

**UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE FIRST CIRCUIT**

BAP NO. MB 02-060

Bankruptcy Case No. 99-17766-CJK

**HELEN WOOD,
Debtor.**

**PREMIER CAPITAL, INC.,
Appellant,
v.
HELEN WOOD,
Appellee.**

BAP NO. MB 02-061

**Bankruptcy Case No. 99-17766-CJK
Adversary Proceeding No. 99-1673**

**HELEN WOOD,
Debtor.**

**PREMIER CAPITAL, INC.,
Plaintiff/Appellant,
v.
HELEN WOOD,
Defendant/Appellee.**

**Appeal from the United States Bankruptcy Court
for the District of Massachusetts
(Hon. Carol K. Kenner)**

**Before
VOTOLATO, DEASY, and BROWN, U.S. Bankruptcy Appellate Panel Judges.**

**Patricia A. Reme, Esq. on brief for Appellant, Premier Capital, Inc.
Robert L. Holloway, Jr., Esq. on brief for Appellee, Helen Wood.**

March 6, 2003

Deasy, U.S. Bankruptcy Appellate Panel Judge.

INTRODUCTION

This matter is before the Panel on an appeal from an order of the United States Bankruptcy Court for the District of Massachusetts overruling the objection by Premier Capital, Inc. (“Premier”) to the debtor’s claim of homestead exemption pursuant to Mass. Gen. Laws ch. 188, § 1A, and from an order dismissing Premier’s complaint objecting to the debtor’s discharge pursuant to 11 U.S.C. § 727. On appeal, Premier asserts, among other things: (i) that the bankruptcy court erred in not allowing Premier to introduce evidence relating to the issue of whether the debtor claimed a homestead as part of a scheme to defraud her creditors in violation of 11 U.S.C. §§ 727(a)(2)(A) and (a)(4)(A); and (ii) that the bankruptcy court erred in overruling Premier’s objection to the debtor’s claim of homestead exemption and in dismissing Premier’s objection to her discharge. This Panel affirms in part, and remands in part for further proceedings.

STATEMENT OF FACTS

On September 22, 1999 (the “Petition Date”), the debtor, Helen Wood (the “Debtor”), filed a petition for relief under Chapter 7 of the United States Bankruptcy Code.¹ The Debtor timely filed her schedules and attended a § 341 meeting of creditors on October 19, 1999. On Schedule A - Real Property, the Debtor stated that she was the sole owner of three properties: (i) 10 Symonds Street, Salem, Massachusetts (the “Salem Property”); (ii) 103 Vermont Street, Holyoke, Massachusetts (the “Holyoke Property”); and (iii) 15 High Point Drive, Amherst,

¹ All references to the “Bankruptcy Code” or the “Code” are to the Bankruptcy Reform Act of 1978, as amended, 11 U.S.C. § 101, et seq.

Massachusetts (the “Amherst Property”). According to Schedule A, the Amherst Property was purchased by the Debtor for the benefit of the Debtor’s daughter, Maryanne Whritenour. Ms. Whritenour provided all of the \$30,000 deposit, pays all of the mortgage and other operating costs of the property and resides there with her family. Schedule A also discloses that all three properties were encumbered by liens exceeding the property values listed by the Debtor; Schedule D - Creditors Holding Secured Claims - further describes these liens. The Salem Property was encumbered by two liens: an execution held by Premier in the amount of \$306,408, and an execution held by Kenneth Fetterhoff in the amount of \$148,000.

On Schedule C - Property Claimed as Exempt, the Debtor elected to claim exemptions under Massachusetts law, including a homestead of \$200,000 on the Salem Property under Mass. Gen. Laws ch. 188, § 1A. Moreover, the Debtor listed the Salem Property as her address as of the Petition Date. In her Statement of Intention, the Debtor stated that she intended to surrender both the Holyoke Property and the Amherst Property to satisfy the claims of the various mortgagees and lienholders, and to retain the Salem Property, avoiding the liens thereon held by Kenneth Fetterhoff and Premier.

