

BANKRUPTCY

Exhibit A and Form 4 are official forms that are only to be filed by corporate debtors in chapter 3 reorganization cases, not by an individual applying for bankruptcy relief under chapter 2. Amayo v. MJ Co., 14 FSM R. 535, 537 (Pon. 2007).

A bankruptcy application must be accompanied by the debtor=s statement of financial condition, as well as schedules of debts, assets and exemptions of the debtor. Amayo v. MJ Co., 14 FSM R. 535, 538 (Pon. 2007).

Under the Bankruptcy Rules, the debtor=s schedules and statements must, in a voluntary case, be filed with the application or if the application is accompanied by a list of all the debtor=s creditors and their addresses, within 15 days thereafter, except as otherwise provided. Amayo v. MJ Co., 14 FSM R. 535, 538 (Pon. 2007).

A "creditor" is someone who has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor and a "claim" is any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured. Amayo v. MJ Co., 14 FSM R. 535, 538 (Pon. 2007).

Persons with a claim to a disputed, unsecured, unliquidated debt owed by the debtor which arose before the debtor applied for bankruptcy relief are "interested parties" who may appear in the bankruptcy proceeding and who may (and must) pursue any sanctions of the debtor and relief from the automatic stay within the bankruptcy case. Amayo v. MJ Co., 14 FSM R. 535, 538 (Pon. 2007).

The bankruptcy court may choose to try the plaintiffs= previously-filed claim itself although the claim was previously filed in another case. Amayo v. MJ Co., 14 FSM R. 535, 539 (Pon. 2007).

In a bankruptcy case, a "creditor" is someone who has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor, and a "claim" is any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured. An unliquidated claim is one whose amount has not been determined or calculated. In re Panuelo, 15 FSM R. 23, 26 (Pon. 2007).

An "interested party" who may appear in a bankruptcy proceeding includes any creditor of the debtor. In re Panuelo, 15 FSM R. 23, 26 (Pon. 2007).

Words and phrases used in the FSM Code (of which the Bankruptcy Act is a part) must be read with their context and must be construed according to their common and approved English language usage. In re Panuelo, 15 FSM R. 23, 27 n.1 (Pon. 2007).

The Bankruptcy Act gives the bankruptcy court three choices in the case of disputed claims: the court may summarily determine the matter upon motion, conduct a trial on the claim, or refer the matter to another court for determination. In re Panuelo, 15 FSM R. 23, 28 (Pon. 2007).

A bankruptcy court=s summary determination of disputed claims is properly reserved for those cases where there are no debtor=s assets left to make any payments to the unsecured creditors so the amount of the debtor=s liability matters little since there will never be any money to pay it. In re Panuelo, 15 FSM R. 23, 28 (Pon. 2007).

A creditor=s disputed claim could be tried as part of a bankruptcy case, but when that would entail a full-blown trial with witnesses and evidence and another trial would still have to be conducted because the debtor is not the only defendant to the lawsuit, that would be a wasteful use of scarce judicial resources and leave the danger of inconsistent judgments. In re Panuelo, 15 FSM R. 23, 29 (Pon. 2007).

The Bankruptcy Act's stated purpose is to fairly balance the interests of creditors and debtors and to give the court substantial latitude to deal with abuses of the bankruptcy system. In re Panuelo, 16 FSM R. 339, 344 (Pon. 2009).

When a debtor has failed to file supplemental schedules with corrected information about his property as required, the receiver should be permitted to do it based on the information she has uncovered and any further information she may develop. In re Panuelo, 16 FSM R. 339, 345 (Pon. 2009).

Since the FSM Supreme Court has jurisdiction to entertain a bankruptcy proceeding over a debtor's estate if the debtor resides in or has a domicile in the FSM or has a place of business or property in the FSM, the court has jurisdiction over a debtor's estate and may afford him bankruptcy protection when the debtor alleged in his original bankruptcy application that he has property in Pohnpei and it appeared that his application for bankruptcy protection arose from a failed business operation in Pohnpei and when although the debtor may currently be resident in the Philippines, he is a domiciliary of Pohnpei. In re Mix, 18 FSM R. 600, 602 (Pon. 2013).

