

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT

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IN RE: )  
          ) CASE NO.           02-30563 (LMW)  
          ) )  
INTERIORS OF YESTERDAY, LLC, ) CHAPTER           7  
          ) )  
          ) )  
          ) DEBTOR.           DOC. I.D. NOS.   235, 244, 275, 276, 322  
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**APPEARANCES**

Richard Belford, Esq. Nine Trumbull Street New Haven, CT 06511	Chapter 7 Trustee
Steven E. Mackey, Esq. Office of the United States Trustee 265 Church Street One Century Tower Suite 1103 New Haven, CT 06510	Attorney for United States Trustee
Anthony S. Novak, Esq. Chorches & Novak 1331 Silas Deane Highway Suite 202 Wethersfield, CT 06109	Attorney for Houshang Massachi (d/b/a Rugs of the Orient)
Vincent T. McManus, Jr., Esq. 116 South Main Street Wallingford, CT 06492	Attorney for John Orsini
Kathleen Tarro P.O. Box 225 Kensington, CT 06037	Managing Member of Debtor/Claimed Consignor
Richard Tarro 58 Pequot Road Plainville, CT 06062	Claimed Consignor

Jean C. Hart  
393 Main Street  
Wethersfield, CT 06109

Claimed Consignor

**BRIEF MEMORANDUM AND ORDER RE: ABANDONMENT ISSUE**

Lorraine Murphy Weil, United States Bankruptcy Judge

**WHEREAS**, on February 2, 2005 the chapter 7 trustee (the “Trustee”) filed a Notice of Proposed Abandonment of Property and Opportunity for Objections Thereto (Doc. I.D. No. 235, the “Abandonment Notice”) with respect to the above-referenced debtor’s (the “Debtor”) interest in certain inventory (the “Inventory”). The Abandonment Notice set a deadline for filing written objections thereto of February 24, 2005. The Abandonment Notice provided in relevant part as follows:

In accordance with 11 U.S.C. [§] 554(a) and Rule 6007 of the Federal Rules of Bankruptcy Procedure notice is hereby given of the proposed abandonment of the following described property:

The personal property consisting essentially of antiques and other items that had been listed for sale by the debtor, and all of which are located in storage at Little John’s Movers, Inc. [“Little John’s”], 150 Pomeroy Avenue, Meriden, Connecticut  
.....

(Abandonment Notice at 1);<sup>1</sup>

**WHEREAS**, on February 25, 2005 the Trustee filed a report of that certain Abandonment of Property as an Asset of this Estate (Doc. I.D. No. 244, the “Report”) with respect to the Abandonment Notice;

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<sup>1</sup> The Inventory had been seized pursuant to an attachment claimed by John Orsini and stored at Little John’s. Certain persons (i.e., claimed consignors) claim that they and not the Debtor own certain of the Inventory.

**WHEREAS**, on May 18, 2005 Richard Tarro and Kathleen Tarro (the “Objectors”) each filed a purported objection to the Abandonment Notice and the Report (Doc. I.D. Nos. 275 and 276, the “Objections”). The Objections were untimely under the terms of the Abandonment Notice;

**WHEREAS**, the Objectors filed that certain Consignors’ Memorandum in Support of Court Retaining Jurisdiction over Alleged Abandoned Property (Doc. I.D. No. 279, the “Objectors’ Memorandum”);

**WHEREAS**, a hearing (the “Hearing”) was held on the Abandonment Notice, the Report and the Objections on May 19, 2005 at which hearing the court held that the Abandonment Notice had been properly served;<sup>2</sup>

**WHEREAS**, in the relevant portion of the Objectors’ Memorandum the Objectors assert that the Abandonment Notice was insufficiently specific to have effected a valid abandonment under 11 U.S.C. § 554(a) (the “Abandonment Issue”);<sup>3</sup>

**WHEREAS**, the court desired further briefing on the Abandonment Issue;

**WHEREAS**, by order (Doc. I.D. No. 290) dated July 22, 2005 the court requested further briefing from the parties on the Abandonment Issue;

**WHEREAS**, pursuant to such order additional briefs were filed;

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<sup>2</sup> The Objections also are deemed to include: the oral joinder by Houshang Massachi at the Hearing; and claimed consignor Jean C. Hart’s Motion for Reconsideration (Doc. I.D. No. 322) of the ruling referred to above (which motion is deemed to be a general objection to the Abandonment Notice and the Report). The Objectors therefore include both Mr. Massachi and Ms. Hart.

