

In re: Global Vending, Inc., Debtor.

**LESLIE S. OSBORNE, not individually
but as Chapter 11 Trustee for the
Estate of Global Vending, Inc.,**

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

CASE NO. 04-23562-BKC-PGH

Adv. No. 04-2368-BKC-PGH-A

The Trustee filed a motion for turnover of property held by the United States and seized as the result of a criminal case pending in the Southern District of Florida. An indictment was returned against the principals of the Debtor for fraud and money laundering. Trustee sought the return of funds in bank accounts, real property, vehicles, and jewelry for the benefit of investors who participated in the Debtor's fraudulent investment scheme. The United States filed a Motion to Dismiss the Trustee's Motion to Compel the Return of the Property.

The Court held that the assets sought by the Trustee were not subject to turnover because he was barred from bringing the adversary proceeding under the provisions of the criminal forfeiture statute 21 U.S.C. § 853(k). Once the indictment was returned against the principals of the Debtor in the criminal case, the Trustee was barred from commencing a civil suit asserting an interest in the disputed property unless the action was brought within an ancillary proceeding in the District Court within the criminal case pursuant to 21 U.S.C. § 853(n).