The bankruptcy court is granted comprehensive jurisdiction to deal with all matters concerning the bankruptcy estate as long as the court has jurisdiction over the applicant debtor. In re Mix, 18 FSM R. 600, 602 (Pon. 2013).

The court may issue such orders as are enforceable in the FSM and although the court cannot enforce its orders in another country, the court does have a certain extraterritorial reach. The bankruptcy court can, in appropriate circumstances, hold in contempt a debtor or dismiss the debtor's bankruptcy application when the debtor has not obeyed a court order to sell property the debtor has in another country and remit the proceeds to the receiver of the debtor's estate. In re Mix, 18 FSM R. 600, 602 & n.2 (Pon. 2013).

Since a debtor's estate consists of all property owned by the debtor on the date of the application, a debtor's estate will include property owned by the debtor anywhere in the world on the date of the bankruptcy application and the court can make orders to the debtor that affect that property. In re Mix, 18 FSM R. 600, 602 n.2 (Pon. 2013).

A claim by the Marshall Islands Social Security Administration against a debtor in the FSM is not a secured debt – a claim in which the creditor has a security interest in collateral. It is an unsecured claim. In re Mix, 18 FSM R. 600, 603 (Pon. 2013).

Since a corporation's directors have a duty to act in the corporation's best interest and when, regardless of whether the judgment existed, the corporation had debts that greatly exceeded its assets and it was unable to pay those debts as they became due, bankruptcy was probably in the corporation's best interest, and the court cannot give any weight to the argument that this meant that the directors had accepted the judgment when they directed the corporation to seek bankruptcy protection. FSM Dev. Bank v. Ehsa, 18 FSM R. 608, 613 (Pon. 2013).

A party's failure to oppose a motion constitutes that party's consent to the granting of the motion, but even if there is no opposition, the court still needs good grounds before it can grant the motion. In re Mix, 19 FSM R. 63, 64 (Pon. 2013).

When no defendant has started a case under bankruptcy law, the defendants cannot have the case dismissed because bankruptcy law would provide the legal framework for the case. FSM Dev. Bank v. Setik, 19 FSM R. 233, 236 (Pon. 2013).

The Bankruptcy Code, Title 31 of the FSM Code, stays the collection of judgments against the debtor

who has sought bankruptcy protection and requires that all debt collection from the debtor take place within the bankruptcy proceeding wherein the bankrupt debtor=s liability for his debts will either be satisfied or be discharged. FSM Dev. Bank v. Ehsa, 20 FSM R. 608, 612 (Pon. 2016).

Since one debtor=s bankruptcy will not afford a different debtor protection from liability for his own indebtedness or his own liability, a corporation=s bankruptcy will thus not release a guarantor from his personal liability for the judgment against him. FSM Dev. Bank v. Ehsa, 20 FSM R. 608, 612 (Pon. 2016).

The Bankruptcy Code creates for the debtor, who meets the requirements of the law, an opportunity to get a fresh start where he might otherwise face a protracted struggle with debt beyond his ability to pay. A successful bankruptcy application absolves the debtor of liability for unmatured interest and for punitive damages. The Code gives to the courts substantial latitude in managing the bankruptcy proceeding to protect the interests of both creditors and debtors, to deal with abuses of the bankruptcy system, and to establish a case schedule that takes into consideration the interests of all parties. In re Mix, 21 FSM R. 454, 456 (Pon. 2018).

Congress=s power to regulate bankruptcy and insolvency is an exclusive national power, and bankruptcy cases are, by law, assigned to the FSM Supreme Court trial division. Panuelo v. Sigrah, 22 FSM R. 341, 351 (Pon. 2019).

Any claim that a bankruptcy receiver was overcompensated is solely a matter of national (bankruptcy) law, and a claim that a bankruptcy receiver paid the creditors of a debtor, who had sought bankruptcy protection, more than was their due is also a matter arising only under national bankruptcy law. Panuelo v. Sigrah, 22 FSM R. 341, 351 (Pon. 2019).

Under FSM bankruptcy law, only a corporation can apply for chapter 3 (reorganization) bankruptcy protection. Panuelo v. Sigrah, 22 FSM R. 341, 353 n.3 (Pon. 2019).

