

11 USC §522(g)
Bankr. R. 1007(h)
Bankr. R. 4003(a)

In re Lee No. 388-04306-S7

7/19/91 DDS unpublished

The debtor's claim of a wage exemption in a consulting contract was disallowed. The claim was not timely, and the debtor had actively concealed his interest in the contract from the trustee.

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

In Re:) Bankruptcy Case No.
) 388-04306-S7
MICHAEL EDWARD LEE,)
)
Debtor.) ORDER SUSTAINING TRUSTEE'S
) OBJECTION TO WAGE EXEMPTION
) CLAIMED BY DEBTOR

The debtor's belated claim of exemption in the payments from Beverly Enterprises is denied. The claim is both untimely and not well founded in law under the circumstances of this case. The debtor claims that the payments are for consulting services so he is entitled to a wage exemption. He voluntarily transferred his interest in the contract in 1985.

The trustee avoided the transfer in Adversary Proceeding No. 89-3186(S) by judgment entered on January 2, 1990. A debtor may only claim an exemption in property which the trustee recovers if the recovery was made under certain subsections of the Bankruptcy Code, and if the transfer was not a voluntary transfer by the debtor and the debtor did not

conceal the property. 11 U.S.C. §522(g).

Mr. Lee voluntarily transferred his interest in the property to Crown Holding Company and he actively concealed his interest in the company. Therefore, even if the trustee recovered the property under §510(c)(2), 542, 543, 550, 551 or 553, the debtor is not entitled to claim an exemption in the contract payments.

Mr. Lee's actions during the administration of this case should also prevent him from claiming an exemption in the contract. The court has denied his discharge, he refused to appear at a Bankr. R. 2004 examination ordered by the court in connection with this exemption, and he has been generally uncooperative with the trustee. See, 3 L. KING, COLLIER ON BANKRUPTCY ¶522.08 (15th ed. 1991).

In addition, the claim is untimely. A debtor is required to claim an exemption within 15 days of the date the petition is filed or 10 days after the debtor learns of his interest in the property. Bankr. R. 4003(a) and 1007(h). The debtor did not even raise the issue of the claimed exemption until more than a year after judgment was entered in favor of the trustee.

The debtor is not entitled to claim an exemption in the

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payments from Beverly Enterprises.

DATED this _____ day of July, 1991.

DONAL D. SULLIVAN
Bankruptcy Judge

cc: Michael E. Lee
Theodore E. Sims
Sandra L. Mitchell
U. S. Trustee