

LAW OFFICES OF GEORG JENSEN  
1613 Evans Avenue  
Cheyenne, Wyoming 82001  
(307) 634-0991

FILED IN THE  
U.S. BANKRUPTCY COURT  
DISTRICT OF WYOMING

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JOYCE W. HARRIS, CLERK

IN THE UNITED STATES BANKRUPTCY COURT

BY \_\_\_\_\_  
DEPUTY CLERK

FOR THE DISTRICT OF WYOMING

In Re: )

KENNETH RICHARD KEELER, )

Debtors. )

CASE NO. 02-21121  
Chapter 7

**OBJECTION TO APPLICATION OR MOTION  
FOR DISMISSAL**

COMES NOW THE DEBTOR in the above entitled proceeding, by and through their attorney, Georg Jensen, and hereby makes their objection of the motion or application of THE UNITED STATES OF AMERICA to dismiss, as follows:

1. That this is a chapter 7 filed by an individual debtor in good faith and not in any abuse of the bankruptcy system.

2. The debtor's obligations to the United States arise from disallowance of certain tax deductions taken in years 1981, 1982 and 1983, which were appealed to the United States Tax Court. The Tax court decision was not handed down until January of 1999. The debtor appealed such decision to the Circuit Court of Appeals.

3. That the debtor has consistently paid significant tax obligations to the government over the last 20 years while his appeal was pending on the 1981-1983 deductions. Such cases were presented in good faith and was one of many taxpayers who all appealed the same determinations.

4. That the debtor has at all times dealt with the government in good faith while contesting the tax liabilities and has at all times made a full disclosure and cooperated with the government in the collection process.

5. That during 2001 and 2002, after the debtor was unsuccessful in his appeal to the Court of Appeals on the Tax Court Decision, the debtor negotiated extensively with the Service and

completed financial statements for the Service and listed all of his assets and liabilities.

6. That although the debtor has enjoyed significant income in the past, his ability to pay the accrued balance of his tax liability after the Tax Court Decision in 1999 was not sufficient to even meet the accruing interest thereon.

7. That although the debtor denies any bad faith in filing this chapter 7, the Circuit Court majority have held that even "Bad Faith" is not cause for dismissal under 707(a). See *In Re Padilla*, 222 F.3d 1184 (CA 9, 2000) and in the Eighth Circuit, *In Re Huckfeldt*, 39 F.2d 832.

8. That a reading of the cases cited by the movant would indicate that a 707(a) dismissal requires cause which rises to the level of misconduct, concealment of assets, wasting of assets, malicious interference, fraud, or other overt misconduct of the kind which would result in a denial of discharge or exception of debts from discharge.

9. That the cases cited by the Service include cases involving significant concealment of assets; lavish lifestyles and no effort to repay creditors. Such is not the case here. The debtor has generally paid all of his obligations as they came due, including 20 years of significant tax obligations to the movant.

10. That in this case the debtor has not engaged in any pre-bankruptcy planning to avoid payment of his obligations and has already surrendered to the chapter 7 trustee hundreds of thousands of dollars in cash and stands ready to deliver all other non-exempt assets of the estate for liquidation.

11. That the debtor has never concealed any assets from the Service or the chapter 7 trustee. The debtor is amending to add additional assets which he had previously disclosed to the Service and to which he testified regarding at his 341 meeting. The debtor believes such unscheduled assets were of no value and simply overlooked listing such worthless assets.

12. That 707(a) dismissals have generally been reserved for cases which were truly egregious where the debtors had substantial means who flaunted their wealth and continued with lavish lifestyles while engaging in creative and elaborate schemes to conceal their assets and cheat their creditors or to otherwise inflict harm of third parties. Such is not the case for Mr. Keeler. A summary review of the schedules reflects a conservative lifestyle and no effort to avoid creditors.


13. That the debtor did make a settlement with the California Franchise Tax Board within the last year. However, such

settlement was accomplished under the threat of liens and seizures which would have resulted in a loss of all of the debtors assets. With the settlement the debtor was still left with significant assets which he is contributing to the chapter 7 trustee for liquidation.

14. That the allegations of movant are not supported by the schedules and statement of affairs filed by the debtor. There can be no showing of Bad Faith by movant as to this debtor. Even if there were substance to the allegations of the movant, the debtor should be afforded a full opportunity to present an evidentiary hearing in opposition to the motion.

**WHEREFORE**, the debtor prays that the relief requested be denied after hearing thereon.

Dated: January 17, 2003

  
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Georg Jensen, Debtors' Atty.

CERTIFICATE OF SERVICE

Georg Jensen hereby certifies that a true and correct copy of the foregoing document was served upon the following parties this date by first class mail with postage prepaid addressed as follows:

Carol A. Statkus, Esq.  
Asst U.S. Attorney  
P.O. Box 668  
Cheyenne, WY 82003

August A. Imholtz, III  
Trial Attorney, Tax Division  
P.O. Box 683, Ben Franklin Station  
Washington, DC 20044

Frank Watkins, Esq.  
P.O. Box 1811  
Riverton, WY 82501

Dated: January 17, 2003

  
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Georg Jensen