

1 JUDGE HERB ROSS (Recalled)

2 **UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ALASKA**
3 **605 West 4th Avenue, Room 138, Anchorage, AK 99501-2296 - (Website: www.akb.uscourts.gov)**
4 **Clerk's Office 907-271-2655 (1-800-859-8059 In-State) - Judge's Fax 907-271-2692**

5
6 **Filed On**
7 **4/25/05**

8
9 In re

10 PATRICIA JANE WAGNER, dba Jane
11 Wagner, dba D & J Company, dba
12 Northern Self Storage,

13 Debtor(s)

Case No. A89-01128-HAR
In Chapter 7

14 **MEMORANDUM REGARDING**
15 **TRUSTEE'S MOTION TO ABANDON**
16 **PROPERTY**

17 The trustee filed a motion to abandon property (Dkt 508), to which Richard Wagner objected
18 (Dkt 511). Although Mr. Wagner requested a hearing, the court has recently conducted a relief
19 from stay hearing on March 25, 2005, involving the same subject matter, and deems a further
20 hearing on the motion to abandon unnecessary.

21 The motion will be denied for the following reasons:

- 22 • Mr. Wagner has no standing as a creditor. No proof of claim has been filed
23 by him.¹
- 24 • To the extent he represents the estate of the debtor, Mr. Wagner's former
25 wife, he has no standing under the facts of this case. But for the bizarre
26 claims he has made to conspiracies of various public and private entities more
27 than a decade ago, there are insufficient assets to pay creditors. Therefore, the

28 ¹ Compare case involving right to appeal, Matter of Fondiller, 707 F2d 441, 442 (9th Cir 1983) ("Only those persons who are directly and adversely affected pecuniarily by an order have been held to have standing to appeal that order.")

1 debtor (someone in her shoes) has no standing to object.² Furthermore, an
2 abandonment would presumably put any assets being abandoned back in the
3 hands of the debtor or her representative, so it is puzzling what Mr. Wagner
4 is objecting to.

- 5 • This case was reopened in 2003, purportedly to recover a claim against
6 Cathedral City, California. That claim had previously been assigned to Mr.
7 Wagner (Dkt 456), so the trustee has no rights to enforce in this respect.
8 Also, the claims seem stale, in any event, having apparently occurred in the
9 1980s or early 1990s.
- 10 • The conveyance of assets to the estate by Northern Wolverine 19/99, Inc.,
11 seems ineffective to confer jurisdiction on this court with respect to those
12 assets.³
- 13 • From the information provided for and during the relief from stay hearing on
14 March 25, 2005, whatever rights the estate (or, Mr. Wagner or Northern
15 Wolverine 19/99, Inc., for that matter) had against CT Cimarron, LLC, appear
16 to have been abandoned or lost when the property was sold to it in the Reno,
17 Nevada bankruptcy case of In re Mego Financial Corporation, Case No.
18 03-52300.
- 19 • What ever machinations Mr. Wagner has conceived of, it is difficult to see
20 how enmeshing the issues involved in California and/or Nevada in an Alaska
21 bankruptcy will help his cause.

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24 ² In re Weston, 18 F3d 860, 863-64 (10th Cir 1994).

25 ³ Williams v California 1st Bank, 859 F2d 664, 667 (9th Cir 1988) (trustee lacked standing to assert the
26 claims which belonged directly to third party creditors, even though they had assigned these claims to the
27 trustee).

1 DATED: April 22, 2005

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3
4 /s/ Herb Ross
HERB ROSS
U.S. Bankruptcy Judge

5
6 Serve:
Richard Wagner
7 Ron Offret, Esq., attorney for the trustee
Paul Paslay, Esq., for the debtor
8 Ken Battley, Trustee
Cabot Christianson, Esq., for CT Cimarron, LLC
9 US Trustee

D5344

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27 MEMORANDUM REGARDING TRUSTEE'S
MOTION TO ABANDON PROPERTY