On December 20, 1999, Premier filed an adversary complaint seeking denial of the Debtor’s discharge pursuant to § 727(a)(4)(A).² In support of its claim that the Debtor’s discharge should be denied, Premier alleged, among other things, that the Debtor “did not reside at the [Salem] Property at the time the Bankruptcy Case was filed, at the time the Voluntary Petition was executed, nor at the time she was examined at the 341(a) meeting,” and that the

² Premier’s complaint also contained allegations that the Debtor had violated § 727(a)(2)(A). However, the bankruptcy court dismissed these allegations because Premier did not pursue them at trial, and Premier has not appealed that decision. Therefore, this Panel will not address that issue.

Debtor “did not, has not and did not intend to use the [Salem] Property as her principal residence.” Adversary Complaint at ¶7 and ¶8. On January 18, 2000, Premier filed an objection to the Debtor’s claim of homestead exemption on the Salem Property, making the same allegations. The Debtor filed timely responses to both pleadings denying Premier’s allegations, and, on January 24, 2000, moved pursuant to § 522(f) to avoid Premier’s judicial lien as it impairs the homestead exemption claimed on the Salem Property.³ On February 24, 2000, Premier conducted a Rule 2004 examination of the Debtor.

On March 22, 2000, the bankruptcy court issued a pretrial order directing each party to submit its brief statement of contested facts, contested legal issues, and list of witnesses. On June 2, 2000, the bankruptcy court issued a similar pretrial order. On September 11, 2000, the parties filed a Joint Pretrial Statement, signed by counsel for both parties. In the Joint Pretrial Statement, Premier asserted contested issues of fact and law in support of its allegations that the Debtor engaged in a scheme to defraud her creditors and hide her assets by allowing baseless lawsuits and liens on her properties by friends and relatives in an effort to prevent her creditors from reaching those assets. None of these allegations were contained in Premier’s original complaint. However, the Debtor did not object to Premier’s inclusion of these contested issues of law and fact in the Joint Pretrial Statement.

Also on September 11, 2000, the parties filed a joint motion to allow the Debtor to supplement the Joint Pretrial Statement to add matters relating to the evidentiary hearings on the Debtor’s motion to avoid judicial liens and Premier’s objection to the Debtor’s claim of

³ On June 25, 2002, the Debtor similarly moved to avoid the judicial lien of Kenneth Fetterhoff against the Salem Property.

exemption. That motion was granted on September 22, 2000. On December 11, 2000, the Debtor filed a supplement to the Joint Pretrial Statement, which essentially supplemented her exhibit list. Premier also filed a supplement to the Joint Pretrial Statement, setting forth additional contested issues of law and fact, as well as a supplemental exhibit and witness list.

On January 28, 2002, the day prior to the commencement of the trial, Premier filed a “Plaintiff’s Trial Memorandum” outlining its theory of an elaborate scheme by the Debtor to defraud her creditors. The bankruptcy court had not requested a Trial Memorandum. Late that same day, the Debtor responded to the Plaintiff’s Trial Memorandum, stating that Premier “is attempting to transform the trial into a different proceeding.” On January 29, 2002, the bankruptcy court entered an order declining consideration of Premier’s Trial Memorandum “because it was filed too late, on the eve of trial, and not received until moments before the trial.” The bankruptcy court also declined to consider the Debtor’s response.

On January 29, 2002, the bankruptcy court commenced the trial on the adversary proceeding and Premier’s challenge to the Debtor’s claim of homestead exemption. At trial, Premier again attempted to introduce testimony and other evidence to support its claims that the Debtor engaged in a scheme to defraud her creditors and hide her assets. The Debtor objected to the introduction of this testimony and evidence, arguing that because the allegations of fraud had not been raised in the original pleadings, the trial was limited to the issue of the validity of the homestead on the Salem Property. Premier argued that the Joint Pretrial Statement listed contested issues of law and fact relative to its allegations of fraud and that the Debtor had signed the Joint Pretrial Statement without objection. Premier argued, therefore, that pursuant to

Massachusetts Local Bankruptcy Rule 7016-1 (“MLBR 7016-1”),⁴ the Joint Pretrial Statement superceded the pleadings and governed the trial. The bankruptcy court sustained the Debtor’s objections, and precluded Premier from introducing evidence or testimony beyond the issue of the validity of the homestead on the Salem Property.

