

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
FOR THE FIRST CIRCUIT**

In re:	*	
	*	
LEWIS O. ROY and	*	
LORREE M. ROY	*	BAP NO. MW 98-067
Debtors	*	
	*	
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	*	
LEWIS O. ROY and	*	
LORREE M. ROY	*	Case No. 97-44567-HJB
Plaintiffs-Appellees	*	ADV. No. 97-4280
	*	
v.	*	
	*	
GIRIDHAR HEDA	*	
Defendant-Appellant	*	
-----*	*	

Before VOTOLATO, HAINES and VAUGHN, U.S. Bankruptcy Judges.

**ORDER DISMISSING APPEAL**

**PER CURIAM.**

Before the Bankruptcy Appellate Panel is a Notice of Appeal filed by Giridhar Heda, a defendant in Adversary Proceeding 97-4280, from an order issued by the United States Bankruptcy Court of the Western District of Massachusetts. Appellant seeks review of the bankruptcy court's order voiding the sale of property located at 27 Massachusetts Avenue, Longmeadow, Massachusetts, entered on July 10, 1998. The Notice of Appeal, filed on July 27, 1998, was untimely, and therefore the appeal must be dismissed.

The Bankruptcy Appellate Panel has jurisdiction to hear appeals from final judgments, orders and decrees issued by bankruptcy courts in the same manner as civil appeals taken from

district courts to the courts of appeals and within the time limitations imposed by Rule 8002 of the Federal Rules of Bankruptcy Procedure. 28 U.S.C. § 158(a) & (b); FED. R. BANKR. P. 8001. Rule 8002(a) of the Federal Rules of Bankruptcy Procedure provides that a "notice of appeal shall be filed within 10 days of the date of the entry of the judgment, order or decree appealed from." FED. R. BANKR. P. 8002(a).

The filing of a notice of appeal within the time limitations set forth in the statute is "mandatory and jurisdictional." *Browder v. Director, Dept. of Corrections of Illinois*, 434 U.S. 257, 264 (1978); *Feinstein v. Moses*, 951 F.2d 16, 19 (1st Cir. 1991). The untimely filing of a notice of appeal results in a jurisdictional defect, *In re Delaney*, 29 F.3d 516 (9th Cir. 1994); *Jacobson v. Nielsen*, 932 F.2d 1272 (8th Cir. 1991); *In re Slimick*, 928 F.2d 304 (9th Cir. 1990); *In re Satellite Systems Corp.*, 73 B.R. 610 (S.D.N.Y. 1987), requiring dismissal of the appeal. *In re Abdallah*, 778 F.2d 75 (1st Cir. 1985) cert. denied, 476 U.S. 1116 (1986); *In re Roanca Realty, Inc.*, 747 F.2d 816 (1st Cir. 1984). Because Giridhar Heda did not file a Notice of Appeal until 17 days after the bankruptcy court's order was entered, clearly exceeding the 10-day limitation to appeal, appellate jurisdiction is lacking and the appeal is DISMISSED. It is further ordered that given the disposition of the appeal, Appellant's August 13, 1998 motion to stay appellate proceedings is DENIED as moot.

**SO ORDERED.** On this 10<sup>th</sup> day of September, 1998.