

U.S. COURTS

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REC'D
CAMPBELL E. BURKE
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IDAHO

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 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 were three (3) plaintiffs motions heard on 2-14-97. The defense had 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.

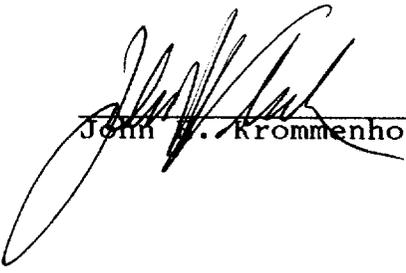
The animosity and stakes are such in this case that neither the debtor(s) Silva or creditor Wusslers are willing to give up.

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-dischargeable debt.

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

5. The projected Final Accounting is September 1, 1998.

DATE: January 29, 1998



John V. Krommenhoek, Trustee