
In re

Morrell D. Bowen, Jr.

Debtor

Case No. 09-10355 K

OPINION, DECISION AND ORDER

A potential asset of this Chapter 7 estate is a Proof of Claim filed by the Debtor in a different bankruptcy case pending elsewhere in this District. That other case is re Carpenter's Hand, Inc., Case No. 02-13313B. The Debtor in this case had at one time been a principal in Carpenter's Hand, Inc., and the Debtor's claim alleged unpaid wages totaling nearly \$300,000.

The Trustee in the Carpenter's Hand case objected to the claim on numerous grounds. On June 4, 2012, the Trustee in this case filed a Motion to Settle the claim objection that had been brought in the Carpenter's Hand case. In the motion, the Trustee stated that "after receiving the Trustee's objection to the claim filed in Carpenter's Hand, Inc., the Trustee of Morrell D. Bowen, Jr. carefully examined the objections and discussed said objections with the counsel for the Trustee of Carpenter's Hand, Inc. . . . It was agreed that litigation would be costly and in all probability, unbeneficial to the estate of Morrell D. Bowen, Jr." The two Trustees agreed that Mr. Bowen's Proof of Claim would be allowed in the amount of \$5,000 in the case of Carpenter's Hand, Inc., and approval of the compromise was sought from the Court in both cases.

The Debtor, Morrell D. Bowen, Jr., objected to the settlement alleging fraudulent conduct by the two Trustees. The objection came before this Court on July 11, 2012. The Court

explained to Mr. Bowen that if he believed that the asset (the Proof of Claim that he had filed in the Carpenter's Hand case) is worth more than what the Trustee would ultimately receive as a distribution upon a \$5,000 allowed Proof of Claim in the Carpenter's Hand case, then he should bid more for it, the Trustee will sell the claim to him, and he may defend his claim against the objection brought by the Trustee in the Carpenter's Hand case. The Court gave Mr. Bowen the opportunity to submit a written offer to the Trustee here. Mr. Bowen apparently misunderstood the Court's instruction, as he demanded that the Trustee's counsel in the Carpenter's Hand case meet with him to discuss settlement of the claim objection. On the second hearing on the Debtor's objection to the Trustee's Motion to Settle, the Court further instructed Mr. Bowen that the only matter to be addressed in his personal case is whether he wished to buy back his Proof of Claim filed in the Carpenter's Hand case, not any possible settlement of the objection to that claim that is pending before another Judge of this Court. Mr. Bowen asked for information from the Trustee in Carpenter's Hand so that he could attempt to determine what might ultimately be distributed upon a Proof of Claim in the Carpenter's Hand case. This Court found that to be a reasonable request and so directed the Trustee in the Carpenter's Hand case (whose counsel had regularly been appearing in this case).

On the date of the third hearing on the Debtor's objection to the Trustee's Motion to Settle, the Trustee in this case handed up a letter he had received from Mr. Bowen stating that he would be unable to attend Court that day because of a health problem, and making only a proposal to settle the objection to the claim that was filed in the Carpenter's Hand case, it made no proposal to acquire that Proof of Claim from the Trustee in the present case.

Having failed to take advantage of three opportunities granted by this Court for Mr. Bowen to make a higher and better offer than what this estate is likely to receive in a distribution upon an allowed \$5,000 Proof of Claim in the Carpenter's Hand case, the Debtor's objection to the Trustee's proposal is overruled.

Consequently, it is

ORDERED that the settlement by which the Proof of Claim filed by the Debtor in the Carpenter's Hand case will be allowed in the amount of \$5,000 is hereby approved.

SO ORDERED.

Dated: Buffalo, New York
September 10, 2012

s/Michael J. Kaplan

U.S.B.J.