When the debtor is an individual, an "insider" is a relative of the debtor, who is related by blood or marriage within the third degree as determined by common law, or a person who is considered a close relative under applicable Micronesian custom, or a step or adoptive relationship within such third degree. Panuelo v. Sigrah, 22 FSM R. 341, 353 n.4 (Pon. 2019).

An "interested party" is the debtor, any creditor of the debtor and any other party the court supervising the bankruptcy application may determine to have a right to be heard on issues pertaining to that application. Panuelo v. Sigrah, 22 FSM R. 341, 356 n.6 (Pon. 2019).

An individual lacks standing and should be dismissed when she has no sufficient stake in the outcome of a dispute over a bankruptcy receiver=s compensation or payments to creditors because she was neither an "interested party" nor a co-debtor, but, since her involvement with the case was as an insider who had improperly received property of the debtor=s estate and converted it to her use, she as an individual, arguably, as the insider recipient of a fraudulent transfer, may be an "interested party" solely with respect to the fraudulently transferred property. Panuelo v. Sigrah, 22 FSM R. 341, 356 (Pon. 2019).

The debtor, as an interested party, has sufficient stake in the matter for standing to try to reopen his own bankruptcy case. Panuelo v. Sigrah, 22 FSM R. 341, 356 (Pon. 2019).

Although under Bankruptcy Rule 5010, a case may be reopened on motion of the debtor or other interested party pursuant to 31 F.S.M.C. 311(2), a lawsuit is not a motion and 31 F.S.M.C. 311(2) applies only to a corporate debtor that is unable to implement a part of its reorganization plan or comply with a provision of the court=s confirmation order. Bankruptcy Rule 5010 does not apply to an individual debtor or to a liquidation case. Panuelo v. Sigrah, 22 FSM R. 341, 356-57 (Pon. 2019).

Bankruptcy Rule 9024 permits reopening a bankruptcy case by providing that FSM Civil Procedure Rule 60 applies in cases under Title 31. Panuelo v. Sigrah, 22 FSM R. 341, 357 (Pon. 2019).

The administratrix of an estate of a former debtor would have standing to seek relief under Bankruptcy Rule 9024 for alleged overpayments to creditors and to the bankruptcy receiver because she seeks reconsideration of, or relief from, the bankruptcy case orders allowing those claims by the creditors and the receiver. Panuelo v. Sigrah, 22 FSM R. 341, 357 (Pon. 2019).

A new lawsuit obviously cannot be a motion to reopen a case under Bankruptcy Rule 9024 (or for relief from judgment under Civil Procedure Rule 60), since such a motion would necessarily be filed in the original bankruptcy case, but Civil Procedure Rule 60 (and thus Bankruptcy Rule 9024) authorizes one other procedure for relief – an independent action for relief. Rule 60(b) does not limit a court=s power to entertain an independent action to relieve a party from a judgment. Panuelo v. Sigrah, 22 FSM R. 341, 357 (Pon. 2019).

When the debtor=s administratrix named only the bankruptcy receiver as the sole defendant, she would have standing in the action, to recover alleged overpayments to the receiver, but to recover alleged overpayments to the creditors, she would have to proceed against those creditors. Panuelo v. Sigrah, 22 FSM R. 341, 357 (Pon. 2019).

It seems likely that the six-year, catch-all statute of limitations would apply to purely monetary damages. Panuelo v. Sigrah, 22 FSM R. 341, 358 & n.8 (Pon. 2019).

Laches is an important consideration in bankruptcy proceedings because the chief purpose of the bankruptcy laws is to secure a prompt and effectual administration of and settlement of the estate of all bankrupts within a limited period. Panuelo v. Sigrah, 22 FSM R. 341, 358 (Pon. 2019).

A suit that seeks to vacate or alter the bankruptcy court=s orders in the bankruptcy case, but is not a motion to reopen that case under either Bankruptcy Rule 5010 or 9024, could be an independent action for relief as allowed by Bankruptcy Rule 9024 adopting Civil Procedure Rule 60(b) by reference. Panuelo v. Sigrah, 22 FSM R. 341, 359 (Pon. 2019).

