

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**



In re:

**DONNA J. NORTON
Debtor.**

**Chapter 7 Case
04-11660**

Appearances: *Jennifer Emens-Butler, Esq.
Obuchowski & Emens-Butler
Bethel, Vt.
For the Trustee*

*Grant C. Rees, Esq.
Law office of Grant C. Rees
Burlington, Vt.
For the Debtor*

**ORDER
Sustaining Trustee's Second Objection to Exemption**

On July 11, 2005, the Court issued a Memorandum of Decision on Cross Motions for Summary Judgment and the Trustee's Objection to Homestead Exemption (doc. # 26) and an Order Sustaining Trustee's Objection to Homestead Exemption, Granting Trustee's Motion for Summary Judgment and Denying Debtor's Motion for Summary Judgment (doc. # 27) (cumulative "the Decision"). The Decision addressed *inter alia* the Trustee's Objection to Exemption filed on February 7, 2005 (doc. #6). In the Decision the Court determined that the Debtor's equity in the Subject Property was \$26,460.25. The Court also held that Vermont law limits each homestead property to an exemption of \$75,000 with each co-tenant owner's exemption rights being limited to the proportion of that owner's interest. Since the Debtor owns one-half of the Property, the Court determined that the Debtor's exemption rights are capped at one-half of the total exemption amount authorized by the Vermont statute. Since one-half of the state cap is \$37,500, and the amount of the Debtor's equity (\$26,460.25) does not exceed this cap, the Court sustained the Trustee's Objection, concluding that the Debtor's exemption was limited to the equity the Debtor had in the Subject Property (as computed by the Court).

On June 27, 2005 the Trustee filed an Objection to the Debtor's Second Amended Exemption (the "Trustee's Second Objection") (doc. #23). The Second Objection relates to the Debtor's amended claim of a homestead exemption in the amount of \$58,230.13. The Decision addressed the exemption as amended. However, to ensure that the record is complete and clear, the Court enters this Order sustaining the Trustee's Second Objection and reiterating that the amended exemption claimed by the Debtor exceeds both her equity and the maximum homestead exemption to which she is entitled. As long as the Debtor holds a one-half interest in the Subject Property and remains jointly and severally liable for the mortgage debt, her equity must be computed by subtracting the entire debt from one-half of the fair market value, and her homestead exemption is a sum equal to her equity in the Subject Property or \$37,500, whichever is less.

Accordingly, the Court sustains the Trustee's Second Objection and cancels the hearing set for August 9, 2005 on this objection.

August 5, 2005
Rutland, Vermont



Colleen A Brown
United States Bankruptcy Judge