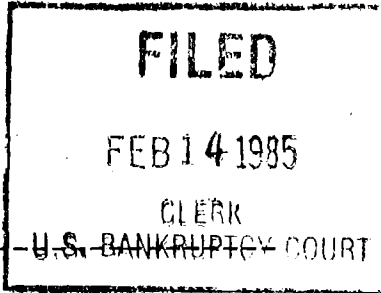


UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WISCONSIN



In re:

Case Number:

WOODCRAFT INDUSTRIES, INC.

EF11-83-01345

FRANK R. NEUMAN  
NANCY A. NEUMAN,

EF11-84-00336

Debtors.

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND  
ORDER REGARDING DISTRIBUTION

Debtors Frank R. and Nancy A. Neuman and Woodcraft Industries, Inc., by Attorney Don E. Whinnery, having filed a Motion to allow disbursement of proceeds; and the Town of Beaver Brook, Wisconsin, by Attorney Eugene D. Harrington, having filed an Objection; and a hearing having been held; and the Movants and the Objector appearing by counsel; and briefs having been filed; the Court, being fully advised in the premises, FINDS THAT:

1. The consolidated estate of the above captioned Debtors has been liquidated.

2. The Debtors have petitioned for an order to distribute \$9,000 to Equico Leasing Company on account of its secured claim, \$8,851.71 to Debtors Nancy A. and Frank R. Neuman on account of their exemption claim and \$6,105 to Don E. Whinnery, Gerald R. Anderson and Washburn Abstract Company on account of their administrative claims.

3. The Town of Beaver Brook objects to the Debtors' motion on the ground that it fails to provide for payment on account of personal property taxes incurred during the administration of the Woodcraft Industries, Inc., estate. It appears that other taxing entities may have similar claims.

Discussion

4. A debtor's exemptions are preserved in a Chapter 11 proceeding. See 11 U.S.C. sec. 1123(c) (plan may not provide for use, sale or lease of exempt property). The consolidation of two bankruptcy proceedings does not affect either debtor's exemptions. Cf. 11 U.S.C. sec. 522(m) (exemptions apply separately with respect to each debtor in a joint case).

5. This Court has no jurisdiction over property exempted from the bankruptcy estate. In re Holl, 35 B.R. 206, 208 (Bankr. D.Hawaii 1983). Accordingly, any rights which the Town of Beaver Brook retains by virtue of 11 U.S.C. sec. 522(c)(1)(1982)<sup>1</sup> must be exercised in another forum. See In re Coleman, 37 B.R. 120, 122-123 (Bankr.W.D.Wis. 1984) (section 522(c) creditor not subject to automatic stay).

6. It appears that the Debtors have waived a portion of their exemption to permit the payment of administrative expenses. See generally, 11 U.S.C. sec. 522(k) (exempt property not liable for payment of most administrative expenses).

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<sup>1</sup> Section 522(c) was amended by the Bankruptcy Amendments and Federal Judgeship Act of 1984. The original version applies to this proceeding.

7. Certain taxes incurred during the administration of an estate are administrative expenses under 11 U.S.C. sec.503(b) (1)(B). The Debtors appear to agree that the 1983 Town of Beaver Brook personal property tax claim is an administrative expense.

8. The Bankruptcy Code is designed to ensure equality of treatment to creditors with similar claims. See 11 U.S.C. sec. 547 (avoidance of preferential transfers); In re Addis, 40 B.R. 908, 909 (Bankr.W.D.Wis. 1984) ("'Bankruptcy is designed to provide an orderly liquidation procedure under which all creditors are treated equally'"); D. Epstein, Debtor-Creditor Law 270 (2nd ed. 1980) (referring to the priority scheme in the bankruptcy code: "There are a number of statements in reported cases, law review articles, and legal texts praising the theme of equality of distribution to creditors in bankruptcy proceedings. Such statements must be using the term 'equality' in the Animal Farm sense; in bankruptcy, some creditors are clearly 'more equal' than others.").

#### CONCLUSIONS OF LAW

1. \$9,000 should be distributed to Equico Leasing Company on account of its secured claim.

2. \$8,851.71 should be distributed to Debtors Frank R. and Nancy A. Neuman on account of their exemption claim.

3. The balance of the above captioned bankruptcy estate should be distributed to administrative claimants in proportion to their claims.

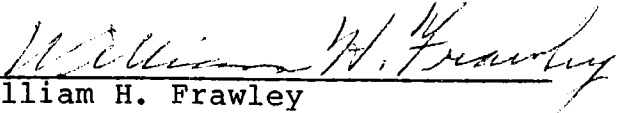
ORDER

IT IS ORDERED THAT the estate of the above captioned bankruptcy proceedings be distributed as follows:

- A. \$9,000 to Equico Leasing Company,
- B. \$8,851.71 to Debtors Nancy A. and Frank R. Neuman and
- C. the balance to administrative claimants on a pro rata basis.

Dated: February 14, 1985.

BY THE COURT:

  
William H. Frawley  
U. S. Bankruptcy Judge