When an FSM court has not previously construed an FSM bankruptcy rule which is identical or similar to a U.S. counterpart, the court may look to U.S. sources for guidance in interpreting the rule. Panuelo v. Sigrah, 22 FSM R. 341, 359-60 n.9 (Pon. 2019).

– Automatic Stay

By operation of law, the moment a person files an application for relief under the Bankruptcy Act of 2004 (Title 31 of the FSM Code), all legal proceedings against that applicant-debtor are automatically stayed with the exception of criminal proceedings and proceedings by a governmental entity to enforce a police or regulatory power. No court order or notice is needed or issued for the stay to take effect. Amayo v. MJ Co., 14 FSM R. 535, 537 (Pon. 2007).

Persons with a claim to a disputed, unsecured, unliquidated debt owed by the debtor which arose before the debtor applied for bankruptcy relief are "interested parties" who may appear in the bankruptcy proceeding and who may (and must) pursue any sanctions of the debtor and relief from the automatic stay within the bankruptcy case. Amayo v. MJ Co., 14 FSM R. 535, 538 (Pon. 2007).

The Bankruptcy Act sets forth the proper procedure to be followed by anyone who desires relief from the automatic stay. Relief from the automatic stay may be sought by applying to the bankruptcy court, and if that court grants the relief from the stay and determines that the disputed claim against the debtor should be referred to and determined by the court in which the case was already filed, that court will proceed with trial of the claim against the debtor. Amayo v. MJ Co., 14 FSM R. 535, 538 (Pon. 2007).

Unless and until the bankruptcy court grants relief from the automatic stay and refers the matter to the court in which the claim was filed to determine the amount of the claim allowable, the court can take

no further action on the claim against the debtor. A plaintiff's request to the court in that case cannot be considered a request for relief from the automatic stay since it bypasses the bankruptcy court, the only proper forum in which to seek such relief. Only the bankruptcy court can lift the automatic stay. Amayo v. MJ Co., 14 FSM R. 535, 538 (Pon. 2007).

The trial court has no power to enter a default on the issue of the debtor's liability or to try damages (damages would still need to be proven in an evidentiary proceeding) while the Bankruptcy Act's automatic stay is in effect. Amayo v. MJ Co., 14 FSM R. 535, 538 (Pon. 2007).

When an automatic stay has taken effect because one defendant applied for bankruptcy relief, trial could still proceed as scheduled on the plaintiff's claims against the other two defendants, but when the court considers that to be a needless waste of scarce judicial resources and an unnecessary financial burden on the plaintiffs to have to try the case first against those defendants, and then against the debtor, the court may continue the trial. Amayo v. MJ Co., 14 FSM R. 535, 539 (Pon. 2007).

An affected party may seek relief from the automatic stay by applying to the bankruptcy court and that court, for cause shown, shall either grant relief from stay or grant such other relief as will provide adequate protection for the party requesting relief from stay. In re Panuelo, 15 FSM R. 23, 26 (Pon. 2007).

The bankruptcy court will grant relief from the automatic stay and permit "another court" to try creditors' disputed claims against the debtor and determine the amount of the debtor's liability (if any) to the creditors when it is in the interests of judicial economy and the expeditious and economical resolution of litigation and the parties were ready for trial before the bankruptcy application; when the impact of the stay on, and the harm to, the creditors is great, while the only harm to the debtor is that his attorney will have to try the case, something he was already prepared to do; when relief would result in complete resolution of the issues between the creditors and the debtor (except, of course, payment of any judgment); and when the litigation involves third parties and would not appear to prejudice the debtor's other creditors since any judgment against the debtor in that case must be pursued only in this bankruptcy case since the stay will not be lifted so as to permit the enforcement of any judgment obtained against the debtor in any forum other than this bankruptcy case. In re Panuelo, 15 FSM R. 23, 29 (Pon. 2007).

When a debtor's voluntary bankruptcy application is dismissed (and the receivership dissolved) and his debts that were the subject of that application not discharged, the stay against commencement or continuation of legal proceedings against the debtor that took effect automatically by operation of law because of the bankruptcy application, ends since the bankruptcy proceedings are terminated. All judgment creditors and any other creditors are then free to pursue their claims as if no bankruptcy application had been made. In re Mix, 21 FSM R. 454, 457 (Pon. 2018).

