

UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

NEWPORT NEWS DIVISION

IN RE:)
)
MICHAEL D. VICK,)CASE NO. 08-50775-FJS
)
Debtor.)

MOTION TO COMPEL FILING OF TAX RETURN

The United States of America, on behalf of the Internal Revenue Service moves this Court, pursuant to 11 U.S.C. § 105 and Fed. R. Bankr. Pro. 2004(a) and 4002(a) for an order to compel the debtor to file a delinquent Federal tax return. Filed concurrently herewith and incorporated herein is a memorandum in support of this motion.

Respectfully submitted,

DANA J. BOENTE
Acting United States Attorney

/s/ Robert K. Coulter
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**MEMORANDUM IN SUPPORT OF
MOTION TO COMPEL FILING OF TAX RETURN**

The United States of America, on behalf of the Internal Revenue Service (the Service) submits the following memorandum in support of its motion to compel filing of a delinquent tax return.

STATEMENT

1. The debtor filed a bankruptcy petition on or about July 7, 2008.
2. The Service filed a Proof of Claim for federal taxes owed by the debtor in the amount of \$1,245,617.41. Of that amount \$409,182.21 is asserted to constitute a secured claim and \$836,435.20 is asserted as a claim entitled to priority status under 507. The Service estimated the debtor's tax liability for the 2007 tax year due to his failure to file the required return.
3. The records of the Internal Revenue Service reveal that the debtor has filed to file his Form 1040 for the tax year 2007. The return was originally due on April 15, 2008, and the

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debtor sought and obtained an extension to November 19, 2008. Despite the extension, the return remains unfiled.

4. Because of the debtor's failure to file the necessary tax returns the Service has not been able to determine the exact tax liability for the period in question so that it can file an amended proof of claim.

6. The debtor should not be permitted to avail himself of the special and equitable benefits afforded by Title 11 of the United States Code while ignoring the duties and responsibilities imposed by Title 26 of that Code.

7. Pursuant to 11 U.S. C. § 105(a), this Court is empowered to enter any order that is necessary or appropriate to carry out the provisions of the Bankruptcy Code. Federal Rule of Bankruptcy Procedure 2004(a) provides that, upon written application of any party in interest, the Court may order the examination of any person. Federal Rule of Bankruptcy Procedure 4002(1) provides that a debtor shall attend and submit to an examination at such time as ordered by the Court.

CONCLUSION

For the foregoing reasons the Motion to Compel Filing of Tax Return should be granted.

Respectfully submitted,

DANA J. BOENTE
ACTING UNITED STATES ATTORNEY

/s/ Robert K. Coulter
Robert K. Coulter
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify a copy of foregoing will be filed with the United States Bankruptcy Court electronically in the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

The parties currently receiving CM/EFC notices for this matter are:

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Date: November 21, 2008

/s/ Robert K. Coulter
ROBERT K. COULTER

The image shows the letters 'TMZ' in a large, bold, light gray font. The letters are stylized with rounded edges and a slightly irregular, hand-drawn appearance. The 'T' is on the left, the 'M' is in the middle, and the 'Z' is on the right. The background is plain white.