

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

In re THOMAS JOSEPH BLANCH, II and)	Case No. 12-61657-LYN
BETH ELLEN TAYLOR BLANCH,)	
)	
Debtors,)	
_____)	

MEMORANDUM AND ORDER

This matter comes before the court on an objection by Judy Dugger (“Ms. Dugger”) to certain claims of exemption filed by Thomas Joseph Blanch, II, and Beth Ellen Taylor Blanch (“the Debtors”). The objection will be overruled.

Jurisdiction

This Court has jurisdiction over this matter. 28 U.S.C. § 1334(a) & 157(a). This proceeding is a core proceeding. 28 U.S.C. § 157(b)(2)(A). This Court may enter a final order. This memorandum shall constitute the Court’s findings of fact and conclusions of law as required by Fed. R. Civ. P. 52, which is made applicable in this proceeding by Fed. R. Bankr. P. 7052.

Facts

On July 16, 2012, the Debtors filed a chapter 7 petition. They scheduled four vehicles and claimed three of them exempt under Va. Code § 34-26(8). On September 11, 2012, Ms. Dugger

filed an objection to the claims of exemption in the vehicles and other property that she alleges the Debtors own. Some of the alleged property is not scheduled by the Debtors.

Also on September 11, 2012, the Chapter 7 trustee filed objections to the Debtors' claims of exemptions. He subsequently withdrew his objections. On October 17, 2012, the Chapter 7 trustee filed a Report of No Assets.

Discussion

Ms. Dugger objects on the grounds that the Debtors failed to schedule certain property that she asserts they own, to wit, household furnishings, antiques, jewelry, office equipment, and property associated with the maintenance of horses. A debtor's failure to schedule property does not give rise to an objection to a claim of exemption. The objection cannot be sustained on this grounds.

Ms. Dugger also objects on the grounds that the Debtors claimed four (actually three) vehicles exempt under Va. Code § 34-26(8)¹ when only one is allowed. While it might be proper to sustain such an objection², any objection to the Debtors' claims of exemption is now moot. The Chapter 7 trustee has filed a Report of No Assets.³ The purpose of claims of exemptions and

¹ Virginia Code § 34-26 provides in relevant part that:

In addition to the exemptions provided in Chapter 2 (§ 34-4 et seq.), every householder shall be entitled to hold exempt from creditor process the following enumerated items:

...

8. A motor vehicle, not held as exempt under subdivision 7, owned by the householder, not to exceed \$6,000 in value, except that a perfected security interest on the motor vehicle shall have priority over the claim of exemption under this subdivision.

² It should be noted that the Debtors have claimed exempt a total of \$5,200.00 in vehicles. One vehicle is properly claimed exempt at \$2,000.00. The Debtors have only used \$1,857.68 exempt under Va. Code § 34-4. Because the Debtors would be entitled to \$7,000.00 in exemptions under Section 34-4, the Debtors could have properly exempted all of the vehicles under Va. Code § 34-4.

³ It is also instructive in this case that the Chapter 7 trustee filed an objection to the Debtors' claims of exemption and then withdrew that motion.

objections thereto, in the context of the administration of a Chapter 7 bankruptcy case, is to determine which assets may be administered by the Chapter 7 trustee and which may not. In this instance, the determination by the Chapter 7 trustee that no assets will be administered renders moot any objections to claims of exemption. The objection will be overruled.⁴


ORDER

The objection to the Debtors' claims of exemption filed on September 11, 2012, and entered on docket as docket no. 15, shall be, and hereby is, overruled.

So ORDERED.

Upon entry of this Order the Clerk shall forward a copy to the Debtors, Judy Dugger, Esq., and the Chapter 7 trustee.

Entered on this 4th day of February, 2013.


William E. Anderson
United States Bankruptcy Judge

⁴ This ruling does not estop the movant from objecting to exemptions contained in the Debtors' homestead deed during the pendency of any Virginia state court action brought for collection of any debt that is determined to be non-dischargeable.