

IT IS SO ORDERED.

Dated: January 28, 2015  
09:15:28 AM



*Kay Woods*  
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 Kay Woods  
 United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

IN RE:

RANDY SMITH, SR. and  
MICHELLE SMITH,

Debtors.

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CASE NUMBER 14-41352

CHAPTER 7

HONORABLE KAY WOODS

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ORDER OVERRULING TRUSTEE'S OBJECTION  
TO CLAIMED EXEMPTIONS

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This cause is before the Court on Trustee's Objection to Claimed Exemptions ("Objection to Exemptions") (Doc. 36) filed by Richard G. Zellers, Chapter 7 Trustee, on December 12, 2014. The Trustee "objects to the claimed exemption for the insurance claim for hail damage to residence roof in the amount of \$457.71, \$2,380.00 and \$6,373.85." (Obj. to Exempt. at 1.) Although the Debtor did not respond to the Objection to Exemptions, as set forth below, the Trustee's Objection to Exemptions is not well taken.

Debtors Randy Smith, Sr. and Michelle Smith filed a voluntary petition pursuant to chapter 7 on June 27, 2014. Mr. Zellers was appointed the Chapter 7 Trustee. The first meeting of creditors pursuant to 11 U.S.C. § 341 was held and concluded on August 19, 2014, after which the Trustee filed Chapter 7 Trustee's Report of No Distribution (Doc. 20).

On August 21, 2014, the Debtors filed Amended Schedule B (Doc. 23) and Amended Schedule C (Doc. 24). Amended Schedule B listed on line 21 "[i]nsurance claim for hail damage to residence roof" valued at \$9,211.56. The Debtors amended Schedule C to claim exemptions for this newly added asset pursuant to O.R.C. § 2329.66(A)(3) in the amount of \$457.71; § 2329.66(A)(18) in the amount of \$2,380.00; and § 2329.66(A)(1a)(b) [sic] in the amount of \$6,373.85. Thus, the Debtors' Amended Schedules claimed the insurance claim for hail damage to the residence roof to be fully exempt.

The Debtors received a discharge on October 24, 2014 (Doc. 27), and their case was closed on October 31, 2014 (Doc. 29). On December 11, 2014, the Trustee moved to reopen the case because he "anticipate[d] assets to be received that ha[d] recently been discovered" (Doc. 30). (Mot. to Reopen ¶ 2.) After withdrawing the No Asset Report (Doc. 32), the Trustee filed Notice of Assets and Request for Notice to Creditors (Doc. 33). He then filed the Objection to Exemptions.

It thus appears that the assets the Trustee anticipated receiving are the same assets the Debtors disclosed in the Amended Schedule B. This is problematic, however, because the Debtors disclosed the insurance claim as an asset of the estate and claimed it as an exempt asset. Because the Debtors disclosed the insurance claim, this asset was abandoned by the Trustee and became property of the Debtors upon closing of the case. See 11 U.S.C. § 554(c) (2015).

The Trustee did not timely object to the Debtors' claim of exemptions. Federal Rule of Bankruptcy Procedure 4003(b)(1) provides that "a party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later." FED. R. BANKR. P. 4003(b)(1) (2015). The Trustee was required to object to the Debtors' claimed exemptions no later than September 20, 2014. He did not do so.

As a consequence, the Trustee cannot object to the exemptions at this late juncture. The Objection to Exemptions is overruled as untimely.

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