

UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF GEORGIA
 ATLANTA DIVISION

IN RE:)	CHAPTER 7
)	
STEVEN LODEN DYE,)	CASE NO. 06-71024-MHM
)	
Debtor.)	

ORDER APPROVING ABANDONMENT

Hearing was held beginning June 27, 2007, continued to July 5, 2007, and concluded July 6, 2007, on the Trustee's *Notice of Proposed Disposition or Abandonment of Property* [Doc. No. 13] filed May 21, 2007, as amended by the *Amended Notice of Proposed Disposition or Abandonment of Property* [Doc. No. 159] filed June 4, 2006. Objections were filed June 4, 2007 [Doc. No. 156], and June 12, 2006 [Doc. No. 163], by FXM, P.C. d/b/a Frank X. Moore & Associates ("FXM") (collectively, the "FXM Objection"); and by Debtor June 25, 2007 [Doc. No. 189].

FXM and Debtor objected to Trustee's proposed abandonment of the Cravenridge Interpleader Action, the Cravenridge Excess Proceeds, the Danielle Interpleader Action, and the Danielle Excess Proceeds (as those terms are defined below and in the *Motion to Approve Compromise and Settlement By and Between Trustee and BEP Creditor's Trust as Assignee of BEP Services, L.P.* [Doc. No. 91] as amended by the *Amended Motion to Approve Compromise and Settlement By, Between and Among Trustee, BEP Creditor's Trust as Assignee of BEP Services, L.P. and Bank of America, N.A.* [Doc. No. 144]).

Debtor objected to Trustee's proposed abandonment of all scheduled household goods, furnishings and jewelry of Debtor. Debtor and Debtor's wife, Barbara H. Dye¹, were present at the hearing, together with Counsel for the Trustee, counsel for FXM, counsel for Bank of America, N.A., counsel for BEP Creditor's Trust as Assignee of BEP Services, L.P., counsel for Deutsche Bank Trust Company Americas, and counsel for American General Financial Services, Inc. (DE).

Findings of Fact

1. Prior to filing bankruptcy, Debtor had an ownership interest in two parcels of real property located at 2903 Cravenridge Drive, NE, Atlanta, DeKalb County, Georgia 30319 (the "Cravenridge Property") and 2539 Danielle Court, Marietta, Cobb County, Georgia 30062 (the "Danielle Property"). At some point prior to the foreclosures of the Cravenridge Property and Danielle Property (as discussed below), Debtor transferred his entire interest in the Cravenridge Property to his wife, Barbara Dye, by quitclaim deed, and his one-half interest in the Danielle Property to the Biscayne, LLC, of which Debtor was a managing member, so that Debtor was not the owner of record of either property at the times of their foreclosure sales.

2. On February 7, 2006, Bank of America, N.A. ("BOA") sold the Cravenridge Property at a non-judicial foreclosure sale (the "Cravenridge Foreclosure Sale"), resulting in excess proceeds of \$84,033.92 (the "Cravenridge Excess Proceeds").

¹ Except Mrs. Dye was absent July 6, 2007.

3. On April 21, 2006, BOA filed a *Verified Complaint for Interpleader* commencing that certain civil action styled *Bank of America, N.A. v. Barbara H. Dye, American General Financial Services, Inc., (DE), U.S. Bank National Association and BEP Services, L.P.*, Civil Action File No. 2006-CV-115788, (the “Cravenridge Interpleader Action”) in the Superior Court of Fulton County, Georgia to determine how the Cravenridge Excess Proceeds should be disbursed.

4. In the Cravenridge Interpleader Action, four defendants in addition to Debtor claim rights in the Cravenridge Excess Proceeds. They are: American General Financial Services, Inc. (DE), BEP Services, L.P. (“BEP”), U.S. Bank National Association (“U.S. Bank”) and Debtor’s wife, Barbara H. Dye.

5. Notwithstanding that Debtor was not the owner of the Cravenridge Property at the time it was foreclosed, the monetary claims of Debtor (and therefore of Debtor’s estate) in the Cravenridge Excess Proceeds are far exceeded by senior liens on the Cravenridge Property. Therefore, the Cravenridge Interpleader Action and the Cravenridge Excess Proceeds are of no value to Debtor’s estate.

6. On August 2, 2005, MidFirst Bank (“MidFirst”) sold the Danielle Property at a non-judicial foreclosure sale (the “Danielle Foreclosure Sale”), resulting in excess proceeds of \$25,134.55 (the “Danielle Excess Proceeds”).

7. On January 30, 2006, MidFirst filed a *Complaint for Interpleader* commencing that certain civil action styled *MidFirst Bank v. Barbara H. Dye, BEP Services, L.P., George W. Emerson, Jr. in his capacity as Trustee of the BEP Creditors Trust, U.S. Bank*

N.A. and the Biscayne, LLC, Civil Action File No. 06-1-00765-28, (the “Danielle Interpleader Action”) in the Superior Court of Cobb County, Georgia to determine how the Danielle Excess Proceeds should be disbursed.

8. In the Danielle Interpleader Action, five defendants in addition to Debtor claim a right in the Danielle Excess Proceeds. They are: BEP; the Biscayne, LLC; George W. Emerson, Jr. in his capacity as Trustee of the BEP Creditors Trust; U.S. Bank; and Debtor’s wife.

9. Just as with the Cravenridge Interpleader Action and Cravenridge Excess Proceeds, notwithstanding that Debtor was not the owner of the Danielle Property at the time it was foreclosed, the value of Debtor’s potential claim and therefore that of Trustee for Debtor’s estate, in the Danielle Excess Proceeds is eclipsed by senior liens on the Danielle Property. Therefore, the value of the Danielle Interpleader Action and Danielle Excess Proceeds to Debtor’s estate is nonexistent.

10. Debtor’s scheduled household goods, furnishings and jewelry are of inconsequential value to the estate and the benefit derived from any liquidation of the same would be greatly outweighed by the burden of accomplishing such task.

Debtor, proceeding *pro se*, has refused to claim exemptions in his personal property, *inter alia*, so the administrative task of separating Debtor’s property from that of his wife further decreased the potential value to the estate.

Accordingly, it is hereby

ORDERED that the FXM Objection to Trustee's Abandonment and Debtor's Objection to Trustee's Abandonment are **DENIED**. It is further

ORDERED that Trustee's abandonment of the Cravenridge Interpleader Action, the Cravenridge Excess Proceeds, the Danielle Interpleader Action, the Danielle Excess Proceeds, and all scheduled household goods, furnishings and jewelry of Debtor is hereby approved.

The Clerk, U.S. Bankruptcy Court, is directed to serve a copy of this order upon Debtor, Trustee, Counsel for the Trustee, counsel for FXM, counsel for Bank of America, N.A., counsel for BEP Creditor's Trust as Assignee of BEP Services, L.P., counsel for Deutsche Bank Trust Company Americas, and counsel for American General Financial Services, Inc. (DE).

IT IS SO ORDERED this the 12th day of July, 2007.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE

Draft prepared and presented by:

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