

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

JEFFREY DAVID FREEMAN and
LILA DAPHNE HUMPHREYS,

Case No. 6:10-bk-14918-ABB
Chapter 13

Debtors.

ORDER

This matter came before the Court on the Motion for Payment of Unclaimed Funds (Doc. No. 39) filed by the Debtors seeking payment of unclaimed funds in the amount of \$10,269.32. A hearing was held on April 24, 2012 at which counsel for the Chapter 13 Trustee Laurie K. Weatherford appeared. The Debtors did not appear. The Motion is due to be denied.

The Debtors filed this case on August 23, 2010. Secured Claim No. 18-1 in the amount of \$164,569.00 was filed regarding the security interest held by Homeq in the Debtors' home. Disbursements were made to Homeq on its allowed secured claim pursuant to the Debtors' confirmed Chapter 13 plan. The Debtors' case was dismissed on October 26, 2011 due to the Debtors' plan delinquencies (Doc. No. 32) and the Trustee filed a Report of Unclaimed Funds and a Final Report (Doc. Nos. 34, 35). Disbursements from three checks totaling \$10,269.32 on Homeq's allowed claim were not negotiated and the unclaimed funds were paid into the Court's registry pursuant to 11 U.S.C. Section 347.

The funds paid into the registry of the Court result from unclaimed distribution checks and not a distribution surplus. The funds constitute property of the estate to be

disposed of in accordance with Chapter 129 of title 28. 11 U.S.C. § 347(a); FED. R. BANKR. P. 3001. Unclaimed funds may only be disbursed to the “rightful owners” upon “full proof of the right thereto.” 28 U.S.C. §§ 2041, 2042. Only the creditor to whom distribution was to be made is the rightful owner of the unclaimed funds. In re App. Unclaimed Funds in Exhibit “A”, 341 B.R. 65, 69 (Bankr. N.D. Ga. 2005); *see also* Leider v. U.S., 301 F.3d 1290, 1296 (Fed. Cir. 2002) (explaining “an unlocated creditor has a property right in his or her distributive share of the funds of a bankruptcy estate.”).

The Debtors are not entitled to the unclaimed funds held in the registry of the Court regarding Homeq’s claim. The rightful owner of those funds is the holder of Claim No. 18-1. The Debtors’ Motion is due to be denied.

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the Debtor’s Motion for Payment of Unclaimed Funds (Doc. No. 39) is hereby **DENIED**.

Dated this 24th day of April, 2012.

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