

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In the Matter of:

JUDGE RUSS KENDIG

JOHN S. ROBY,

Case No.: 04-61365

Debtor

CHAPTER 7

**MOTION FOR AUTHORITY AND NOTICE
OF INTENT TO COMPROMISE CLAIM**

Now comes Josiah L. Mason, Chapter 7 Trustee herein, and gives notice and moves the Court for authority to settle and compromise the Estate's claim against the debtor, John S. Roby.

Said Trustee represents that there are several issues and possible assets in the within case, most of which would involve protracted litigation, the outcome of which would be in question.

The Trustee further represents that the possible assets of the bankrupt estate include the following:

1. A life estate interest in three parcels of real estate located in Richland County, Ohio, consisting of a total of approximately 48 acres. The appraised value of the parcels as if there was no life estate is \$298,960.75. Two of the parcels have no buildings and the other parcel has a building which is occupied by the son of the debtor. The value of the life estates is not only substantially less, but the Trustee has had difficulty selling same because of the lack of income and lack of potential income for a life tenant, and because of the Debtor's age, which is approximately 63.
2. Various older vehicles which were appraised in this estate for a total of

approximately \$5,375.00, and the Debtor is entitled to a \$1,000 exemption against same.

3. The Debtor had owned stock in an insurance agency in which he was a partner for many years, but under the terms of the Contract, was required to sell his interest to his partners for a nominal amount. While there is some possibility that same might be considered to be a transfer under § 548 of the Code, the possibilities of prevailing are doubtful and the cost and expense of litigation would be substantial.
4. The Debtor transferred interest in property to his wife more than four years before the adjudication in bankruptcy and, again, the chances of recovering that would be slight.
5. There was a settlement in litigation prior to the adjudication in bankruptcy which resulted in approximately \$40,000 being paid to the debtor's wife, to whom he had assigned his interest in said litigation some time prior.
6. There was also a sale of warrants with an entity having a value of approximately \$5,585.00 which was received by debtor's wife, but payable to the debtor, to which the Trustee in all probability would be entitled.
7. Stock with Tri-Continental believed to have a value of \$1,643.49 to which the Trustee would be entitled.
8. A one-fifth interest in a John Deere tractor, the tractor having a value of about \$15,000.00.
9. A rubber inflatable boat and a 1974 Evenrude 4 hp motor, having a total value of less than \$500.
10. Debtor is also a beneficiary of trusts established by his parents which are

distributable only at the discretion of the trustee of those trusts. The Trustee has determined that in all probability the provisions of the trust are enforceable and it would be difficult for the Trustee to obtain any monies from those trusts.

11. Various guns and a camera scheduled at a value of \$400.
12. Various other assets and property which are either exempt as pensions in retirement funds or for other reasons or are of negligible value or difficult to obtain without litigation..

The Trustee represents to the Court that the debtor has offered to pay \$50,000.00 in full settlement of any claims the Trustee has against the debtor for any of the above assets and against any other assets, whether known now to the Trustee or not.

The Trustee represents that the debtor would receive no exemptions against said \$50,000.00 payment.

The Trustee represents that he believes it is in the best interest of the bankrupt estate to accept the sum of \$50,000.00 in full settlement of any claims against the debtor, and that he intends to compromise the claim against the debtor for that amount.

WHEREFORE, the Trustee prays for authority to compromise the Estate's claim against the debtor as set forth herein.

/s/ Josiah L. Mason

Josiah L. Mason, 0003549

Attorney for Trustee

PROOF OF SERVICE

A copy of the foregoing was sent by ordinary U. S. Mail and/or electronically to the following on June 29, 2005 :

1. U. S. Trustee, BP America Building, 200 Public Square, 20th Floor, Suite 3300, Cleveland, Ohio 44114-2301 (electronically)
2. John S. Roby, 555 Forest Hill Road, Mansfield, OH 44907
3. Attorney William T. Bodoh, 10 W. Broadway Street, Columbus, OH 43215
4. David J. Tocco, Esq., Attorney for Society of Lloyds, 2100 One Cleveland Center, 1375 East Ninth Street, Cleveland, OH 44114-1724
5. Bank One Delaware, N.A., fka First USA, c/o Weinstein, Treiger & Riley, P.S., 2101 Fourth Avenue, Suite 900, Seattle, WA 98121

/s/ Josiah L. Mason

Josiah L. Mason, #0003549

Attorney for Trustee