

HON. THOMAS T. GLOVER
Chapter 7
Hearing Date: April 15, 2009
Hearing Time: 1:30 P.M
Location: 614 Division Street
Port Orchard, WA 98366
Responses Due: April 8, 2009

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re:) NO. 09-10001-TTG
)
DOMINIC Z HARPER and KRISTIE A) PINNACLE BUSINESS FINANCE,
HARPER,) INC.'S OBJECTION TO CLAIM OF
) EXEMPTION
Debtors.)

COMES NOW, Pinnacle Business Finance, Inc. ("Pinnacle"), a creditor in the above bankruptcy case, by and through its attorneys, Gregory R. Fox and LANE POWELL PC, and objects to the following exemption claimed by the Debtors on Schedule C.

The Debtors claim an exemption in "bbq equipment used in business" (the "Equipment") pursuant to the catch-all exemption provided in 11 U.S.C. §522(d)(5). However, the Debtors' list the claimed exempt property under the "machinery, fixtures, equipment and supplies used in business" heading without citation to the corresponding exemption provided in 11 U.S.C. §522(d)(6). Thus, it is unclear whether the Debtors also claim the exemption under 11 U.S.C. §522(d)(6).

To the extent the Debtors claim an exemption under 11 U.S.C. §522(d)(6), that exemption is unavailable. The Debtors have apparently sold their restaurant and are no

PINNACLE BUSINESS FINANCE, INC.'S OBJECTION
TO CLAIM OF EXEMPTION - 1

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1 longer in the restaurant business. Thus, the Equipment is no a longer a tool of the trade of
2 the Debtors. 11 U.S.C. §522(d)(6).

3 Regardless of the statutory basis for the Debtors' exemption, the Equipment and any
4 sale proceeds are fully secured by Pinnacle's unavoidable purchase money security interest.
5 11 U.S.C. §522(f). Thus, the Debtors' lack any equity or interest in the Equipment and its
6 proceeds and must withdraw their exemption.

7 The Debtors' Schedule C states that the Equipment is "SECURED BY BANK UCC
8 EQUIP SOLD AND PROCEEDS PAID TO BANK FMV 8000 LOAN 8000." However,
9 Pinnacle has not received any sale proceeds from the sale of its Equipment.

10 For the above-stated reasons, the Debtors must withdraw their claimed exemption(s)
11 and turn over any sale proceeds received on account of the Equipment.

12 DATED this 11th day of March 2009.

13 LANE POWELL PC

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15 By: /s/ Gregory R. Fox

16 Gregory R. Fox, WSBA No. 30559
17 Attorney for Pinnacle Business Finance, Inc.
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PINNACLE BUSINESS FINANCE, INC.'S OBJECTION
TO CLAIM OF EXEMPTION - 2

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