On September 11, 2002, the bankruptcy court issued a judgment dismissing Premier’s complaint, an order overruling Premier’s objection to the claim of exemption, and a Memorandum of Decision with respect to both orders. On September 19, 2002, Premier timely filed notices of appeal from both orders. The appeals were subsequently consolidated.

JURISDICTION

The Panel has jurisdiction to hear appeals from “final judgments, orders, and decrees” pursuant to 28 U.S.C. § 158(a)(1) or, “with leave of the court, from interlocutory orders and decrees” pursuant to 28 U.S.C. § 158(a)(3). Fleet Data Processing Corp. v. Branch (In re Bank of New England Corp.), 218 B.R. 643, 645 (B.A.P. 1st Cir. 1998). “A decision is final if it ‘ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.’” Id. at 646. An interlocutory order “‘only decides some intervening matter pertaining to the cause, and which requires further steps to be taken in order to enable the court to adjudicate the cause on the merits.’” Id. (quoting In re American Colonial Broad. Corp., 758 F.2d 794, 801 (1st Cir. 1985)).

⁴ At the time this case commenced, MLBR 7016-1 required the parties to file with the bankruptcy court a joint pretrial memorandum including, among other things, certain statements regarding the evidence to be offered by each party and contested issues of fact and law. MLBR 7016-1 also provided that “[t]he Joint Pretrial Memorandum shall supercede the pleadings and govern the trial.” However, MLBR 7016-1 was amended effective January 1, 2002 (shortly prior to the trial in this case), and no longer contains any reference to the requirements or effect of a joint pretrial memorandum.

An order dismissing a party's objection to a debtor's discharge is a final order. See Rhode Island Depositors Economic Protection Corp. v. Hayes (In re Hayes), 229 B.R. 253, 254 (B.A.P. 1st Cir. 1999). Similarly, an order overruling an objection to a debtor's claim of homestead exemption is a final order. See Howe v. Richardson (In re Howe), 232 B.R. 534, 535 (B.A.P. 1st Cir. 1999) ("Although other issues may remain for resolution in a case after the determination of the Debtor's claimed exemptions, orders granting or denying exemptions are appealable as final orders."), aff'd, 193 F.3d 60 (1st Cir. 1999); see also McNeilly v. Geremia (In re McNeilly), 249 B.R. 576, 579 (B.A.P. 1st Cir. 2000).

STANDARD OF REVIEW

The standard of review in an appeal of a decision of the bankruptcy court is stated in Fed. R. Bankr. P. 8013, which states:

On an appeal the district court or bankruptcy appellate panel may affirm, modify, or reverse a bankruptcy court's judgment, order, or decree or remand with instructions for further proceedings. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the bankruptcy court to judge the credibility of the witnesses.

Therefore, appellate courts reviewing an appeal from the bankruptcy court generally apply the clearly erroneous standard to findings of fact and *de novo* review to conclusions of law. See T I Fed. Credit Union v. DelBonis, 72 F.3d 921, 928 (1st Cir. 1995); Western Auto Supply Co. v. Savage Arms, Inc. (In re Savage Indus., Inc.), 43 F.3d 714, 719-20, n.8 (1st Cir. 1994).

Generally, an order overruling an objection to a debtor's claimed exemptions involves a legal question and is reviewed *de novo*. See Howe, 232 B.R. at 535; Dwyer v. Cempellin, 189 B.R. 230 (D. Mass. 1995); see also Glass v. Hitt (In re Glass), 60 F.3d 565 (9th Cir. 1995).

A determination of whether a debtor's intent was fraudulent pursuant to § 727 is a finding of fact which shall not be set aside unless clearly erroneous. See Annino Draper & Moore, P.C. v. Lang (In re Lang), 256 B.R. 539, 540 (B.A.P. 1st Cir. 2000). When such a finding is based primarily on the credibility and demeanor of the witnesses, deference should be given to the bankruptcy court's factual findings. Id. (citing Palmacci v. Umpierrez, 121 F.3d 781, 785 (1st Cir. 1997); Commerce Bank & Trust Co. v. Burgess (In re Burgess), 955 F.2d 134 (1st Cir. 1992)). The bankruptcy court is in the best position to judge the credibility of witnesses. Francis v. Riso (In re Riso), 57 B.R. 789 (D.N.H. 1986).

