

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CLERK OF COURT
WESTERN DISTRICT OF NEW YORK
2007-02-20

ALAN D. SAUNDERS, and
MICHELE M. SAUNDERS,

Appellants/Debtors,

- vs -

ORDER

07-CV-6294L

KENNETH W. GORDON, Esq.

Appellee/Trustee.

On December 8, 2006, the Appellee/Trustee Kenneth W. Gordon, Esq. (the Trustee") filed in the United States Bankruptcy Court, Western District (the "Bankruptcy Court") an Objection (the "Objection to Exemptions") to the Appellants/Debtors Alan D. Saunders and Michele M. Saunders (the "Debtors") claimed exemptions for their life insurance policies, and on February 20, 2007, the Trustee commenced an Adversary Proceeding (the "Turnover Proceeding") against the Debtors and Gary R. Acker, an insurance agent, requesting the Court enter an order compelling the defendants to turn over to him the cash value of life insurance policies.

On March 2, 2007, the Debtors filed a motion (the "Severance Motion") requesting that the Bankruptcy Court enter an order: (1) overruling the Objection to Exemptions; or (2) in the alternative, directing the separate and independent administrations of the Debtors' bankruptcy estates.

By Decision and Order dated May 18, 2007, the Bankruptcy Court, Honorable John C. Ninfo II, United States Bankruptcy Judge presiding, denied the Debtors' Severance Motion in all respects and sustained the Trustee's Objection to Exemptions in all respects (the "May 18, 2007 Decision and Order"). The Bankruptcy Court, however, held in abeyance the Trustee's Turnover Proceeding pending the Debtors' timely appeal of the May 18, 2007 Decision and Order.

The Debtors having appealed the Bankruptcy Court's May 18, 2007 Decision and Order with the United States District Court for the Western District of New York (the "District Court"), Honorable David G. Larimer presiding.

NOW, upon reading and considering the Debtors' Brief on Appeal dated July 3, 2007, the Trustee's Brief on Appeal dated July 30, 2007, and the Debtors' Reply Brief dated August 13, 2007, and after due deliberation been had therein,

AND, upon reading and considering all other pleadings and papers submitted on this appeal, and after due deliberation been had therein,

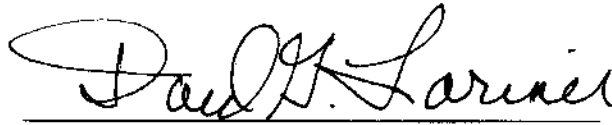
AND, and upon reading and considering the Record on Appeal, as previously submitted before the Bankruptcy Court in the underlying motions, and after due deliberation been had therein,

AND, upon having heard on the 9th day of October, 2007 Devin Lawton Palmer, Esq. of Boylan, Brown, Code, Vigdor & Wilson, LLP on behalf of the Trustee and David D. MacKnight, Esq. of Lacy Katzen, LLP on behalf of the Debtors; and after due deliberation been had therein, the District Court having rendered a Decision (a copy of the Transcript of Proceedings, including the District Court's Decision being attached hereto and made a part hereof), it is hereby

ORDERED, that the Bankruptcy Court's May 18, 2007 Decision and Order, the decision appealed from by the Debtors herein, is affirmed in all respects; and it is finally

ORDERED, that the Bankruptcy Court's ordered abeyance of the Trustee's Turnover Proceeding will continue pending the Debtors' timely appeal to the Second Circuit of the instant matters.

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "David G. Larimer". The signature is written in black ink and is positioned above a horizontal line.

DAVID G. LARIMER
UNITED STATES DISTRICT JUDGE

Dated: Rochester, New York
November 8, 2007.