

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

In re:

Case No. 6:05-bk-03334-ABB  
Chapter 7

ALFRED KELLY CARPENTER and  
JUANITA SUE CARPENTER,

Debtors.

MARIE E. HENKEL, Chapter 7 Trustee,

Plaintiff,

vs.

Adv. Pro. No. 6:05-ap-00312-ABB

UNITED STATES OF AMERICA,  
ALFRED KELLY CARPENTER, and  
JUANITA SUE CARPENTER,

Defendants.

**JUDGMENT**

This matter came before the Court on the Amended Complaint for Turnover of Property of the Estate, to Avoid and Recover Fraudulent Transfer, to Avoid and Recover Post-petition Transfer and for Injunction (Doc. No. 8) ("Amended Complaint") and the Motion for Summary Judgment Against Defendants (Doc. Nos. 30, 31) ("Trustee's Motion for Summary Judgment") filed by Marie E. Henkel, the Chapter 7 Trustee herein, against the United States of America ("IRS") and Alfred Kelly Carpenter and Juanita Sue Carpenter, the Debtors and Defendants by intervention herein. Also before the Court is the IRS' Opposition and Cross-Motion for Summary Judgment (Doc. No. 44) ("IRS' Motion for Summary Judgment") and the Trustee's Objection to Proof of Claim No. 3 Filed by the IRS (Main Case Doc. No. 100) ("Claim Objection"). After reviewing the pleadings and evidence, hearing testimony and argument, and in conformity with and pursuant to the **Memorandum Opinion** entered contemporaneously herewith, it is

**ORDERED, ADJUDGED and DECREED** that the Trustee's Motion for Summary Judgment is hereby **GRANTED** and the IRS' Motion for Summary Judgment is **DENIED** as to Count I of the Amended

Complaint and **JUDGMENT** is hereby entered in favor of the Plaintiff Marie E. Henkel, Chapter 7 Trustee, and against the Defendants the United States of America, Alfred Kelly Carpenter, and Juanita Sue Carpenter as to Count I; and it is further

**ORDERED, ADJUDGED and DECREED** that the Trustee's Motion for Summary Judgment is hereby **DENIED** and the IRS' Motion for Summary Judgment is hereby **GRANTED** as to Counts II, III, IV, and V of the Amended Complaint and **JUDGMENT** is hereby entered in favor of the Defendants the United States of America, Alfred Kelly Carpenter, and Juanita Sue Carpenter and against the Plaintiff Marie E. Henkel, Chapter 7 Trustee as to Counts II, III, IV, and V; and it is further

**ORDERED, ADJUDGED and DECREED** that the Trustee's Claim Objection is hereby **SUSTAINED**; and it is further

**ORDERED, ADJUDGED and DECREED** that Claim No. 3 is hereby **ALLOWED** in the amount of \$28,835.00 and the interest portion is **DISALLOWED**; and it is further

**ORDERED, ADJUDGED and DECREED** that the IRS has a right to set off the Debtors' 2003 tax year liability of \$28,835.00 against the overpayment of \$70,828.00 held by the IRS, with an overpayment balance of \$41,993.00 which constitutes property of the estate pursuant 11 U.S.C. § 541(a); and it is further

**ORDERED, ADJUDGED and DECREED** that Judgment is entered in favor of the Plaintiff Marie E. Henkel, Chapter 7 Trustee, and against the Defendant the United States of America in the sum of \$41,993.00 and the IRS must turnover said overpayment balance to the Plaintiff pursuant to 11 U.C.C. § 542(a). For the foregoing sum let execution issue; and it is further

**ORDERED, ADJUDGED and DECREED** that the Court retains jurisdiction to address any motion for reconsideration the IRS may file on the issue of the interest disallowance.

Dated this 28<sup>th</sup> day of December, 2006.

/s/Arthur B. Briskman  
ARTHUR B. BRISKMAN  
United States Bankruptcy Judge