

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

In re:

RICKEY DAN YOUNG,

Debtor.

Case No. A00-00193-DMD
Chapter 7

Filed On
8/25/10

MEMORANDUM TO COUNSEL

I have reviewed the authorities submitted by the parties. The State relies on this court's decision in *In re Shangin*.¹ In *Shangin* I concluded that the State of Alaska received a valid assignment to the debtors' Exxon claims. The assignee in that case gave notice of the assignment to Exxon and the EQSF administrator. Here, however, notice of the assignment was only given to the EQSF administrator, not to Exxon. In footnote 19 of the *Shangin* decision I cited a Tennessee case, *Fugate v. Carter County Bank*² for the proposition that notice of the assignment must be given to the obligor to be effective against a trustee. AmJur 2d states: "A valid assignment must contain clear evidence of the intent to transfer rights, must describe the subject matter of the assignment, must be clear and unequivocal, and must be noticed to the obligor."³ In a separate section, Am Jur 2d further states:

An assignment of a chose in action is not complete, so as to vest title absolutely in the

¹ Case No. A97-00723, Docket No. 222 (Bankr. D. Alaska 2007).

² (*In re Webb*), 187 B.R. 221, 228 (Bankr. E.D. Tenn. 1995).

³ (footnotes omitted) 6 AmJur 2d, *Assignments*, § 82 (Thomson-West 2008).

assignee and to charge the debtor with the duty to pay the assignee, until notice of the assignment has been given to the debtor; the assignment is incomplete, not only as regards the debtor, but also as to third persons, including subsequent assignees and attaching creditors.⁴

The debtor described in this quote is the party who owes the debt giving rise to the obligation to pay. It is not a debtor in bankruptcy. The issue here is whether notice to the EQSF administrator was notice to Exxon.

Because this issue was not raised in the briefs, I feel that the parties should be given two weeks to supplement their briefs solely regarding this issue. An appropriate order will be entered.

DATED: August 25, 2010.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: W. Artus, Esq.
M. E. Beardsley, Esq.
K. Battley, Trustee
U. S. Trustee

08/25/10

⁴ (footnotes omitted); 6 AmJur 2d, *Assignments*, § 104 (Thomson West 2008).