

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO
Honorable Howard R. Tallman**

In re:)	
)	
MICHAEL F. GORDON and)	Case No. 13-16089 HRT
REBECCA A. GORDON,)	
)	Chapter 7
Debtors.)	

ORDER ON MOTION FOR STAY PENDING APPEAL

This case comes before the Court on *Appellants' Motion for Stay Pending Appeal* (docket #41) (the "Motion").

The Court has reviewed the Motion and its files in this matter. The Court's analysis of the case law with respect to the underlying issue in this appeal suggests to it that the likelihood of the Debtor prevailing on appeal is not great. Nonetheless, the Court finds that a limited stay pending appeal is appropriate. The Court has considered the balance between harm to the estate if a stay is granted and harm to the Debtor if it is not. The risk that the funds at issue could be dissipated and lost to the estate pending the appeal is real and the Court will protect the estate against that possibility by ordering the Debtor to turn over the funds to the Trustee.

The amount of non-exempt funds at issue here is \$2,051.00. The potential unsecured claims in this case are roughly \$75,000.00. Any dividend paid from those non-exempt funds is likely to be a small one. The Court recognizes that requiring the Trustee to delay administration of those funds until this appeal is resolved will delay any distribution to creditors. But, because the potential dividend will be a small one, the hardship to creditors will be correspondingly small. Therefore, it is

ORDERED that *Appellants' Motion for Stay Pending Appeal* (docket #41) is **GRANTED IN PART**. Debtors shall turn over to the Trustee all funds in the savings account that was the subject of this Court's *Order on Objection to Exemption* (docket #32). Trustee shall preserve those funds until the pending appeal is finally determined such that the funds may be returned to the Debtors in the event they are successful on appeal.

Dated this 21st day of November, 2013.

BY THE COURT:



Howard R. Tallman, Chief Judge
United States Bankruptcy Court