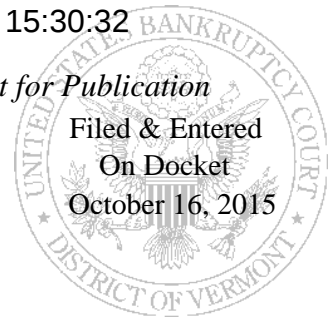


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

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In re:

**Richard Rommer,
Debtor.**

**Chapter 7
Case #15-10313**

ORDER
Sua Sponte Vacating Order entered on October 8, 2015
and Establishing Briefing Schedule

Mr. Rommer, the Debtor in this case, owns a parcel of land which includes both his residence and some outbuildings which he leases to a corporation he owns, for operation of a business. He filed a motion to avoid certain judgment liens which encumber his property, under § 522(f), on the theory that those liens impair his homestead exemption (doc. #5, the "Motion"). Green Mountain Bureau, LLC ("GMB"), one of the creditors whose lien was a target of the Motion, objected to the Motion, arguing that the Debtor may not avoid the liens against the portion of his land leased to his corporation because that part of the property was not exempt under the homestead exemption statute (doc. ## 8, 16). The Court treated this objection to encompass an objection to homestead exemption. Thereafter, the Chapter 7 Trustee filed a memorandum of law objecting to the Debtor's homestead exemption (doc. #20). Upon consideration of the memoranda of law the parties filed in connection with the Debtor's motion and the two objections, the Court entered an interim order, on October 8, 2015 (doc. # 28, the "Order"), addressing the homestead exemption question, and directing the parties to focus on the lien avoidance issue at the October 9th hearing. In reaching the conclusion set forth in the Order with respect to the exemption claim, the Court relied in large measure on whether the Debtor had established he was entitled to claim a homestead exemption as to the entire parcel.

In response to the parties' representations at the October 9th hearing in this contested matter, the Court undertook to issue a memorandum of decision to articulate its rationale for the Order. In doing so, the Court discovered a couple of crucial issues (and corresponding case law) the parties had not briefed, and which the Court did not consider, prior to issuance of the Order. Since this contested matter appears to present a question of first impression in this District, and may have significant impact on the scope of a debtor's homestead exemption under Vermont law, THE COURT FINDS it is in the interest of justice to vacate the Order and give the parties an opportunity to file memoranda of law on the issues pertinent to the specific homestead exemption question before the Court which they have not yet addressed.


In particular, THE COURT FURTHER FINDS it is necessary and appropriate for the parties to examine and present arguments with regard to the impact, if any, of (i) bankruptcy court homestead exemption decisions involving debtors who, in their individual capacity, rent part of their homestead property to third parties for residential use, see, e.g., In re Ruggles, 210 B.R. 57 (Bankr. D. Vt. 1997); (ii) bankruptcy court homestead decisions involving debtors who use portions of the property for purposes other than strictly residential, see, e.g., In re Ford, 415 B.R. 51 (Bankr. N.D.N.Y. 2009); and (iii) cases examining when, and under what circumstances, a court should engage in reverse piercing of a corporate veil to prevent injustice, see e.g., In re Hecker, 414 B.R. 499 (Bankr. D. Minn. 2009), Agway, Inc. v. Brooks, 790 A.2d 438 (Vt. 2001), Winey v. Cutler, 678 A.2d 1261 (Vt. 1996), Cargill, Inc. v. Hedge, 375 N.W.2d 477 (Minn. 1985).

Therefore, IT IS HEREBY ORDERED that

1. by October 30, 2015, the Debtor shall file a memorandum of law specifically addressing (a) his right to claim a homestead exemption in his entire parcel of property, including the portion he leases to his corporation, (b) the three potential sub-issues highlighted by the cases identified in the foregoing paragraph, and (c) any other law pertinent to the facts and legal questions presented in this matter;
2. by November 13, 2015, the Trustee and Green Mountain Bureau shall file a responsive memorandum of law encompassing the same scope of issues;
3. by November 20, 2015, the Debtor shall file his reply, if any, to the responsive memoranda;
4. by November 20, 2015, the parties shall file a notice of evidentiary hearing if they determine an evidentiary hearing is necessary to resolve the homestead exemption aspect of this contested matter;
and
5. on December 4, 2015 at 10:00 am, the parties shall appear at a continued hearing on the Motion.

SO ORDERED.

October 16, 2015
Burlington, Vermont


Colleen A. Brown
United States Bankruptcy Judge