

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

DAVID P. JACKSON

Case No. 91-12228 K

Debtor

MEMORANDUM OF LAW

Decision

This Court's holding in *In Re Wanderlich*, 36 B.R. 710 (Bkrtcy. W.D.N.Y., 1984) was superseded in part by the adoption of the next to the last sentence of 11 U.S.C. § 1326(a)(2), in 1984, - if a Plan is not confirmed, the monies collected are returned to the debtor. Also superseded thereby is the "Vasquez portion" of this Court's decision in *In Re Richardson*, 20 B.R. 490 (Bkrtcy. W.D.N.Y.).

The *Richardson* portion of the *Richardson* case is still persuasive, with two provisos:

1. Only the post-conversion receipts that are attributable to post-conversion labors are unqualifiedly the debtor's. Post-conversion receipts attributable to pre-conversion efforts are qualitatively equivalent to the pre-conversion receipts.

2. In exercising a claim of exemption as to pre-conversion receipts, a debtor must not be permitted to engage in "double dipping." Thus, for example, if a debtor exempted \$2500 in cash at the time of filing, he is not permitted a second \$2500 at the time of conversion; if he sold a home and took \$10,000 cash

from the sale earlier in the case, he is not permitted a cash exemption at the time of conversion; and so forth.

The Debtor may submit a suitable order on notice to the Trustee.

SO ORDERED.

Dated: Buffalo, New York
March 3, 1993



U.S. B. J.