A bankruptcy court's decision to exclude evidence is reviewed for an abuse of discretion. See Brasher v. Turner (In re Turner), 266 B.R. 491 (B.A.P. 10th Cir. 2001); see also United States v. Magleby, 241 F.3d 1306, 1315 (10th Cir. 2001). "Abuse occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them." Moretti v. Bergeron (In re Moretti), 260 B.R. 602 (B.A.P. 1st Cir. 2001) (citations omitted).

DISCUSSION

I. Whether the bankruptcy court erred in precluding Premier from introducing testimony and other evidence to support its claims that the Debtor engaged in a scheme to defraud her creditors and hide her assets.

As set forth above, Premier attempted to introduce testimony and other evidence at trial to support its claims that the Debtor engaged in an elaborate scheme to defraud creditors and hide assets, despite the fact that such allegations were not raised in the original complaint. According to Premier, because the Joint Pretrial Statement, which listed contested issues of law and fact

relative to its allegations of fraud, superceded the pleadings pursuant to MLBR 7016-1(d), the fraud allegations could be raised at trial. The Debtor objected, arguing that the allegations of fraud had not been raised in the original pleadings and, therefore, the trial was limited to the issue of the validity of the homestead on the Salem Property. The bankruptcy court sustained the Debtor's objection, stating as follows:

Okay. I'm going to sustain the [Debtor's] objection. The scope of the complaint is a narrow one, and a local – the local rule with respect to pleadings doesn't supplant basic due process considerations inherent in any trial, and here the complaint under Section 727 is premised upon the allegation that the debtor made false statements in connection with the filing of her case, and that – relating to the property at 10 Simmons Street in Salem and whether she asserts a valid homestead with respect to that property. So I will limit the issues to – to that consideration.

Appellant's Appendix at 758.

On appeal, Premier argues, among other things, that the bankruptcy court erred in disregarding MLBR 7016-1(d) by not allowing the Joint Pretrial Memorandum to supercede the pleadings and govern the trial, and in not allowing Premier to introduce evidence relating to the issue of whether the Debtor claimed a homestead as part of a scheme to defraud creditors in violation of § 727. According to Premier, the bankruptcy court erred in ruling that MLBR 7016-1(d) cannot "supplant due process," because it failed to take into account the fact that the Debtor had ample notice of Premier's intentions to raise allegations of fraud as they were contained in the Joint Pretrial Statement to which the Debtor was a party. Moreover, Premier argues that because the parties had filed the Joint Pretrial Statement fourteen months prior to trial, the Debtor had "abundant opportunity" to object to Premier's allegations or to supplement the Joint Pretrial Statement, but chose not to do so. Therefore, according to Premier, for the Debtor or the

bankruptcy court “to find a denial of due process or any prejudice to [the Debtor] simply flies in the face of the undisputed facts.” Appellant’s Brief at 20-21.

Although Premier asserts that the bankruptcy court’s decision was based upon “due process” considerations, upon review of the record this Panel is unable to ascertain the basis for the bankruptcy court’s decision.⁵ Ordinarily abuse of discretion is the proper standard of review of a trial court’s evidentiary rulings. General Electric Co. v. Joiner, 522 U.S. 136, 141 (1997); Gray v. Genlyte Group, Inc., 289 F.3d 128, 139 (1st Cir. 2002) (substantial deference is given to judgment calls by a trial court in determining the admissibility of evidence and balancing considerations of relevance and prejudice); A.J. Cunningham Packing Corp. v. Florence Beef Co., 785 F.2d 348, 350 (1st Cir. 1986) (the admission or exclusion of evidence is within the sound discretion of the trial court and will not be reversed on appeal unless an abuse of discretion is shown). However, not all rulings on evidence are reviewed solely for abuse of discretion. An evidentiary ruling could present a pure legal issue requiring an appellate court to construe a Federal Rule of Evidence. Olsen v. Correiro, 189 F.3d 52, 58 (1st Cir. 1999). “The proper interpretation of the Federal Rules of Evidence is a question of law and is reviewed de novo, but the application of [a rule] ... is reviewed under an abuse of discretion standard.” Id. (quoting United States v. Sposito, 106 F.3d 1042, 1046 (1st Cir. 1997)). If the bankruptcy court’s decision was not based upon interpretation of the Federal Rules of Evidence, but upon the bankruptcy court’s pretrial order,⁶ it would not be disturbed on appeal absent a showing of

⁵ Other than the language quoted at page 758 of the Appellant’s Appendix, the bankruptcy court did not articulate its reasoning.

