

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

In re :

Case No. **6-05-02324-KSJ**

**EUGENE E WILHELM  
PHYLLIS J WILHELM**

Debtor(s).

**MOTION FOR APPROVAL AND NOTICE OF COMPROMISE AND SETTLEMENT  
BETWEEN TRUSTEE, DEBTOR, RONALD VAN DYKE, SHRINERS HOSPITALS  
FOR CHILDREN, ALVIN JOHANNESSON, MARION JOHANNESSON, SANDRA  
OAK, BOB WILHOIT & PNC BANK, N.A.**

MARIE E. HENKEL, Trustee of the above captioned debtor estate, pursuant to F.R.B.P. 9019, moves for approval of a proposed compromise and settlement between the Trustee, Debtor, Ronald Van Dyke, individually and as Trustee of the Mary Annetta Horgan Revocable Living Trust, Shriners Hospitals for Children, Alvin Johannesson, Marion Johannesson, Sandra Oak, Bob Wilhoit and PNC Bank, N.A., and gives notice to all interested parties of the proposed compromise. Trustee also requests that service of any order denying or granting this motion be limited to the Trustee, Special Legal Counsel for the Estate, Debtor, legal counsel for Debtor, and legal counsel for Shriners Hospitals for Children, Alvin Johannesson, Marion Johannesson, PNC Bank, N.A, and to parties

**NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING**

Pursuant to Local Rule 2.19A, the Court will consider this motion, objection or other matter without further notice or hearing unless a party in interest files an objection within twenty -one (21) days from the date of service of this paper. If you object to the relief requested in this paper, you must file an objection with the Clerk, U.S. Bankruptcy Court, 135 West Central Boulevard, Suite 950, Orlando, Florida 32801 and serve a copy on Marie E. Henkel, Trustee, 3560 South Magnolia Avenue, Orlando, Florida 32806 and on U.S. Trustee, 135 W. Central Blvd., Ste. 620, Orlando, FL 32801.

If you file and serve an objection within the time permitted, the Court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice and hearing, and may grant the relief requested.

Ronald Van Dyke, Sandra Oak and Bob Wilhoit.

BACKGROUND AND CONTROVERSIES

1. Debtor EUGENE E WILHELM PHYLLIS J WILHELM filed a Chapter 7 bankruptcy petition on 03/11/05.
2. Debtor possessed a claim against Ronald Van Dyke, both individually and as Trustee of the Mary Annetta Horgan Revocable Trust, concerning the distribution of a trust asset, a home, situated in Brevard County, Florida. Debtor and the other parties to the compromise claimed an interest in the Trust property. The claim arose prior to the date of filing of the bankruptcy petition. The Debtor retained Stephen P. Heuston and Alan Whitehead and the law firm of Frese, Hansen, Anderson, Anderson, Roche, Heuston & Whitehead, P.A. to litigate and recover this claim.
3. Trustee contacted the attorney originally retained by the Debtor to litigate the claim, and Trustee determined that said attorney was the best equipped to continue to represent the estate in recovering damages in connection with the claim.
4. On November 7, 2006, this Court authorized the employment of Stephen P. Heuston, Esq. and Alan Whitehead, Esq., and the law firm of Frese, Hansen, Anderson, Anderson, Roche, Heuston & Whitehead P.A., to continue the representation of the estate in prosecution and collection of the claim. Said counsel made demands, conducted discovery, filed suit, obtained declaratory relief, removing Van Dyke as trustee, and then negotiated a settlement of the claim for 65% of the net proceeds from the sale of the trust asset, yielding the sum of \$ 130,213.17, to the debtor. The other parties to the compromise have received less than the debtor. Trustee believes the compromise of the claim for \$130,213.17, is reasonable.
5. After payment of legal fees in the amount of \$ 43,406.05, and expenses of \$ 3,950.99, to Special Counsel, there remains \$ 82,874.13, as net settlement proceeds. Trustee proposes to administer this asset of the bankruptcy estate pursuant to her duties under the Bankruptcy Code.

THE COMPROMISE

6. The Trustee shall accept \$ 130,231.17, in return for a general release of all claims against Ronald Van Dyke, individually and as Trustee of the Mary Annetta Horgan Revocable Living Trust, Shriners Hospitals for Children, Alvin Johannesson, Marion Johannesson, Sandra Oak, Bob Wilhoit, and PNC Bank, N.A., arising in connection with disposition of the trust assets of the Mary Annett Horgan Revocable Living Trust.

BEST INTEREST OF THE ESTATE

7. The Settlement will permit the immediate liquidation of an unliquidated asset of the estate. The Trustee believes the settlement is in the best interest of the creditors and interested parties because it settles the controversy without further need for participation by the Debtor and without further cost, risk or delays necessitated by litigation.

8. Special Counsel for the estate, Stephen P. Heuston, Esq. and Alan Whitehead, and the law firm of Frese, Hansen, Anderson, Anderson, Roche, Heuston & Whitehead, P.A., will seek under separate application an award of fees in the amount of \$ 43,406.05 (based upon an agreed percentage of the total recovery), and of costs in the amount of \$3,950.99. After payment of attorneys' fees and costs, the net recovery to the estate will be approximately \$ 82,874.13.

WHEREFORE, Trustee moves this Court to enter an Order approving this compromise.

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion was furnished by first class United States Mail, postage prepaid, or by electronic delivery, to Ronald Van Dyke, 473 Thomas Dr., Melbourne, FL 32935; Shriners Hospitals for Children, c/o Keith Kromash, Esq., 440 S. Babcock St., Melbourne, FL 32901; Alvin Johannesson & Marion Johannesson, c/o Robert Bickford, Esq., 623 Denise Dr., Melbourne, FL 32935; Sandra Oak, 605 Grant Ct., Satellite Beach, FL 32937; Bob Wilhoit, 1699 Haven Blvd., Palmetto, FL 34221; PNC Bank, N.A., c/o Kimberly Bonderrezanka, Esq., 8240 Devereaux Dr., Ste. 100, Viera, FL 32940; and to all persons on the mailing matrix, attached to the original of this document, as furnished by the Clerk's office on May 11, 2012.

/s/ Marie E. Henkel

Marie E. Henkel, Trustee  
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