

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE:

**MARVIN LEE WILCOX and
PAMELA JEAN WILCOX,**

Debtors.

**OKLAHOMA DEPARTMENT OF SECURITIES,
Ex Rel. IRVING L. FAUGHT,**

Plaintiff,

vs.

**MARVIN LEE WILCOX and,
PAMELA JEAN WILCOX,**

Defendants.

**Case No. 07-10610-RLB
Chapter 7**

Adversary No. 07-01226

**OBJECTION TO COMPLAINT OBJECTING TO DISCHARGE UNDER
11 U.S.C. § 727(A)(5) AND TO DETERMINE DISCHARGEABILITY OF DEBT
UNDER 11 U.S.C. §523(A)(2), (7) AND (19) AND SEEKING IMPOSITION OF
AN EQUITABLE LIEN ON CERTAIN PROPERTY**

Comes now the Debtors, Marvin Lee Wilcox and Pamela Jean Wilcox, by and through their attorney of record, Jeffrey C. Trent, and for an Objection to the Complaint filed by the Oklahoma Department of Securities (Department) Objecting to the Debtors' discharge under 11 U.S.C. § 727(a)(5), and requesting that this Court Determine Dischargeability of Debt under 11 U.S.C. § 523(a)(2), (7) and (19), as follows:

1. Agreed. This is an adversary proceeding and is controlled by Bankruptcy Rules 4004(d) and 7001(4).
2. Agreed. This Court has jurisdiction pursuant to 28 U.S.C. § 157.

3. Agreed. This is a core proceeding.
4. Agreed. Debtors have filed for relief under Chapter 7, Title 11 United States Code.
5. Denied. Debtors have fully cooperated with Department in determining the deficiency of assets in the sum of \$509,505.00. Department would have this Court believe that Debtors have not explained the deficiency, however, prior to the 341 hearing, and the 2004 examination, Department received two copies of all of the Debtors' transactions, not only from the Debtors, but from the banking institutions which handled all of the transactions. Department has been aided with the assistance of CPA's, accountants, and attorneys to review 100% of all the transactions involved with the issues surrounding the Marsha Schubert Purported Investment Program.

Department has also been supplied with all of the taxpayer's individual and business income tax returns to compare with the bank statements showing all of the transactions during the period in question. The Department has had ample opportunity to secure the information needed to determine that Debtors have meet their burden to have this debt discharged.

6. Denied. There is nothing in Department's Order of Judgment that makes their claim excepted from a discharge in bankruptcy.

7. Agreed. The Department has correctly noted that Marsha Schubert, **individually** and doing business as Schubert and Associates, orchestrated a securities fraud in and from Crescent,

OK. The Court should note that the Debtors, Marvin Lee Wilcox and Pamela Jean Wilcox, was not the person that operated the securities fraud, he was only a "pawn" in the ugly events that were staged without Debtors' knowledge and consent.

Department claims that Debtors materially aided the fraudulent securities scheme, however, while Marsha Schubert used Debtors to further her scheme, at no time were Debtors

knowledgeable of her activities and it was only after the Department closed down Marshal Schubert, did Debtors have any knowledge of wrongdoings.

Department claims that Debtors obtained money by false pretenses, a false representation, or actual fraud. False pretenses and false representation are the crimes of “knowingly obtaining title to another’s personal property by misrepresenting a fact with the intent to defraud.”

Fraud is the “knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.” At no time did Debtors have any knowledge of any wrong doing surrounding the actions of Marsha Schubert.

8. Denied. The Debtors’ discharge under Chapter 7 of the Code do in fact discharge this debt.
9. Denied. Debtors homestead is exempt per Oklahoma statutes and counsel for Adversary knows this is not correct.
10. Agreed.

CONCLUSION

This Court should take note of the following facts that are at the center of this case.

- A. The Department brought charges against Marsha Schubert, however, in the two (2) plus years since they filed claims against Marsha Schubert, they have not brought any charges against the Debtors, because their allegations of fraud and false pretenses are not supported by the facts, because “but for” the fact that Marsha Schubert was using Debtors’ checking account (she was able to use Debtors’ lack of investment experience), Marsha Schubert would not have been able to “run her scheme” for her own benefit as long as she did.
- B. The Department has had over two (2) years to trace all of the monies that were deposited into and taken out of the Debtors’ checking account and during this period of time their accountants, CPAs and lawyers have not found any expenditures that Debtors made other

than those that were reported on their individual income tax returns as required by the IRS.

- C. The Debtors are not “learned persons”, having only a high school education. Debtors did not have the knowledge of the investment scheme that Marsha Schubert was conducting.
- D. The Department also knows that Marsha Schubert was successful in gaining the trust of not only the Debtors, but she convinced lawyers, bankers, real estate brokers, and persons with college education to invest monies into her “day trading” scheme.

Wherefore, Debtors respectfully request that this Court deny Department’s request of an Order Denying Debtors’ Discharge and Determining that this Debt is non-dischargeable.

s/Jeffrey C. Trent
Jeffrey C. Trent, OBA #11598
Attorney for Debtors
915 W. Main Street
Yukon, Oklahoma 73099
(405) 354-4879
(405) 354-1252 FAX

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2007, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Electronic Filing to the following ECF registrants:

Gerri Stuckey
Oklahoma Department of Securities
First National Center, Suite 860
120 N. Robinson
Oklahoma City, Oklahoma 73102
Attorney for Plaintiff

Susan J. Manchester
1412 N. Dewey
Oklahoma City, OK 73103
Trustee

Matthew R. Opper
117 N. Main Street
P. O. Box 555
Kingfisher, Oklahoma 73750
Attorney for Creditor, NbanC

Answer a Complaint

U.S. Bankruptcy Court
Western District of Oklahoma

Notice of Electronic Filing

The following transaction was received from Trent, Jeffrey C. entered on 11/8/2007 at 4:20 PM CST and filed on 11/8/2007

Case Name: Oklahoma Department of Securities v. Wilcox et al

Case Number: 07-01226

Document Number: 5

Docket Text:

Answer to Complaint *Objecting to Discharge* with Brief in Support. with Certificate of Service. Filed by Marvin Lee Wilcox, Pamela Jean Wilcox. (Trent, Jeffrey)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:C:\Program Files\LexisNexis\Collier TopForm
Bankruptcy\E-Filing\OUT\Wilcox\Objection to Complaint_WILCOX.pdf

Electronic document Stamp:

[STAMP bkecfStamp_ID=1107360813 [Date=11/8/2007] [FileNumber=4565826-0]
] [63c974c09d59053b5d926eb917bace5165d2b8c04c54a5fa88c980d2a5c30dd7d6d
eaacaf55cdac5819067ea6bde92af8a43faa7e22399f8578f808cdb2e6ea2]]

07-01226 Notice will be electronically mailed to:

Gerri L. Stuckey gls@securities.ok.gov, bsl@securities.ok.gov

Jeffrey C. Trent tlcjtaal@netscape.net, jeffcpa@sbcglobal.net

07-01226 Notice will not be electronically mailed to:

Amanda M. Cornmesser
First National Center, Suite 860
120 North Robinson
Oklahoma City, OK 73102