⁶ See Appellant’s Appendix at 14.

manifest injustice or abuse of discretion. Alberty-Velez v. Corporacion de Puerto Rico Para La Difusion Publica, 242 F.3d 418, 423 (1st Cir. 2001).

In order to decide if the trial court's exclusion of the evidence is based upon an interpretation of an evidentiary rule, or another legal principal, which is reviewed *de novo*, this Panel must know what rule of law the bankruptcy court was interpreting. Olsen, 189 F.3d at 58. If the exclusion of the evidence was based upon the application of an evidentiary rule or the interpretation of a pretrial order, then this Panel would review the decision under an abuse of discretion standard. Id.; Alberty-Velez, 242 F.3d at 423. However, as the First Circuit has stated:

Judicial discretion is necessarily broad – but it is not absolute. Abuse occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them.

Independent Oil & Chem. Workers of Quincy, Inc. v. Proctor & Gamble Mfg. Co., 864 F.2d 927, 929 (1st Cir. 1988). In this case, this Panel is unable to determine the basis of the bankruptcy court's decision to preclude Premier from introducing evidence and testimony of the Debtor's alleged fraud because the bankruptcy court's reasoning is not articulated. Therefore, this Panel is unable to ascertain the appropriate standard on review or complete a reasoned decision on appeal. See Salem Five Cents Sav. Bank v. Tardugno (In re Tardugno), 241 B.R. 777, 779 (B.A.P. 1st Cir. 1999).

Accordingly, this Panel shall vacate the judgment of the bankruptcy court dismissing Premier's complaint objecting to the Debtor's discharge in adversary proceeding 99-1673 and remand this issue to the bankruptcy court for further proceedings consistent with this opinion.

Specifically, the bankruptcy court is ordered on remand to either: (1) reopen the trial to receive some or all of Premier's evidence of the Debtor's alleged fraud, or (2) place on the record the findings and conclusions which were the basis for the exclusion of such evidence.

II. Whether the bankruptcy court erred in overruling Premier's objection to the Debtor's claim of homestead exemption and in dismissing Premier's objection to the Debtor's discharge.

Premier further argues on appeal that the bankruptcy court erred in overruling Premier's objection to the Debtor's claim of homestead exemption and in dismissing Premier's objection to the Debtor's discharge. Because the issues presented by Premier's objections are interwoven, the bankruptcy court addressed them simultaneously in its Memorandum of Decision, and this Panel takes the same approach here.

Section 522 allows a debtor to exempt certain property from the bankruptcy estate that the trustee distributes to creditors. See 11 U.S.C. § 522. Section 522(b) allows debtors to choose between the federal bankruptcy exemptions listed in § 522(d), or the exemptions provided by their state of residence together with those provided by federal, nonbankruptcy law. If a state has "opted out" of the federal exemption scheme, its resident debtors are restricted to the latter option. Massachusetts permits its debtors to elect between the state and federal exemption alternatives. In the present case, the Debtor chose the state exemption scheme and claimed the Massachusetts statutory homestead exemption.

A debtor's entitlement to claimed exemptions is determined as of the date of the filing. In determining whether the Debtor had a valid declaration of homestead on the Salem Property as of the Petition Date, it is necessary to review the Massachusetts homestead statute, which provides, in pertinent part, as follows:

The real property . . . of persons sixty-two years of age or older, regardless of marital status or of a disabled person or persons, as herein defined, shall be protected against attachment, seizure or execution of judgment to the extent of two hundred thousand dollars; provided, however, that such person has filed an elderly or disabled person's declaration of homestead protection as provided in section two; and provided, further, that such person occupies or intends to occupy such real property . . . as his principal residence.

Mass. Gen. Laws ch. 188, § 1A. Therefore, the validity of a debtor's declaration of homestead under Massachusetts law depends on whether the debtor did reside, or intended to reside, at the property when the declaration was made. In this case, the Debtor made her declaration of homestead on the Salem Property on June 14, 1999. Three months later she filed her bankruptcy petition, listing her residence as the Salem Property. Therefore, the issue before the bankruptcy court was whether the Debtor did reside, or intended to reside, at the Salem Property when the declaration was made on June 14, 1999.

