

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In Re:	§	
	§	CASE NO. 03-34333-H4-7
	§	
JACK T. HOLLADAY,	§	(Chapter 7)
Debtor.	§	

**HEA CLINIC, P.A.'S OBJECTION TO DEBTOR'S EXEMPTIONS**

**IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING, AND YOU MUST RESPOND SPECIFICALLY TO EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY (20) DAYS FROM THE DATE YOU WERE SERVED AND GIVE A COPY TO THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF.**

**IF A PARTY REQUEST EMERGENCY CONSIDERATION, THE COURT MAY ACT EXPEDITIOUSLY ON THE MATTER. IF THE COURT ALLOWS A SHORTER RESPONSE TIME THAN TWENTY (20) DAYS, YOU MUST RESPOND WITHIN THAT TIME. IF THE COURT SETS AN EMERGENCY HEARING BEFORE THE RESPONSE TIME WILL EXPIRE, ONLY ATTENDANCE AT THE HEARING IS NECESSARY TO PRESERVE YOUR RIGHTS. IF AN EMERGENCY HEARING IS NOT SET, YOU MUST RESPOND BEFORE THE RESPONSE TIME EXPIRES.**

TO THE HONORABLE WILLIAM GREENDYKE,  
UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, HEA Clinic, P.A. ("HEA") and files this objection to Debtor Jack Holladay's ("Debtor) claimed exemptions pursuant to 11 U.S.C. § 522(b) and in support thereof would show as follows:

1. Debtor is an individual debtor who initiated this proceeding by filing a voluntary Chapter 7 petition on March 25, 2003. Debtor filed his schedules and statement of financial affairs on March 25, 2003.

2. HEA, a creditor and party in interest in this proceeding, is Debtor's sole unsecured creditor. Debtor owes HEA approximately \$750,000 pursuant to a judgment entered against Debtor in favor of HEA on March 12, 2003.

3. This Court has jurisdiction over this matter pursuant to 11 U.S.C. §1334 and 28 U.S.C. § 157(b)(2)(B). This is a contested core proceeding.

4. Debtor owns two homes; one in Bellaire, Texas, and one in Lake Nona, Florida, the two homes are valued by Debtor at \$1,800,000.00. The Debtor's two homes are apparently very spacious, since the monthly maintenance on the Florida house is \$3,954.00, with additional utilities expenses of \$450 a month, while the Bellaire home's monthly maintenance is \$1,500 a month with over \$1,000 a month in utilities expenses. This debtor doctor claims, under penalty of perjury, that these two extravagant homes contain personal property worth only \$8,835.00. Based upon information and belief, this is a blatant attempt by the Debtor to hide assets by undervaluing and failing to schedule assets. The check register for the three months preceding Debtor's voluntarily initiating this Chapter 7 case indicates a lavish lifestyle. The check register is attached to Debtor's schedules and statement of financial affairs on file in this case and is incorporated herein for all purposes. Apart from the expensive personal trainer (\$280/week), the tennis lessons, the neck massages and the \$140 haircut and color, Debtor spent a great deal of money on expensive clothing, jewelry and other luxuries in the weeks before declaring bankruptcy. Debtor claims that he owns clothing worth only \$2,000. However, his dry cleaning bill for the three months pre-petition was approximately equal to this amount. In a three-day period, from March 12, 2003-March 15, 2003, Debtor spent more than \$2,000.00 on undergarments and clothing as Saks Fifth Avenue and almost \$400.00 at Fendi. More than \$2,000 was spent at Banana Republic and Ann Taylor for clothing during this three month time

period. The Debtor claims to own only \$2,500.00 in furs and jewelry, but spent almost half that amount on a single piece of jewelry from Tiffany's on February 8, 2003. Debtor is a member of four country clubs, but doesn't list any golf clubs or golf carts on his schedules. Based on these factors, along with other evidence that HEA will develop through discovery, HEA objects to all personal property exemptions of the Debtor. HEA will supplement this objection once Debtor produces documents requested by HEA and discovery regarding the extent and value of Debtor's assets has been concluded.

5. HEA objects to Debtor's claimed exemptions for cash on hand of \$16,000.00 and of \$15,252.00 held at Frost Bank, Account No. 138018758 because, based on information and belief, the requirements of § 42.001(b)(1) of the Texas Property Code ("TPC") have not been met in that these amounts do not constitute current wages for personal services.

6. HEA objects to Debtor's claimed exemptions in all of the listed UBS Paine Webber accounts. Based upon information and belief, and based upon cancelled checks drawn on UBS Paine Webber accounts pre-petition, HEA believes Debtor may have engaged in improper pre-petition asset protection and that some or all of these accounts may have been funded with funds that were fraudulently transferred or should otherwise be held in constructive trust for the benefit of HEA. Copies of checks which evidence that substantial amounts of money were removed from Paine Webber accounts prior to Debtor filing bankruptcy were produced by Debtor to the Trustee. Until a full accounting of all pre-petition transfers has been made, Debtor should not be entitled to claim these accounts as exempt.

7. HEA objects to Debtor's claimed exemption in the Holladay Trademarks as the trademarks do not qualify as exempt property under Texas law. In addition, HEA objects to the value assigned to the Holladay Trademarks.

8. HEA objects to Debtor's claimed exemption in one of the two Lexus RX 300's, to the extent this vehicle belongs to his adult daughter who, according to Debtor's 2000 tax records, is not a dependant of Debtor.

WHEREAS, PREMISES CONSIDERED, HEA Clinic, P.A. respectfully requests that the Court deny Debtor's claimed exemptions for all personal property described herein and for such other and further relief to which it may be entitled.

Respectfully submitted,

LOCKE LIDDELL & SAPP LLP

By: /s/ Patricia Williams Prewitt

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading has been served in accordance with Local Bankruptcy Rule 9013 on all parties listed below, by either United States mail, first class postage prepaid, or by ECF e-mail on this the 29th day of May, 2003:

Debtor and Attorney

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Trustee

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Chapter 7 Trustee  
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Michael S. Holmes  
Cowgill & Holmes  
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Houston, TX 77024

US Trustee  
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Creditors

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Chase Bank  
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Dallas, TX 75265

Lexus Credit  
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Parties Requesting Notice

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