

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

JACK T. HOLLADAY

DEBTOR

§
§
§
§
§

CASE NO. 03-34333-H4-7
CHAPTER 7

TRUSTEE’S OBJECTIONS TO EXEMPTIONS

IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING, AND YOU MUST RESPOND SPECIFICALLY TO EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY (20) DAYS FROM THE DATE YOU WERE SERVED AND GIVE A COPY TO THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF.

IF A PARTY REQUESTS EMERGENCY CONSIDERATION, THE COURT MAY ACT EXPEDITIOUSLY ON THE MATTER. IF THE COURT ALLOWS A SHORTER RESPONSE TIME THAN TWENTY (20) DAYS, YOU MUST RESPOND WITHIN THAT TIME. IF THE COURT SETS AN EMERGENCY HEARING BEFORE THE RESPONSE TIME WILL EXPIRE, ONLY ATTENDANCE AT THE HEARING IS NECESSARY TO PRESERVE YOUR RIGHTS. IF AN EMERGENCY HEARING IS NOT SET, YOU MUST RESPOND BEFORE THE RESPONSE TIME EXPIRES.

TO THE HONORABLE JUDGE OF SAID COURT:

William G. West, Jr., Chapter 7 trustee of the Jack T. Holladay bankruptcy estate, objects to the debtor’s exemptions and would show the court as follows:

1. This court has jurisdiction over this contested matter under 11 U.S.C. §§1334 and 157, 11 U.S.C. §522 and Bankr. R. 4003.
2. William G. West, Jr. is the duly appointed and acting Chapter 7 trustee of the Jack T. Holladay bankruptcy estate.
3. On March 25, 2003, the debtor, Jack T. Holladay, filed his schedules and statement of financial affairs in this case.

4. On Schedule C, the debtor listed the property for which he is claiming exemptions under Texas law.

5. The trustee objects to the following property being claimed exempt under Texas law on the basis that Texas law does not exempt the property from creditors.

Cash on hand	\$16,000.00	Debtor asserts these are consulting wages and are exempt under Tx. Prop. Code §42.001(b)(1)
Frost Bank, acct. #1380158758	\$15,252.00*	Debtor asserts these are either wages or consulting wages and are exempt under Tx. Prop. Code §42.001(b)(1)

The source of these funds are consulting fees which the debtor had received prior to filing his bankruptcy case. The consulting agreements specifically state that the debtor is an independent contractor and not an employee. To the extent that the debtor held monies that were derived from his services as a consultant, they do not qualify as “current wages” that are exempt under Texas law but are instead a collected account receivable. Part of the monies may be the debtor’s W-2 wages. The trustee requests the court to determine if the W-2 wages have been inexplicably commingled with non-exempt monies so as to lose their exempt character.

* (The Frost Bank account may also include additional sums that were a reimbursement of travel expenses to the debtor in the amount of approximately \$24,000.00. The trustee also objects to the debtor claiming the reimbursement of travel expenses as exempt property under Texas law. The debtor had sent a draft of an amended Schedule C to the trustee showing these different amounts. However, the court’s docket does not show that the amendment has been filed with the court. Therefore, the trustee is filing his objections to the exemptions currently on file with the court.)

6. In addition, the trustee objects to the values assigned to the debtor's household goods and furnishings, books, pictures and other art objects, collectibles (Schedule B-4 and B-5), the debtor's wearing apparel (Schedule B-6), and furs and jewelry (Schedule B-7). The trustee requests that the court determine the current market value of such property. To the extent that the values claimed by the debtor are increased by this court's ruling, the trustee requests that the court order the debtor to amend his exemptions to limit the value of his personal property to \$60,000.00.

7. Finally, the trustee objects to the debtor's claim to exempt the "Holladay Trademarks" under Tex. Prop. Code §42.001(a) and §42.002(a)(4). The trademarks do not qualify as exempt property under Texas law. Additionally, the trustee objects to the value assigned to the "Holladay Trademarks" of \$1.00 and requests the court to determine the current market value of such trademarks.

8. The trustee reserves his right to amend these exemptions in the event that the debtor amends Schedule C to claim different or modify the amount of property he is claiming as exempt under Texas law.

WHEREFORE, the trustee requests the court to deny the debtor's exemptions claimed for cash or monies in bank accounts, to determine the value of personal property the debtor has listed in Schedules B-4 to B-7, to deny debtor's exemption for the "Holladay Trademark" and for such other relief to which the trustee may be entitled.

Respectfully Submitted:

/s/ Michael S. Holmes

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ATTORNEY FOR WILLIAM G. WEST, JR.,
CHAPTER 7 TRUSTEE

VERIFICATION OF TRANSMISSION TO U.S. TRUSTEE

I hereby verify under penalty of perjury that a true and correct copy of the above pleading has been transmitted to the United States Trustee for the Southern District of Texas, 515 Rusk, Suite 3516, Houston, Texas 77002, as required by BR 5005(b) by United States mail, first class postage prepaid, on this the 28th day of May 2003.

/s/ Michael S. Holmes
Michael S. Holmes

CERTIFICATE OF SERVICE

I hereby certify that the foregoing TRUSTEE'S OBJECTIONS TO EXEMPTIONS has been served in accordance with Local Rule 9013 on all parties listed below by United States mail, first class postage prepaid or by ECF e-mail on this the 28th day of May, 2003.

/s/ Michael S. Holmes
Michael S. Holmes

Debtor and Attorney

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Trustee

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Chapter 7 Trustee
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US Trustee
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Chase Bank
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Dallas TX 75265

Lexus Credit
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