

1 WRITTEN DECISION - NOT FOR PUBLICATION

2 JUL 24 2012

3 ENTERED _____

4 FILED

5 JUL 24 2012

6 CLERK, U.S. BANKRUPTCY COURT

7 SOUTHERN DISTRICT OF CALIFORNIA

8 BY *SS* DEPUTY

9 UNITED STATES BANKRUPTCY COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11 In re) Case No. 09-06430-PB7

12)

13 ROBERT A. WHYLEY and)

14 LAURA J. WHYLEY,) ORDER ON MOTION FOR ORDER

15) DIRECTING DISTRIBUTION

16 Debtor.) FROM TRUST

17)

18)

19 There was some confusion as to what the Trustee sought by

20 this motion. In her motion, entitled "Motion for Order Directing

21 Distribution From Trust to Bankruptcy Estate," (Motion), Trustee

22 requested "entry of an order ... directing Christopher Whyley,

23 as trustee of the Whyley Trust, to turnover to the Bankruptcy

24 Trustee all amount due and payable to debtor Robert A. Whyley

25 under the terms of the Whyley Trust . . ." Motion at 1:23-26.

26 It was not clear to the Court whether the Trustee sought an order

compelling Trustee Whyley to make a distribution or simply

directing that if Trustee Whyley were to make a distribution,

that it be made to the Bankruptcy estate, as opposed to the

1 individual Debtor. At the hearing, the counsel for the Trustee
2 explained:

3 We're not trying to force the Whyley Trustee to do
4 anything other than when distribution time is set and
5 he's ready to distribute that the property goes to the
6 bankruptcy Trustee instead of the Debtor.

6 Transcript at 4:18-21.

7 The Court has taken another look at the Motion in light of
8 this clarification and is comfortable ordering that if and when
9 the Whyley Trustee makes a distribution on behalf of the Debtor,
10 that the distribution be made to the Trustee. The dispute over
11 who is entitled to the proceeds at the end of the day, will be
12 made if and when such a motion is brought. The Trustee does seek
13 an order directing the Whyley Trustee to wind up the Trust and
14 make distributions, but that is in the related adversary
15 proceeding No. 11-90232, and not presently before the Court.

16 Accordingly, the Court hereby grants the Trustee's Motion
17 and orders that to the extent the Whyley Trustee makes
18 distribution on behalf of Debtor, Robert Whyley, such
19 distribution be made to the Trustee.

20 IT IS SO ORDERED.

21 DATED: JUL 24 2012

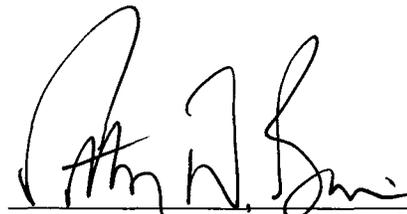
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PETER W. BOWIE, Chief Judge
United States Bankruptcy Court