

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

In Re:

Bruce E. Campbell,

BKY 3-90-5687

Debtor.

Northern States Power  
Credit Union,

Plaintiff,

ORDER

vs.

ADV 3-92-58

Bruce E. Campbell,

Defendant.

This matter came on for trial before the Court on September 21, 1992. Carol Lee appears on behalf of Plaintiff. John Hedback appears on behalf of Defendant. Based upon evidence received at the trial, arguments of counsel, and upon all the relevant records and files herein, the Court, being fully advised in the matter, now makes this order pursuant to the Federal and Local Rules of Bankruptcy Procedure.

I.

The debtor-defendant Bruce E. Campbell filed Chapter 7 Bankruptcy on December 4, 1990. Discharge was granted on March 12, 1991. In connection with the filing, Campbell signed his Schedule C - Schedule of Current Income and Expenditures of Debtor on November 30, 1990. Schedule C requires the debtor to estimate his average monthly income and expenses for the past two years and the next three years.(FN1) On his Schedule C, Campbell scheduled gross monthly income of \$2,019(FN2) in wages. However, his Statement of Financial Affairs lists gross income of \$34,367 in 1988 and \$35,439 in 1989. His tax statements show gross income from wages of \$40,272 in 1990 and \$33,878 in 1991. In addition, Campbell received \$19,070 in dividends in 1991. Campbell's gross monthly income for the pay period immediately before filing for bankruptcy was \$2,286. His gross income for the period immediately following filing was \$2,890. Campbell stated that he did not actually fill out the form, but that he had only looked it over after his attorney (not Mr. Hedback) had completed it.

When applying for credit Campbell claimed a higher income. In April 1989, defendant applied for an unsecured "signature" loan

from plaintiff. On the application, he listed gross monthly income of \$2,334.46. In June 1989, Campbell applied for a secured loan from plaintiff for a boat. On this application he listed gross monthly income of \$2,344.

Sometime after June 27, 1990, Campbell changed positions at the Prairie Island Nuclear Power Plant. His salary dropped from approximately \$15.00 per hour to approximately \$11.00 per hour.

(FN1) One purpose of Schedule C was to facilitate analysis by the United States Trustee of the appropriateness of a particular filing under Chapter 7 in light of income and expense history and projections. Schedule C has since been replaced by Official Forms Schedules I and J prescribed by the Judicial Conference pursuant to Rule 9009 of the Federal Rules of Bankruptcy Procedure.

(FN2) Defendant apparently arrived at that figure by multiplying his straight hourly rate of \$11.65 per hour by a 40 hour work week.

Though he took a substantial pay cut, he had entered a more lucrative employment track that has potential for income exceeding \$15.00 per hour. Campbell also was employed with the Treasure Island Casino for a brief period during 1990. None of this was reflected in his bankruptcy filings.

Campbell is enrolled as a member of the Prairie Island Mdwakanton Sioux Community of Minnesota. On December 12, 1990, Campbell received a \$200.00 dividend payment from the Prairie Island Tribal Council. The Prairie Island Tribal Council owns Treasure Island Casino, the source of the dividend. Campbell notified neither the Court nor the trustee of this payment. He also failed to inform the Trustee and creditors at the first meeting held on January 8, 1991. Nor was this dividend reported on his 1990 tax forms. Campbell testified that he did not know at the time whether these payments would continue.

In March 1991, shortly after the discharge, Campbell received a letter from the Tribal Council asking for his social security number and notifying him that tribal members may be receiving dividends from profits of the casino. At about the same time, he learned that the Casino had begun making a steady profit and there would be regular per capita payments to members of the tribe.

In 1991, Campbell received \$19,070 in dividends from the Tribal Council. His dividend payments for February through June of 1992 were \$19,320. As the Casino became more profitable, Campbell's dividend has grown to \$3,500 per month.

Plaintiff brings this action to revoke Defendant's discharge, alleging that Defendant fraudulently understated his wage income, and fraudulently omitted potential and actual receipt of dividends, in his schedules filed with the petition. Plaintiff claims to have first learned of potential fraud from a child support hearing in Goodhue County, Minnesota, on December 3, 1991. In that proceeding, the Minnesota District Court found that Campbell and each of his minor children had been receiving periodic payments from the Prairie Island Tribal Council since 1990.

EXCLUDING CASINO DIVIDENDS.

11 U.S.C. 727(d)(1) provides in part:

(d) on request of...a creditor...the court shall revoke a discharge granted under subsection (a) of this section if-

(1) Such discharge was obtained through fraud of the debtor, and the requesting party did not know of such fraud until after the granting of such discharge.

Revocation of discharge is a drastic remedy and the law in this area is to be construed liberally in favor of the debtor and strictly against the party requesting revocation. Boyle v. Abilene Lumber, 819 F.2d 583, 588 (5th Cir. 1983). A mere inaccuracy is not sufficient grounds to revoke a discharge. In re Magnuson, 113 B.R. 555, 559 (Bankr. N.D. 1989). The standard of review in this Circuit is unclear, but in In re Magnuson, the court

conclud#

. O'BRIEN

U.S. Bankruptcy Judge