

B. Adversary 94-6203 Wussler-Silva was pending. A Idaho Bankruptcy Court Order dated February 1, 1995 had stayed the adversary proceedings, pending an opportunity for the parties to take action in California State Court against one another. The bankruptcy trustee had appointed local counsel, three special legal counsels, (two in New Jersey and one in California). Some special counsels were subsequently disqualified or voluntarily withdrew as counsel. The Wusslers filed a First Amended Cross Complaint on January 21, 1997 against debtor Silva, Trustee Krommenhoek, Don Rinaldo and Roes 1 thru 50. Stay lift was not obtained to sue Trustee Krommenhoek, and sanctions were ultimately granted, against Wussler, by the Bankruptcy Court.

Trustee Krommenhoek's Errors and Omissions Insurance appointed an attorney to appear Pro Hac Vice on behalf of the trustee. Several thousand dollars were spent on behalf of the trustee by the insurance company in this endeavor.

After years of litigation, hearings, phone calls, etc a settlement between the parties was finally approved on March 24, 2000.

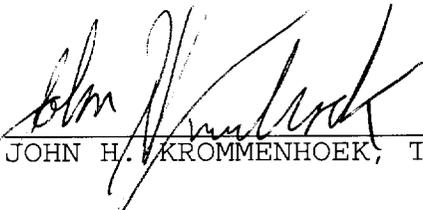
4. A Court Order Approving Partial Interim Distribution and Approving Fee Request in Part was issued on April 11, 2000.

Trustee's appointed legal counsel was approved for payment of fee's and expense's in the amount of \$57,334.72 after 100% of the unsecured proof of claims (with the sole exception of Barbara Wussler) were paid. All administrative claims are paid in full. The total amount paid thru the Final Accounting to Trustee's legal counsel was \$52,827.51.

5. A copy of the Status Report of the Bankruptcy Estate dated August 18, 2000 by Trustee Krommenhoek provides a more thorough explanation of the events in this bankruptcy. (Copy attached)

Wherefore, Trustee prays that the Court approve the Order Allowing Trustee's Final Accounting and Directing Distribution.

DATED: December 28, 2000



JOHN H. KROMMENHOEK, TRUSTEE

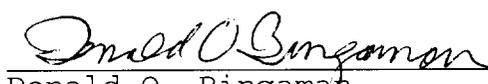
SUBSCRIBED AND SWORN to before me this 28th day of December, 2000. ✓

Notary Public for Idaho
Residing
Commission expires

CERTIFICATE OF MAILING

I hereby certify that on 28th of December, 2000, I served a true and correct copy of the foregoing upon:

Office of US Trustee
P.O.Box 110
Boise, ID 83701



Donald O. Bingaman

COPY

JOHN H. KROMMENHOEK, TRUSTEE
P.O.Box 8358
BOISE, IDAHO 83707
(208) 375-1288

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JMK-TRUSTEE

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

IN RE:)	
)	CASE NO. 93-02385
SILVA, DAVE)	
SELMASSKA, SHARON)	STATUS REPORT OF THE
DEBTOR(S))	BANKRUPTCY ESTATE

JOHN H. KROMMENHOEK, the undersigned trustee, state as follows:

1. The petition was filed on August 13, 1993 as a Chapter 13 and converted to a Chapter 7 on January 5, 1994.
2. Previous trustee Barry Zimmerman obtained a default judgement in the amount of \$45,330.70 in August 1995 on proceeds held in an auto dealer reserve account. The judgement has been served on the First Fidelity Bank N.A. New Jersey. Per rule 60-B of Federal Rules of Civil Procedures, the bank has one year to file a motion to set aside and the time elapsed in August 1996. The bank failed to file a motion to set aside.

Trustee's attorney made demand on First Fidelity Bank N.A. of New Jersey for payment of the default judgement. The bank refused payment and appealed to the Bankruptcy Court. Judge Pappas ruled in favor of the trustees position, and the bank and has now appealed his decision.

3. Adversary 94-6203 Wussler - Silva.
Order dated 2-1-95 stayed adversary proceeding, pending an opportunity for the parties to take action in California State Court seeking to set aside, amend or to obtain state court default judgement against defendant. Estate special legal counsel is pursuing to set aside, amend or obtain State Court default judgement.

As of 2-1-97 the following litigation status is pending in connection with the adversary. There are three (3) plaintiffs motions scheduled to be heard on 2-14-97. The defense has five motions pending to be heard. A brief synopsis of the pending motions is contained in a Interoffice Memorandum dated 1-21-97 from Charles D. Richmond, Esq. Attorney. Mr. Richmond is the current California council employed by trustees special council and he also has a motion pending to withdraw as local council.

The Wusslers filed a First Amended Cross Complaint on January 21, 1997 against debtor Silva, John Krommenhoek, Successor Trustee, Don Rinaldo and Roes 1 through 50. They did not obtain "Stay Relief" from Bankruptcy Court to do so. On April 30, 1997, a Motion was filed by, Trustee Krommenhoek and the bankruptcy estate, requesting sanctions against Wusslers for violation(s) of the automatic stay. A hearing was held in Boise by Judge Pappas to consider the matter.

Judge Pappas on July 29, 1997 issued a Memorandum of Decision and Order in favor of Trustee Krommenhoek's Motion.

