



SO ORDERED.

SIGNED this 17 day of November, 2005.

ROBERT E. NUGENT
UNITED STATES CHIEF BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:)	
)	
KEVIN S. STEELE,)	Case No. 03-13393
)	Chapter 7
Debtor.)	
_____)	
)	
J. MICHAEL MORRIS, Trustee,)	
)	
Plaintiff,)	
v.)	Adversary No. 04-5265
)	
KEVIN S. STEELE,)	
)	
Defendant.)	
_____)	

JUDGMENT ON DECISION

The trustee of the bankruptcy estate filed this adversary proceeding to recover a portion of debtor's 2003 federal and state income tax refunds and to revoke debtor's discharge. The issue

presented by this adversary proceeding is the manner in which tax refunds are allocated between the bankruptcy estate and debtor where the government has setoff a portion of the tax refunds for a prepetition child support obligation. Because debtor filed his bankruptcy case on June 24, 2003, the trustee correctly calculates that the estate's interest in the refunds (that part earned prior to the petition date) is $175/365$, or 47.9452 per cent.

Applying the doctrine of marshaling, the Court concludes that the estate's share of the tax refunds is 47.9452 per cent of the gross refunds, prior to the government's setoff. Thus, the bankruptcy estate's share of the debtor's state and federal tax refunds is \$1,604. Because debtor has previously paid the sum of \$487 to the trustee, debtor's liability is reduced by this amount, leaving a balance of \$1,117. The trustee's complaint for turnover is GRANTED and JUDGMENT is entered in favor of the trustee and against debtor in the amount of \$1,117.

With respect to the trustee's count to revoke debtor's discharge, the Court concludes that debtor has not refused to comply with a lawful order of the Court. The trustee's complaint to revoke debtor's discharge is temporarily DENIED, provided the debtor pays the above \$1,117 judgment within six months from the date of its entry or makes such other arrangements as may be acceptable to the trustee.

IT IS SO ORDERED.

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