

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

Case No. 6:04-bk-00585-ABB
Chapter 7

JODIE LYNN DELEON,
ANGEL ORLANDO DELEON,

Debtors.

SCOTT R. FRANSEN, Trustee

Plaintiff,

vs.

Adv. Pro. No 6:05-ap-19-ABB

JODIE LYNN DELEON
ANGEL ORLANDO DELEON,

Defendants.

ORDER

This matter came on Plaintiff, Scott R. Fransen, Trustee's ("Trustee") Complaint to Deny Discharge pursuant to 11 U.S.C. § 727(d)(3). The following Findings of Fact and Conclusions of Law are made after reviewing the evidence.

FINDINGS OF FACT

Jodie Lynn DeLeon and Angel Orlando DeLeon ("Debtors/ Defendants") filed a petition under Chapter 7 on January 21, 2004. The Debtors were granted a discharge on May 6, 2004 (Main case - doc.6). Scott R. Fransen ("Trustee") filed a Motion for Turnover of Property of the Estate (Main case - doc.9). An Order Granting Motion For Turnover of Assets Of The Estate ("Order") was entered on October 21, 2004 (Main case – doc. 10).

The Order directed the Debtors to turnover a 1995 Buick LeSabre ("Buick") [Vehicle

Identification Number 1G4HP52L1SH521165] to the Trustee. Debtors were pro se but received guidance by a preparer. The Debtors did not turn over the Buick to the Trustee. The title on the Buick listed a lien by Alta Marie Colleta. Debtors are entitled to an exemption, pursuant to Fla. Stat. § 222.25(1), for \$1,000 given that the Buick was titled in only one of their names. There is no equity in the Buick for the Trustee based on the lien and the exemption.

CONCLUSIONS OF LAW

The Chapter 7 trustee brought this adversary proceeding to revoke the debtors' discharge pursuant to 11 U.S.C. §727(d)(3). The complaint alleges that the debtors did not turnover the Buick to the Trustee as directed in the Order Granting Motion for Turnover of Assets of the Estate ("Order") (Main Case – doc.10). 11 U.S.C. § 727(d)(3) provides

On request of the trustee, a creditor, or the United States trustee, and after notice and a hearing, the court shall revoke a discharge granted under subsection (a) of this section if – (3) the debtor committed an act specified in subsection (a)(6) of this section. 11 U.S.C. § 727(a)(6)(A) provides "(a) The court shall grant the debtor a discharge unless – (6)(A) the debtor has refused, in the case – to obey a lawful order of the court...".

The Debtors' actions do not constitute a disregard of the Order of the Court based upon the facts and circumstances in this case. The evidence before the Court establishes the title of the Buick had a lien listed on it and there was no evidence to the contrary. There is no equity in the Buick for the estate based on the lien and the exemption. The Trustee is not entitled to the Buick. Therefore, it is

ORDERED, ADJUDGED and DECREED that **JUDGMENT** is entered in favor of the Defendants, Jodie Lynn Deleon and Angel Orlando Deleon, and against the Plaintiff, Scott R. Fransen, Trustee; it is further

ORDERED, ADJUDGED and DECREED that Plaintiff's, Scott R. Fransen, Trustee, objection to Debtors', Jodie Lynn Deleon and Angel Orlando Deleon, claim of exemption for the 1995 Buick LeSabre is **OVERULED**; it is further

ORDERED, ADJUDGED and DECREED that Scott R. Fransen, Trustee, plaintiff shall take nothing in connection with the Complaint; it is further

ORDERED, ADJUDGED and DECREED that the parties are responsible for their own attorney's fees and costs.

Dated this 6th day of June 2005.

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