

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

JAN CHRISTIAAN KNIBBE,

Debtor.

Case No. DK 10-14592
Chapter 7
Hon. Scott W. Dales

MEMORANDUM ORDER REGARDING
DEBTOR'S MOTION

PRESENT: HONORABLE SCOTT W. DALES
United States Bankruptcy Judge

Pro se Chapter 7 Debtor Jan Christiaan Knibbe filed a Motion to Demand Chapter 7 Trustee to Certify Charges (the “Motion,” DN 80), which the court considered during a hearing on October 24, 2012 in Kalamazoo, Michigan. At the hearing, the court expressed some confusion about what the Debtor intended to accomplish by filing the Motion, and invited the Debtor to explain. After the Debtor read from his prepared remarks, he stated that the court should consider the Motion as filed. The court took the matter under advisement.

For the most part, the Motion asks the court, or the Chapter 7 Trustee Stephen L. Langeland (the “Trustee”), or both, to honor the Debtor’s state and federal constitutional rights and to “uphold the Constitution of the United States of America as the Supreme Law of this court, in this matter.” *See* Motion at ¶ 3. In addition, the Motion seeks an order requiring the Trustee to “[c]ertify that the charges brought against [the Debtor] are valid and lawful and Constitutionally compliant specific to the Bill of Rights by means of his own sworn and notarized affidavit . . .” *Id.* at ¶ 4. The Debtor cites the Supremacy Clause as well as the state

and federal constitutional provisions requiring public officials to take an oath to uphold the state and federal constitutions. *See* U.S. Const. Art. 6, §§ 2 and 3; Michigan Const. Art. 11, § 1.

With respect to the request for relief related to the Supremacy Clause, the court fails to understand how it could meaningfully require the Trustee to uphold the Supremacy Clause which is, in effect, a rule of law requiring state enactments to yield to federal law. The Motion does not identify any state and federal laws in conflict that would support invoking the Supremacy Clause. In general, the court has no difficulty upholding federal and state law, and reconciling the two where possible, and its orders will reflect the court's conclusions in this regard. Moreover, the court fully intends to respect the Debtor's rights under state and federal law, and expects the Trustee to do so. Indeed, it appears that the Trustee has shown remarkable restraint and deference to the Debtor. The court, however, fails to understand how it can grant meaningful relief by simply enjoining a litigant to honor the Constitution in the abstract, as the Motion requests. This aspect of the Motion is denied based on the court's concerns that the vagueness of the relief requested will not redress any concrete injury.

With respect to the request for relief seeking a "certification" of charges, the Motion is also unclear. The court assumes that the charges the Debtor mentions involve the Trustee's allegations regarding the alleged interference with his efforts to sell the real estate commonly known as 3035 Harbor Road, Douglas, Michigan. As the court explained on the record during the hearing held on August 29, 2012, it will consider the Trustee's allegations in an evidentiary hearing at which all witnesses will be required to testify under penalty of perjury. *See* Fed. R. Evid. 603; Fed. R. Bankr. P. 9017. If the Trustee testifies, he will also be required to do so after taking an oath or solemn affirmation. Certification is, therefore, premature, and the court will

address the Debtor's concerns about veracity at any evidentiary hearing regarding the Trustee's efforts to dispossess the Debtor.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Motion (DN 80) is DENIED.

IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Memorandum Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon Mr. Jan Christiaan Knibbe, *pro se* debtor, Stephen L. Langeland, Esq., and the United States Trustee.

END OF ORDER

IT IS SO ORDERED.

Dated October 24, 2012



A handwritten signature in black ink, appearing to read "S. W. Dales".

Scott W. Dales
United States Bankruptcy Judge