The California Judge of the San Diego Superior Court denied the Wusslers Motion for Summary Judgment to confirm the underlying Default Judgment. The Court found thirty-eight triable issues of material fact, and set a trial for September 17, 1997, which has been rescheduled for March 1998.

Subsequent to Judge Pappas, Order, Wussler's have filed a "Motion for Clarification and to Amend or Set Aside Judge Pappas's Order".

Additionally, trustee's California attorney has filed a motion in the Idaho Court seeking an Injunction and a Civil Contempt against the Wusslers, and requesting that the Bankruptcy Court impose a punishment against the Wusslers. The mandatory mediation hearing scheduled on August 18, 1997 was rescheduled to September 22, 1997. The mediation hearing and a subsequent follow up mediation hearing in October, 1997, yielded no results or movement between the parties.

An attempt was made by trustee to abandon the Cause of Action to debtor Silva and Judge Pappas disallowed without prejudice.

Currently, compromise discussions are going on between all parties, however, it does not look promising.

The animosity and stakes are such in this case that neither the debtor(s) Silva or creditor Wussler are willing to give up.

As trustee I am caught in the middle. Dave Silva is adamant that the judgement against him is fraudulent, and wants the case to go to trial. Further, that he will oppose any attempt by the trustee to compromise with the creditor because of the significant amount involved and the possibility of a non-discharge able debt.

The creditor, Wussler on the other hand are just as adamant, and have and will oppose and abandonment to the debtor Silva.

The California trial was completed in June 1998. Judge Thomas R. Murphy denied the plaintiff's (Silva) request to set aside the 1984 Judgement. He further stated that the 1984 default judgement and punitive damages was vague, in the disjunctive and unintelligible---and therefore did not fall within the federal standards of Nondischargeability.

Concerning, the Judgement Renewable Motion, the judge made no finding on whether proper service was made on the Courtroom, Inc. (Silva's business in California), to renew the judgement.

The bottom line is that this estate continuous to remain open for the following reasons (1) The decision by the First Fidelity Bank N.A. of New Jersey's appeal, (2) Determination of Sanction awarded to the estate from Wusslers which is also on appeal and (3) Development and court approval of same type of a "Global Settlement" between all parties in order to close the estate.

The same issues are still pending 7-19-99 as follows:

1. **Trustee's judgement against Fidelity Bank N.A. of New Jersey** - The bank appealed to the District Court of Idaho which had affirmed the Bankruptcy Courts decision in favor of the trustee. Fidelity Bank has now appealed to the 9th Circuit. All briefs have now been submitted. We are awaiting a decision.
2. **Sanction Awarded Against Wusslers** - Wusslers appealed to District Court of Idaho which affirmed the Bankruptcy Court decision. They have also appealed to the 9th Circuit. Wusslers have requested another time extension to file their brief.
3. **Settlement** - Until the above appeals have been decided, there is no possibility of a settlement, or closure to this estate. We continue to explore the possibilities of a settlement, but neither party in either issue is interested at this time.

UP DATE, AS OF 1-19-2000, ON THE 3 ISSUES PENDING ON THE LAST REPORT IS PROVIDED.

1. **Trustee's Judgement against Fidelity Bank, N.A. of New Jersey** has been settled. The Bank has paid to the Trustee a total of \$75,642.72.

2. **Sanction Awarded Against Wusslers.** This matter is still on appeal. The matter has been assigned to a Circuit Mediator. Several status conferences have been held between the Wusslers attorneys, the Trustee, trustees bankruptcy attorney and trustees E&O attorney. See comments in paragraph 3.
3. **Settlement.** A Compromise Settlement Agreement & Mutual Release discussions are in process. On December 20, 1999 the Circuit BAP issued an Order for inclusion of the above appeal in the Mediation Program. The parties, having reached a tentative settlement to the disputes. Within 60 days a motion or stipulation to dismiss the matter pursuant to Fed R. App. P. 42(6), or shall contact the Circuit Mediator.

One other matter is also now pending. The proposed settlement reserves the right for the Wusslers to continue to seek a decree from the Idaho Bankruptcy Court to declare the debtors obligation to her, to be non-dischargeable, which is being vigorously apposed by the debtor(s). This action does not effect the final accounting or closing of this estate.

STATUS AS OF AUGUST 16, 2000.

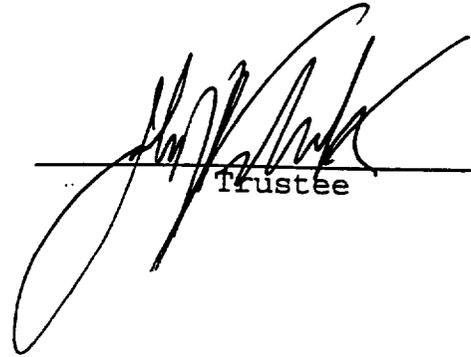
The Order Approving Compromise per Compromise Settlement Agreement and Mutual Releases was signed on March 29, 2000 by Judge Pappas.

An Order Approving Partial Interim Distribution and Approving Fee Request in part, was signed by Judge Pappas on April 11, 2000. Payments have been made to the attorneys' involved per this Order.

The estate tax returns were filed July 26, 2000 and hearing has been set for September 13, 2000 for approval of accountants fees and expenses.

4. The projected Final Accounting is October 1, 2000.

DATE: August 16, 2000



Trustee

cc: Office of US Trustee