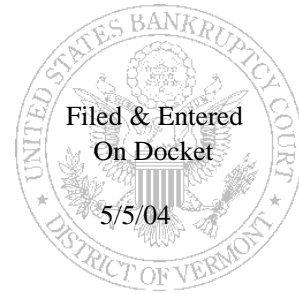


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

**Rejean E. Roberge and
Jeannett A. Roberge,
Debtors.**

**Chapter 7 Case
03-11135**

Appearances: *Gleb Glinka, Esq.*
 Glinka & Schwidde
 Cabot, VT
 Attorney for the Debtors

Douglas J. Wolinsky, Esq.
Eggleston & Cramer, Ltd.
Burlington, VT
Trustee, Pro Se

ORDER
GRANTING TRUSTEE'S MOTION TO AMEND PRIOR ORDER AND
REITERATING ORDER OVERRULING TRUSTEE'S OBJECTION TO EXEMPTION

On April 8, 2004, the Trustee filed the instant Motion to Amend Order in connection with this Court's March 29th Order Overruling Trustee's Objection to Exemption. On April 18, 2004, the Debtor filed a Reply to the Motion to Amend. See doc. #25. For the reasons set forth below, the Court grants the Motion to Amend and reiterates its overruling of the Trustee's Objection to Exemption.

In his Motion to Amend, the Trustee seeks "a ruling on the isolated issue of whether the Trustee is entitled to a one-half interest in the Searles Road property because it is owned by Rejean Roberge." See Motion to Amend at 1 (doc. #24). The Court grants the Trustee's motion to issue such a ruling.

AFTER DUE CONSIDERATION of the Trustee's Motion to Amend, the Debtor's Reply, the facts and rationale set forth in the Court's Order dated March 29, 2004 (doc. #22), and the entire record in this case, THE COURT FINDS:

1. The Debtor's position that bankruptcy does not sever a tenancy by the entirety to be both persuasive and consistent with the pertinent rulings of this Court and the Vermont Supreme Court. See Cooper v. Cooper, 173 Vt. 1, 20 (2001); In re Cerreta, 116 B.R. 402, 403 (Bankr. D. Vt. 1990); Preston v. Chabot, 138 Vt. 170, 175 (1980); Stewart v. Bleau's Estate, 102 Vt. 273, 276 (1929). As this Court has very recently held, spouses who own property as tenants by the entirety own coincident interests which are divided into distinct, choate interests only by death or divorce. See In re Hutchins, No. 03-10730, slip op. (Bankr. D. Vt. Feb. 18, 2004).
2. Jeannett A. Roberge was entitled to claim an exemption in her interest in the entire fee of the Searles Road Property, and was not limited to just one-half of the property.


3. Since Mrs. Roberge's legitimately-claimed exemption exceeds the value of the Searles Road Property, there is no value available for any claim by the Trustee of Rejean Roberge's bankruptcy estate.

Accordingly, IT IS HEREBY ORDERED that the Trustee's Motion to Amend is GRANTED; and

IT IS FURTHER ORDERED that while this Order supplements the rationale of the Court's prior Order Overruling the Trustee's Objection to Exemption, see doc. #22, the conclusion reached in that Order is unchanged.

SO ORDERED.

May 4, 2004
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge