2005 BNH 020 Note: This is an unreported opinion. Refer to AO 1050-1 regarding citation.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE

In re: Bk. No. 05-11558-JMD
Chapter 7

Carolyn T. Ouellette,
Debtor

Alexander S. Buchanan, Esq.
Jordan, Maynard & Parodi, PLLC
Nashua, New Hampshire
Attorney for Debtor

MEMORANDUM OPINION AND ORDER

I. INTRODUCTION

The Court has before it Debtor's Ex Parte Motion To Confirm Trustee's Abandonment Of Real Property (Doc. No. 27) (the "Motion"). The Debtor is requesting that the Court confirm that a parcel of real estate located at 30 Derry Road, Hudson, New Hampshire (the "Property") has been properly abandoned by the chapter 7 trustee. The necessity for the Motion appears to be upon a request or demand by a title insurance attorney and not any legal or factual dispute affecting the Debtor.

This Court has jurisdiction of the subject matter and the parties pursuant to 28 U.S.C. §§ 1334 and 157(a) and the "Standing Order of Referral of Title 11 Proceedings to the United States Bankruptcy Court for the District of New Hampshire," dated January 18, 1994 (DiClerico, C.J.). This is a core proceeding in accordance with 28 U.S.C. § 157(b).

II. FACTS

On April 19, 2005 the Carolyn T. Ouellette (the "Debtor") filed a voluntary petition under chapter 7 of the Bankruptcy Code.[1] In schedule A, she listed her residence at 30 Derry Road, Hudson, New Hampshire (the "Property"). In schedule C, she claimed an exemption of $100,000.00 in the Property pursuant to NH RSA 480:1. On May 16, 2005, Victor W. Dahar, the chapter 7 trustee, (the "Trustee") filed a Notice of Abandonment (Doc. No. 6) (the "Notice") of the Property as burdensome or of inconsequential value to the bankruptcy estate. The Notice provided that any objection to the proposed abandonment must be filed with the Court no later than June 3, 2005. The Notice was served on May 19, 2005. See Certificate of Service (Doc. No. 7).

III. DISCUSSION

Pursuant to section 541 of the Bankruptcy Code the Property became property of the bankruptcy estate on April 19, 2005. In the Notice, the Trustee abandoned the Property pursuant to section 554 of the Bankruptcy Code. There is no dispute that the Notice was properly served on all parties in interest or that the Notice abandoned the property in question. The Debtor has filed the Motion solely because a "title insurance underwriter is requiring a recordable Order confirming the Trustee's abandonment of" the Property. In other words, the Motion asks this Court to review documents and notices in the public record of this case and confirm for a person who is not a party in interest in this proceeding, namely a title insurance underwriter, the legal

[1] In this Opinion the term "Bankruptcy Code" means title 11 of United States Code, sections 101 et. seq.

significance of those records under the provisions of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure and this Court's Local Bankruptcy Rules.

The business of title insurance involves the examination of public records, other documents, and applicable law in order to reach a business decision on whether to insure an interest in real property. The business of the federal courts is to resolve actual legal and factual disputes. The Motion does not identify any actual legal or factual dispute which prevents a title insurance underwriter from examining the public records of this Court, together with applicable law, in order to determine whether or not the Property has been abandoned by the Trustee. In essence, the Motion is a request for an advisory opinion in the nature of a "comfort order" for the benefit of a title insurance underwriter. This Court does not render advisory opinions. See Golden v. Zwicker, 394 U.S. 103, 108 (1969) (the federal courts do not render advisory opinions); American Postal Workers Union v. Frank, 968 F.2d 1373 (1st Cir. 1992) (absent a case or controversy plaintiff lacked standing).

Although the Court is mindful of the difficult position of Debtor's counsel when faced with a demand from a title insurance underwriter who prefers reliance on a court order over their own judgment regarding the status of the Property based on the pleadings filed and applicable law, the problem remains that the relief requested in the Motion does not ask the Court to resolve any legal or factual dispute. In the absence of an actual case or controversy, the Court must decline the invitation to dabble in the title insurance business.

IV. CONCLUSION

For the reasons set forth above, the Motion is DENIED, without prejudice to the filing of a motion, or other pleading, alleging an actual legal or factual dispute which requires resolution by the Court.

This opinion constitutes the Court's findings of fact and conclusions of law in accordance with Federal Rule of Bankruptcy Procedure 7052.

ENTERED at Manchester, New Hampshire.

Date: June 29, 2005

/s/ J. Michael Deasy
J. Michael Deasy
Bankruptcy Judge