

Splintering Door Frames (Almost) as U.S. Marshals Enforce Order of the Bankruptcy Court

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By James M. Hoffman

Last month, Jim Hoffman of Offit Kurman, P.A., Counsel to Cheryl E. Rose, a Chapter 11 Bankruptcy Trustee, accompanied the U.S. Marshals and the Prince George's County Police to the home of an uncooperative debtor to enforce a Bankruptcy Court order to seize his computers, computer equipment, books, records and other items that may assist Ms. Rose, as Trustee, to administer the Bankruptcy Estate ("Seizure Order").

Prior to that time, the Bankruptcy Court had the patience of Job -- month after month, the debtor broke promises to the Court and to the Trustee to cooperate when producing books and records for more than ten businesses that each own real estate. The debtor also liquidated and retained more than \$150,000 of assets during the bankruptcy without Court approval. The Court issued orders to enforce contempt sanctions, but the debtor continued his obstructive behavior. Even a court-imposed detention with the Marshals for two days did not alter the debtor's behavior.

The Seizure Order drafted by Counsel was in the form of a Writ of Assistance. This relief is unusual and requires coordination among the Office of the U.S. Marshals, the Trustee, Counsel and others. The Marshals from the Greenbelt, MD, location were extraordinarily helpful. Ms. Rose coordinated the presence of a locksmith (to avoid splintering door frames), and the Marshals provided manpower and protection, although the debtor's schedules stated that he had no firearms. The Marshals took no chances.

Prior to the date of the seizure, the Marshals communicated with local police to determine whether outstanding warrants existed for the debtor. In fact, there was. So the Marshals, local police, a locksmith and Counsel appeared unannounced at the debtor's residence worth more than \$700,000. Counsel was told to stay far away as law enforcement approached the property. The Marshals called the debtor on two (2) different telephone lines and pounded on the door. No one answered. So the locksmith began drilling a lock behind a tactical shield, drilling -- later admitting it was not his best work under the eyes of so many spectators and the threat of gunfire. After the door was opened, law enforcement announced themselves. The debtor then appeared, claiming to be asleep (despite being fully dressed, television on). The local police arrested the debtor on a prior charge, and Counsel proceeded through the residence, gathering computers, thumb drives and 20 boxes of records.

Counsel diligently searched looking for an external hard drive the debtor referenced at a hearing and for more thumb drives. Within the debtor's nightstand, Mr. Hoffman found 20 rounds of ammunition -- right next to a thumb drive. After further searching, he located a handgun and two pellet guns. The Marshals called the local police again (they were processing the debtor on the prior charge). A policeman returned, took possession of the handgun and ammunition and then returned to the station to arrest, for a second time, the debtor on new charges. The debtor was a convicted felon and was not permitted to possess a weapon or ammunition.

The Trustee and Counsel thank the Marshals, Prince George's County police and others who bravely assisted in the

enforcement of the Bankruptcy Court's Seizure Order.

Who said the practice of law was dull?