

**U.S. BANKRUPTCY COURT  
District of South Carolina**

Case Number: 03-00900-W

**ORDER SUSTAINING OBJECTION OF UNITED STATES  
TRUSTEE TO DEBTOR'S EXEMPTION**

The relief set forth on the following pages, for a total of 3 pages including this page, is hereby **ORDERED**.

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**FILED BY THE COURT  
05/05/2003**



Entered: 05/07/2003

*John E. Waites*

US Bankruptcy Court Judge  
District of South Carolina

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

In re:

Phillip P. Cooper and  
Theresa L. Cooper,

Debtors.

Case No. 03-00900-W  
Chapter 7

**ORDER SUSTAINING OBJECTION OF UNITED STATES  
TRUSTEE TO DEBTOR'S EXEMPTION**

This matter comes before the court on the objection of the United States Trustee (the UST) to the debtors' claim of exemption of \$1,500.00 in a tax refund. The debtors filed the claim of exemption on March 21, 2003, and the UST filed a timely objection on March 31, 2003.

The debtors seek to claim a \$1,500.00 exemption in tax refunds which they did not disclose in their original Schedule B filed with the court on January 27, 2003. The debtors admitted at the meeting of creditors on February 21, 2003, in response to questioning by the chapter 7 trustee, that they were entitled to state and federal tax refunds for the year 2002 totaling \$3,028.00. The debtors' amended Schedule B, filed on March 21, 2003, showed the refund amount as \$1,500.00, but the debtors amended their Schedule B again on April 16, 2003, to reflect that the correct amount was \$3,028.00.

Although no testimony or other evidence was presented at the hearing on the UST's objection, the debtors' counsel stated in response to the objection that the debtors were of the opinion at the time they filed their petition that they would not be entitled to a tax refund.

However, the record reflects that the debtors did not amend their schedules when they determined

that they would be entitled to \$3,028.00 in refunds. Furthermore, the debtors did not inform the trustee prior to or at the beginning of the creditors meeting that they were entitled to a tax refund and that their Schedule B was incorrect. The trustee learned about the tax refunds only because he specifically asked the debtors if they were entitled to them. There is no evidence of whatsoever that the debtors took any action prior to the trustee's questions to disclose their entitlement to a tax refund.

It is clear that 11 U.S.C. § 521(1)<sup>1/</sup> requires the debtor to file “a schedule of assets and liabilities, a schedule of current income and current expenditures, and a statement of the debtor’s financial affairs.” Indeed, “the disclosure obligations of consumer debtors are at the very core of the bankruptcy process and meeting these obligations is part of the price debtors pay for receiving the bankruptcy discharge.” *In re Colvin* 288 B.R. 477, at 480 (Bankr. E.D. Mich. 2003). The debtors’ disclosure obligation does not end when the debtors file their schedules. Even assuming, arguendo, that the assertion of the debtors’ attorney in this case is true and the debtors’ did not expect 2002 tax refunds at the time they filed their petition, at some point after filing, and prior to the meeting of creditors, the debtors determined that they were entitled to tax refunds. The debtors’ failure to amend their schedules or to voluntarily inform the trustee, prior to questioning, that their schedules were wrong revealed the debtors’ reckless disregard for their obligation to disclose all of their assets. The court concludes, therefore, that the debtors are not entitled to claim an exemption in their tax refunds. The objection of the UST to the debtors’ claim of exemption is sustained.

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<sup>1/</sup> Further references to the Bankruptcy Code shall be by section number only.