also properly affirmed the bankruptcy court's determination that its order granting relief from the automatic stay so that the district court could enter judgment necessarily included entry of findings of fact and conclusions of law. *See* Fed. R. Civ. P. 52(a) (requiring separate entry of findings of fact and conclusions of law following a bench trial).

AFFIRMED.