

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF IOWA

JAN 29 1996

BARBARA A. EVERLY, CLERK

In re:

DONALD W. STEINKE and  
MARY V. STEINKE,

Debtors.

)  
)  
)  
)

Chapter 7

Bankruptcy No. 93-51968XS

JUDGMENT

This proceeding having come on for trial before the court, the Honorable William L. Edmonds, United States Bankruptcy Judge, presiding, and the issues having been duly tried and a decision having been rendered,

IT IS ORDERED AND ADJUDGED: that the discharge order entered in the case of Donald W. Steinke and Mary V. Steinke, Bankruptcy No. 93-51968, dated May 13, 1994, is vacated.

IT IS FURTHER ORDERED AND ADJUDGED: that the discharge of Donald and Mary Steinke is denied pursuant to 11 U.S.C. § § 727(d) (1), 727(a) (2) and 727(a) (4) (A).

IT IS FURTHER ORDERED AND ADJUDGED that the transfer of \$10,000 to Jeffrey Steinke is avoided as a fraudulent transfer.

IT IS FURTHER ORDERED AND ADJUDGED that Trustee Donald H. Molstad shall recover from Donald and Mary Steinke the sum of \$10,000.

IT IS FURTHER ORDERED AND ADJUDGED that Adversary No. 95-5094XS shall remain open pending dismissal of Jeffrey Steinke based on his settlement with Trustee Donald H. Molstad. The court has determined that there is no just reason for delay and directs that final judgment enter against Donald and Mary Steinke.

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BARBARA A. EVERLY  
Clerk of Bankruptcy Court

By: *Lav. Stoyk*  
Deputy Clerk

[Seal of the U.S. Bankruptcy Court]  
Date of Issuance: January 29, 1996

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

U.S. BANKRUPTCY COURT X  
NORTHERN DISTRICT OF IOWA  
JAN 29 1996  
BARBARA A. BEVERLY, CLERK

In re:

DONALD W. STEINKE and	)	Chapter 7
MARY V. STEINKE,	)	
	)	Bankruptcy No. 93-51968XS
Debtors.	)	
-----		
WILLIAM ARTHUR GRESS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Adversary No. 94-5021XS
	)	
DONALD W. STEINKE and	)	
MARY V. STEINKE,	)	
	)	
Defendants.	)	

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BARBARA A. EVERLY  
Clerk of Bankruptcy Court

By: *Laura Stogler*  
Deputy Clerk

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

In re:

DONALD W. STEINKE and ) Chapter 7
MARY V. STEINKE, )
) Bankruptcy No. 93-51968XS
Debtors. )
-----
DONALD H. MOLSTAD, Trustee, )
)
Plaintiff, )
)
vs. ) Adversary No. 95-5094XS
)
DONALD W. STEINKE, )
MARY V. STEINKE and )
JEFFREY STEINKE, )
)
Defendants. )

JUDGMENT

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BARBARA A. EVERLY  
Clerk of Bankruptcy Court

By: *Lavinia Stoyke*  
Deputy Clerk

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

U.S. BANKRUPTCY COURT X  
NORTHERN DISTRICT OF IOWA

JAN 29 1996

BARBARA A. EVERLY, CLERK

IN RE:

DONALD W. STEINKE and )  
MARY V. STEINKE, )  
 )  
Debtors. )

Chapter 7

Bankruptcy No. 93-51968XS

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WILLIAM ARTHUR GRESS, )  
 )  
Plaintiff, )

vs. )

Adversary No. 94-5021XS

DONALD W. STEINKE and )  
MARY V. STEINKE, )  
 )  
Defendants. )

-----  
DONALD H. MOLSTAD, Trustee, )  
 )  
Plaintiff, )

vs. )

Adversary No. 95-5094XS

DONALD W. STEINKE, )  
MARY V. STEINKE and )  
JEFFREY STEINKE, )  
 )  
Defendants. )

ORDER RE: COMPLAINT TO REVOKE DEBTORS' DISCHARGE  
AND TO AVOID FRAUDULENT TRANSFER

ORDER RE: COMPLAINT TO DENY DEBTORS' DISCHARGE

The matters before the court are the complaints filed by the Trustee and William Arthur Gress to revoke or deny the debtors' discharge, to avoid a fraudulent transfer and to obtain judgment for the amount of the transfer. The matters were tried December 14, 1995 in Sioux City, Iowa. Donald H. Molstad appeared for

Steinkes told Ford of the transfer and that Ford advised them not to disclose the transfer, it would have been unreasonable for the Steinkes to rely on such advice. City National Bank of Fort Smith, Arkansas v. Bateman (In re Bateman), 646 F.2d 1220, 1224 (8th Cir. 1981) (unreasonable to exclude income and gift from statement of affairs on advice of counsel; argument did not rebut presumption of fraudulent intent); see also In re Maletta, 159 B.R. at 112 (false statement made knowingly; debtor not exonerated by reliance on patently improper advice of counsel).

The court finds and concludes that the transfer was knowingly and fraudulently omitted in an effort to conceal the fraudulent transfer and the final disposition of the money. The Steinkes made a false oath in their statement of affairs and at their meeting of creditors in relation to the transfer of \$10,000 to their son Jeffrey Steinke. Because the Trustee has established that grounds existed for the denial of the Steinkes' discharges and that he was unable to discover the grounds in time to object to their discharge, the Steinkes are not entitled to a discharge pursuant to 11 U.S.C. § 727(d)(1).

#### ORDER

IT IS ORDERED that the discharge order entered in the case of Donald W. Steinke and Mary V. Steinke, Bankruptcy No. 93-51968, dated May 13, 1994, is vacated.

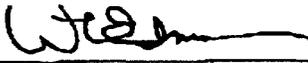
IT IS FURTHER ORDERED that the discharge of Donald and Mary Steinke is denied pursuant to 11 U.S.C. § § 727(d)(1), 727(a)(2) and 727(a)(4)(A).

IT IS FURTHER ORDERED that the transfer of \$10,000 to Jeffrey Steinke is avoided as a fraudulent transfer.

IT IS FURTHER ORDERED that Trustee Donald H. Molstad shall recover from Donald and Mary Steinke the sum of \$10,000.

IT IS FURTHER ORDERED that Adversary No. 95-5094XS shall remain open pending dismissal of Jeffrey Steinke based on his settlement with Trustee Donald H. Molstad. The court has determined that there is no just reason for delay and directs that final judgment enter against Donald and Mary Steinke. Judgment shall enter accordingly.

SO ORDERED THIS 29<sup>th</sup> DAY OF JANUARY 1996.

  
\_\_\_\_\_  
William L. Edmonds, Chief Bankruptcy Judge

I certify that on 1-29-96 I mailed a copy of this order and a judgment by U.S. mail to: Donald Molstad, Alvin Ford, 2002 List, John Bouslog and U.S. Trustee. *JS*