

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
219 South Dearborn Street  
Chicago, Illinois 60604-1702



RECEIVED  
2/27/04

via e-mail to Peter McCabe  
Chambers of  
EUGENE R. WEDOFF  
CHIEF JUDGE  
Room 748

04-BK-B

February 17, 2004

Hon. Thomas A. Small  
U.S. Bankruptcy Judge  
Century Station, Room 220  
300 Fayetteville Street Mall  
Raleigh, N.C. 27602

Re: Bankruptcy Rules

Dear Tom:

When we were in Washington together, I mentioned to you my feeling that the Rules Committee ought to revisit the time limits of Rule 4003(b). As it happened, upon my return, I came across the enclosed objection to exemption, which I was required to deny as untimely. The situation was one in which the debtor claimed a homestead exemption for property in which he did not reside—but this fact was only brought to the trustee's attention after the Rule 4003(b) deadline had expired.

My suggestion would be (1) to allow for retroactive extension of the deadline in situations where there is no good faith basis for the exemption claim, and (2) to provide that secured creditors may object to an exemption claim at any time in response to a lien avoidance motion under Section 522(f)(1).

If there is anything else I might do to forward this suggestion, please let me know.

With warm regards,

Eugene R. Wedoff

Enclosure

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RECEIVED  
UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
JAN 08 2004

KENNETH S. GARDNER, CLERK  
PS REP KG

IN THE MATTER OF: )  
 )  
Ronald Kooima, )  
 )  
Debtor. ) Chapter 7  
 )  
 ) No. 03 B 14888  
 )  
 ) Judge Eugene Wedoff

TRUSTEE'S OBJECTION TO DEBTOR'S HOMESTEAD EXEMPTION

TO THE HONORABLE EUGENE WEDOFF,  
BANKRUPTCY JUDGE

Barry A. Chatz, Trustee herein, by and through his attorneys, Gina B. Krol and Cohen & Krol, for his Objection to the Debtor's Homestead Exemption, and in support thereof, states and respectfully represents unto this Honorable Court as follows:

1. Barry A. Chatz is the duly appointed, qualified and acting Trustee in the above-entitled proceeding.

2. The Debtor filed his voluntary Chapter 7 case on April 3, 2003 and his Section 341 first meeting of creditors was held on May 16, 2003. Based upon the Debtor's schedules, information provided to the Trustee and the Debtor's sworn testimony at the creditors' meeting, the Trustee determined that there were no assets in the Debtor's case for distribution to creditors and filed a no-asset report. The no-asset report was signed and dated June 10, 2003 and was entered on the Court's docket on June 13, 2003. The Debtor received his discharge on July 16, 2003 and the Debtor's case was closed on August 8, 2003.

3. On November 4, 2003, the Trustee filed his motions to vacate his no-asset report and to hire attorneys. The Trustee's decision to reopen the Debtor's bankruptcy case was based upon an offer received by the Trustee to purchase the Estate's interest

in the Debtor's real property located at 385 Marquette, Calumet City, Illinois (the "Property"). According to the Debtor's Schedule A, the Debtor owns a one-half interest in this Property.

4. Over the objections of the Debtor, this bankruptcy case was reopened so that the Trustee could administer the property. This Court entered an order December 9, 2003, vacating the Trustee's no-asset report and reopening this case.

5. When this case was reopened, the Trustee determined that the Debtor had filed a homestead exemption on the Property. A copy of the Debtor's Schedule C, listing the exemption, is attached hereto and incorporated herein as Exhibit A.

6. The Debtor does not reside in the Property and has not resided in the Property since before the inception of this case. The Property is currently occupied by the Debtor's ex-wife, pursuant to the terms of their divorce.

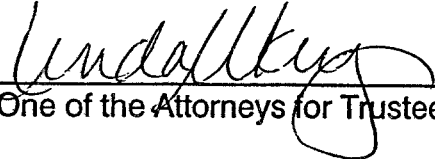
7. The Trustee objects to the Debtor's claimed homestead exemption as does not reside in the Property and such exemption is invalidly claimed. By virtue of his separation, the Debtor has abandoned his homestead rights. See, i.e., In re Moneer, 188 Bankr. 25 (N.D.Ill. 1995) ("If one spouse separates from the other and abandons the premises, the homestead rights accrue to the spouse who remains").

8. Accordingly, the Trustee objects to the Debtor's claimed homestead exemption.

WHEREFORE, Barry A. Chatz, Trustee herein, prays for the entry of an Order sustaining the Trustee's objection to the Debtor's Schedule C homestead exemption; and grant the Trustee such other and further relief as the Court shall deem proper.

GINA B. KROL  
JOSEPH E. COHEN  
LINDA M. KUJACA  
COHEN & KROL  
105 W. Madison St., Ste 1100  
Chicago, IL 60602  
312/368-0300

Barry A. Chatz, Trustee

BY:   
One of the Attorneys for Trustee

EUGENE R. WEDOFF  
UNITED STATES BANKRUPTCY JUDGE  
219 South Dearborn Street • Room 748  
Chicago, Illinois 60604-1702

February 17, 2004

Ms. Rene I. Augustine  
Senior Counsel  
United States Senate  
Committee on the Judiciary  
224 Dirksen Senate Building  
Washington, D.C. 20510

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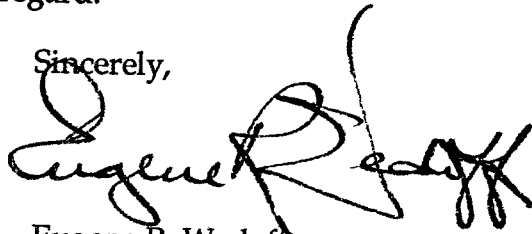
Re: Bankruptcy Reform

Dear Ms. Augustine:

I want to thank you and Senator Hatch very much for taking the time to meet with Judge Small, Judge Thurman and me. Knowing how many pressing issues are facing your office right now, I am particularly grateful for your consideration. I think that the most important point of our discussion was that, although we are convinced that some of the key provisions of the reform bill are unworkable in their current form, suggestions like the ones we have made can result in a truly effective reform of the bankruptcy system, acceptable to debtors and creditors alike.

If we can be of any help in advancing effective bankruptcy legislation, any of us would welcome the opportunity. Please let me know if I can provide anything of use in this regard.

Sincerely,



Eugene R. Wedoff