

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

WILLIAM G. MARTIN,
VIRGINIA E. MARTIN,

Debtors.

Bk. No. 8:02-bk-18480-MGW

Chapter 7

J.B. Vol. 13
1368

WILLIAM G. MARTIN,
VIRGINIA E. MARTIN

Plaintiffs,

v.

Adversary No. 8:05-ap-00135-MGW

UNITED STATES OF AMERICA
INTERNAL REVENUE SERVICE, and
DOUGLAS N. MENCHISE, TRUSTEE,

Defendants.

JUDGMENT

This cause came before the Court for hearing on September 19, 2005 with all parties represented by counsel and stipulating to the facts set forth herein.

The Complaint has two counts. In the first count, the Plaintiffs request a determination of the liability and amount of certain Trust Fund Recovery Penalties. The Plaintiffs had filed an estimated claim for those liabilities on behalf of the Internal Revenue Service, claim number 8 in the amount of \$20,000. As of the petition date, the Trust Fund Recovery Penalties plus accrued interest stood at \$8,207.50. The parties agree that claim number 8 is still a valid claim, notwithstanding a subsequent claim filed by the IRS for separate personal income taxes, and is to be paid as a priority claim in the reduced amount of \$8,207.50.

In the second count, the Plaintiffs seek a judicial determination that certain tax refunds for the 1996, 1997 and 2001 tax years were appropriately made, thus forestalling any later efforts by the IRS to audit and assess against the Plaintiffs any potential deficiencies for those periods. The Internal Revenue Service has filed a Notice of Expiration of Assessment Period of Limitations stating that the assessment period of limitations found in 26 U.S.C. Section 6501 has lapsed for all of the relevant periods. As a result, the second count of the complaint is now moot. Accordingly, it is hereby

I CERTIFY THE FOREGOING TO BE A TRUE
AND CORRECT COPY OF THE ORIGINAL.
UNITED STATES BANKRUPTCY COURT
DAVID K. OLIVERIA, CLERK

Sheryl C.

Deputy Clerk

ORDERED, ADJUDGED AND DECREED that the Plaintiffs' liability for Trust Fund Recovery Penalties is determined to be \$8,207.50 and the Trustee shall immediately pay priority claim number 8 in the amount of \$8,207.50 in full satisfaction of the Trust Fund Recovery Penalties.

It is further **ORDERED ADJUDGED AND DECREED** that the second count of the Complaint is dismissed as moot.

DONE AND ORDERED at Tampa, Florida on October 6, 2005.



MICHAEL G. WILLIAMSON
United States Bankruptcy Judge

Copies to:

Shirley C. Arcuri, Esquire, 4830 West Kennedy Blvd., Ste. 750, Tampa, FL 33609
Douglas N. Menchise, Trustee, 300 Turner Street, Clearwater, Florida 34616
Richard D. Euliss, U.S. Dept. of Justice, P.O. Box 14198, Washington, DC 20044

6756-003 Judgment 9-23-05