

MAY 21 2013

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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NOT FOR PUBLICATION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: JOSEF S. FRIWAT,

DAN JENKS,

Appellant,

v.

BP WEST COAST PRODUCTS, LLC;
UNITED FAMILY, LLC; FIRST
AMERICAN TITLE COMPANY; J.F.
OIL COMPANY, LLC,

Appellees.

No. 11-56995

D.C. No. 3:11-cv-01631-H-RBB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Marilyn L. Huff, District Judge, Presiding

Argued and Submitted May 9, 2013
Pasadena, California

Before: PREGERSON and FISHER, Circuit Judges, and DANIEL, District
Judge.**

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

**The Honorable Wiley Y. Daniel, Senior United States District Judge for
the District of Colorado, sitting by designation.

Appellant Dan Jenks challenges the bankruptcy court's jurisdiction over this case and its decision to dismiss Jenks' complaint with prejudice. We affirm.

Jenks' complaint challenges the validity of a bankruptcy court's order authorizing the sale of real property. His case is related to the original bankruptcy case. Thus, federal jurisdiction exists and removal from state court was proper. *See McGuire v. United States*, 550 F.3d 903, 911-12 (9th Cir. 2008) ("A civil proceeding is 'related to' a title 11 case if 'the outcome of the proceeding could conceivably have any effect on the estate being administered in bankruptcy.'" (quoting *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988))). The bankruptcy court properly dismissed the complaint because Jenks impermissibly seeks to collaterally attack a final order of the bankruptcy court. *See Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 148-54 (2009) (holding that, if a party or its predecessor in interest had an opportunity to challenge a bankruptcy court's subject matter jurisdiction to issue an order, the party may not collaterally attack the order in subsequent proceedings).

AFFIRMED.