A determination on Premier's § 727 complaint also turned on the Debtor's residence at the Salem Property. As to the § 727 complaint, the sole issue before the bankruptcy court was whether the Debtor was telling the truth when she listed the Salem Property as her residence as of the Petition Date.⁷ Thus, to prevail in this suit, Premier had to prove that the Debtor did not occupy the Salem Property on the Petition Date.

As set forth above, a determination of whether a debtor's intent was fraudulent is a finding of fact. See Lang, 256 B.R. at 540. Findings of fact shall not be set aside unless clearly erroneous, and due regard should be given to the opportunity of the trial judge to determine the credibility of all witnesses. Id. (citing Fed. R. Bankr. P. 7052 and 8013).

⁷ Section 727(a)(4)(A), provides that the court shall grant the debtor a discharge, "unless the debtor knowingly and fraudulently, in or in connection with the case . . . made a false oath or account."

In its Memorandum of Decision, the bankruptcy court noted that one of the central issues was the Debtor's state of mind (i.e., her intent to occupy the Salem Property) and that such intent often turns on the credibility and demeanor of the Debtor. However, the bankruptcy court did not have the opportunity to evaluate the Debtor's demeanor because her deteriorating health, confinement to a wheelchair, and inability to speak made her unable to appear at trial. The bankruptcy court was required, therefore, to make a judgment based on documentary evidence, testimony given by the Debtor at her § 341 creditors' meeting and testimony given by others.

It is clear from the Memorandum of Decision that the bankruptcy court conducted a thorough examination of the testimony and documentary evidence presented by the parties at trial, carefully weighing the credibility of the witnesses and the weight of the evidence. In addition to the trial testimony and documentary evidence, the bankruptcy court considered the Debtor's petition, schedules and statement of financial affairs, and the Debtor's answers at the § 341 creditors' meeting. On this evidence, the bankruptcy court concluded that Premier had not sustained its burden of proving that the Debtor did not intend to occupy the Salem Property at the time she made her declaration of homestead, and that Premier had failed to prove that the Debtor did not occupy the Salem Property as of the Petition Date. Consequently, the bankruptcy court

dismissed Premier's objection to the Debtor's discharge and overruled Premier's objection to the Debtor's homestead exemption.⁸

Based on our review of the record, this Panel cannot find that the bankruptcy court was clearly erroneous in finding that Premier had not sustained its burden of proof. Indeed, the record reflects that there is ample evidence to support such a finding, and that the bankruptcy court gave careful consideration to the evidence on this issue. Therefore, the order overruling Premier's objection to the Debtor's claim of homestead exemption shall be affirmed.

CONCLUSION

For the reasons set forth above, this Panel is unable to determine whether the bankruptcy court committed an error of law or abused its discretion in precluding Premier from introducing evidence relating to the issue of whether the Debtor claimed a homestead as part of a scheme to defraud her creditors. Accordingly, the bankruptcy court's judgment dismissing Premier's complaint objecting to discharge in adversary proceeding 99-1673 is VACATED and the matter is REMANDED to the bankruptcy court for further proceedings consistent with this opinion.

⁸ The bankruptcy court stated as follows:

In summary, the Debtor has done enough to support her claim that she formulated the intention, early in 1999, to move into the Salem Property. Therefore, her declaration of homestead was valid when made on June 14, 1999. The Plaintiff submitted some credible evidence to contradict the Debtor's claim, but has failed to prove that the Debtor did not carry through with her intention in the spring of 1999, and has also failed to prove that the Debtor had ceased to occupy the Salem Property by the petition date. Therefore, I find that the Debtor made no false oath when she claimed to reside at the Salem Property on the petition date, and for that reason, the § 727 complaint will be dismissed, and the objection to the Debtor's claim of homestead objection will be overruled. . . .

Appellant's Appendix at 695.

For the reasons set forth above, this Panel finds that the bankruptcy court did not err in overruling Premier's objection to the Debtor's claim of homestead. Accordingly, the bankruptcy court's order overruling the objection to the Debtor's claim of homestead exemption is **AFFIRMED.**