UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:	)	
	)	
STANDING ORDER REGARDING	)	**GENERAL ORDER 99-3**
EXHAUSTION OF ADMINISTRATIVE	)	
REMEDIES AVAILABLE WITHIN THE	)	
INTERNAL REVENUE SERVICE	)	
PRIOR TO FILING PROCEEDINGS	)	
FOR DAMAGES BASED ON	)	
VIOLATIONS OF STAY, DISCHARGE	)	
OR PLAN CONFIRMATION ORDERS	)	

U.S. BKRPTCY CRT
DISTRICT OF VT
JUL 19 1999
FILED BY
THOMAS J. HART

WHEREAS § 7433 of the Internal Revenue Code, as recently amended, provides that a petition under § 7433(e) for damages pursuant to § 7433(b) is the exclusive damages remedy for certain willful violations of 11 U.S.C. § 362 or § 524 by the Internal Revenue Service;

WHEREAS § 7433(d) requires that administrative remedies available within the Internal Revenue Service must be exhausted (and damages mitigated) to sustain a judgment for damages under § 7433(b) in respect to a petition filed under § 7433(e);

WHEREAS § 7433(e)(2)(B) provides that the exclusivity provision does not apply to an action under 11 U.S.C. § 362(h) by an individual damaged by a willful violation of the automatic stay;

WHEREAS § 7433(e) does not address actions for damages grounded on alleged violations of an order confirming a plan of reorganization;

WHEREAS the Court finds that litigation may be avoided and judicial economy may be served if debtors first bring any problem to the attention of the appropriate Internal Revenue Service official and attempt to resolve any dispute administratively, even if a damages action might otherwise be brought, without first exhausting administrative remedies, pursuant to 11 U.S.C. § 362(h) or based on a plan confirmation order;

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. If a debtor believes that the Internal Revenue Service is violating a provision of § 362 or § 524 of the Bankruptcy Code, or is violating the terms of an order confirming a plan of reorganization, before filing a motion or adversary complaint for damages in respect to such alleged violation, the debtor (by counsel if represented) shall first contact the Office of Special Procedures, Internal Revenue Service, in

(over)

Boston, at 617-565-1602, ask to speak to James J. Spinale (who may refer the matter to another official), and make reasonable attempts to resolve the problem. If the problem is not promptly resolved to the satisfaction of the debtor and if the problem concerns an alleged violation of § 362 or § 524, the debtor shall, before commencing an action for damages, exhaust all administrative remedies which the Internal Revenue Service official indicates are currently available.

2. Any motion or adversary complaint alleging that the Internal Revenue Service has violated the automatic stay (11 U.S.C. § 362), the discharge (11 U.S.C. § 524), or a plan confirmation order, shall contain one or more paragraphs setting forth the efforts made to resolve the problem administratively, and shall identify the Internal Revenue Service personnel contacted.

3. An effort by a debtor to exhaust administrative remedies or otherwise to comply with this order shall not be considered to waive or otherwise limit the debtor's rights.

4. This order applies only to claims for damages and in no way restricts a debtor's right to file a motion to enforce the provisions of 11 U.S.C. § 362 or § 524 or any order of the Court.

Dated at Rutland, Vermont this 17 day of July 1999.

FRANCIS G. CONRAD
United States Bankruptcy Judge