

October 23, 2006

Secretary of the Committee on  
Rules of Practice and Procedure  
Administrative Office of the  
United States Courts  
Washington, D.C. 20544

To the committee:

I write to express concern with the proposed amendment adding a new Bankruptcy Rule 4003(b)(2). The proposed amendment would authorize "the trustee" to file an objection to a claim of exemption at any time prior to one year after the closing of the case if the debtor fraudulently asserted the claim of exemption.

Under Section 350(a) of the Bankruptcy Code, a case is not closed until it has been fully administered, and the trustee has been discharged. Bankruptcy Rule 5010 provides that a case may be reopened, and a trustee shall not be reappointed unless the court determines that a trustee is necessary.

Thus, my concern is that the proposed rule implies that the trustee in a case remains the trustee, even after the trustee is discharged from service as the trustee.

I believe that the proposed rule could avoid this problem in construction by making it applicable to "the former trustee." Alternatively, the sentence authorizing the trustee to file an objection to a claim of exemption could contain the following introductory clause: "If the case has been reopened and a trustee has been appointed..."

Sincerely,



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