<sup>3</sup> Any other argument by the Objectors is time barred in accordance with the Abandonment Notice.

**WHEREAS**, the court has considered the arguments of the parties made in their respective briefs and at the Hearing;

**WHEREAS**, in accordance with Bankruptcy Code § 554(a) and Rule 6007(a) of the Federal Rules of Bankruptcy Procedure abandonment of property of the estate may be effectuated by a trustee pursuant to a notice of intent to abandon. To be sufficient and effective, a notice of abandonment must be reasonably specific. *See In re Heil*, 141 B.R. 112, 114 (Bankr. N.D. Tex. 1992) (Trustee’s notice of proposed abandonment of “non-exempt property” was inadequate to effectuate abandonment of estate property.);

**WHEREAS**, the court concludes that the Abandonment Notice is too ambiguous to be effective. In essence, the Abandonment Notice said: “The Trustee intends to abandon some of the Debtor’s inventory. That property is at Little John’s. You have to guess what that property is.” The description “antiques and other items” is vague. All (or substantially all) of the Inventory was at Little John’s. If the Abandonment Notice had said that, under these circumstances<sup>4</sup> that might have been sufficient. Alternatively, the Trustee might have attached Mr. Orsini’s written inventory of the goods at Little John’s which might have been effective at least with respect to the goods listed. The Trustee did neither which left the Abandonment Notice too ambiguous to perform its intended notice-giving function. *Cf. Killebrew v. Brewer (In re Killebrew)*, 888 F.2d 1516, 1523 (5<sup>th</sup> Cir. 1989) (“The notification provided . . . is not adequate as its vague terms would not have placed

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<sup>4</sup> At the time of the filing of the Abandonment Notice and the Report, the Inventory was all packed up at Little John’s. Little John’s refused to unpack the Inventory without compensation for its efforts. The Trustee had no money to pay Little John’s. After the filing of the Report and upon payment by Ms. Tarro, Little John’s unpacked the Inventory for “viewing.”

parties interested in a particular piece of property on notice that they would need to file objections in order to obtain a court hearing.”); *Heil, supra*;<sup>5</sup>

**NOW, THEREFORE**, it is hereby **ORDERED** that no abandonment was effectuated pursuant to the Abandonment Notice; and it is further

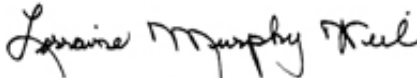
**ORDERED** that the Report is hereby stricken from the record; and it is further

**ORDERED** that, to the extent the Objections pertain to the Abandonment Notice, the Objections are sustained; and it is further

**ORDERED** that the Clerk’s Office shall cause notice of this Order to be given by electronic means (if applicable, otherwise by first-class mail) to: the Trustee, the United States Trustee, the Debtor and all creditors and parties in interest in this case.<sup>6</sup>

Dated: December 6, 2005

BY THE COURT

  
Lorraine Murphy Weil  
United States Bankruptcy Judge

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<sup>5</sup> While it is true that the Tarros (who were insiders) know what property was at Little John’s, Mr. Massachi (and perhaps Ms. Hart) did not. The Trustee and Mr. Orsini argue that the Objectors lack standing because they are alleged consignors and not creditors and have not filed timely proofs of claim. The court is not yet persuaded that the Objectors (to the extent that they are consignors) do not also hold at least contingent claims against the estate; one or more of those persons might be able to obtain an extension of the claims filing deadline in accordance with *Pioneer Investment Services Co. v. Brunswick Associates Limited Partnership*, 507 U.S. 380 (1993). In any event, the Trustee’s and Mr. Orsini’s argument misses the point: if the Abandonment Notice is not proper notice of the proposed abandonment, then parties with indubitable standing also did not receive adequate notice of the proposed abandonment and are not here to complain.

<sup>6</sup> This order does not necessarily render moot the Trustee’s Motion To Dismiss (Doc. I.D. No. 233) and proceedings with respect to the same remain pending.