– Debtor's Estate

The debtor's estate that is subject to a bankruptcy receivership consists of, subject to the exemptions contained in section 209 of the Bankruptcy Act, all property owned by the debtor on the date of the application. In re Panuelo, 15 FSM R. 23, 27 (Pon. 2007).

Whether property is exempt from bankruptcy creditors is an issue that should be brought up after the appointment of a Receiver. A claim that the property is exempt is not an excuse for failing to list it in the official forms since a debtor must list property claimed as exempt under on the schedule of assets required to be filed by Bankruptcy Rule 1007. This allows creditors to object to the debtor's claim of exemption. In re Panuelo, 15 FSM R. 23, 27 (Pon. 2007).

When the Bankruptcy Act states the debtor's estate consists of "all property owned by the debtor on the date of the application," the Act should not be interpreted to mean something other than what it says. "All" means "all." Since statutes are to be interpreted according to their plain meaning, and when a

statute’s language is plain and unambiguous, it declares its own meaning and there is no room for construction. The meaning of "all" is plain and unambiguous." In re Panuelo, 15 FSM R. 23, 27 (Pon. 2007).

Since the Bankruptcy Act’s purpose is to fairly balance the interests of creditors and debtors in circumstances where the debtor is unable to meet his financial obligations when due, it would be inherently unfair to the creditor’s interests if only a debtor’s property that happened to be in the FSM when the bankruptcy application was filed were included in the debtor’s estate (and the debtor’s property elsewhere not included). In re Panuelo, 15 FSM R. 23, 27 (Pon. 2007).

Since the FSM Code provisions are construed according to the fair construction of their terms with a view to effect its object and to promote justice, to construe the phrase "all property," to include the debtor’s property outside the FSM would construe the Bankruptcy Act and 31 F.S.M.C. 203(1)(a) according to the fair construction of their terms or with a view to effect the Bankruptcy Act’s object and to promote justice. In re Panuelo, 15 FSM R. 23, 28 (Pon. 2007).

A debtor’s receivership estate consists of all property owned by the debtor on the date of the application, all property acquired by the debtor through bequest, devise, or inheritance, or as beneficiary of a life-insurance policy in the 180 days after the bankruptcy application, and all property acquired by the receivership estate after the date of application. In re Panuelo, 16 FSM R. 339, 343 (Pon. 2009).

Income earned by a debtor after his bankruptcy application is not part of the receivership estate, but property that was owned by the debtor when he applied for bankruptcy protection is part of the receivership as must be the return (or unearned income) generated by that property. In re Panuelo, 16 FSM R. 339, 343 (Pon. 2009).

Proceeds of property of the receivership estate generated (or acquired) by receivership estate property after the debtor’s application, goes to and is part of the receivership estate. In re Panuelo, 16 FSM R. 339, 343 (Pon. 2009).

It would make little sense if the receiver could avoid a fraudulent transfer made one day before the debtor applied for bankruptcy protection but could not avoid a fraudulent transfer made one day after. In re Panuelo, 16 FSM R. 339, 344 (Pon. 2009).

A transfer of property out of the debtor’s estate, especially to insiders, without the return to the estate of reasonably equivalent or fair market value, is a fraudulent transfer or a transfer with intent to defraud. In re Panuelo, 16 FSM R. 339, 344 (Pon. 2009).

Bankruptcy Code Section 209(2)(b), which exempts from the debtor’s receivership estate all tools, implements, utensils, two work animals and equipment necessary to enable the debtor to carry on his usual occupation, does not apply to individual filings where the debt is primarily of a business nature. A debtor cannot exempt such business tools from his receivership estate, especially when he is no longer in business. In re Mix, 19 FSM R. 63, 64 (Pon. 2013).

Fishing coolers, fishing gear, lures, rod and reel, fishing lines, fishing net spear gun, .410 shotgun, TV-flat screen, laptop, PC, 23 ft boat, trailer, 75hp motor, life jackets for the boat and boating accessories are not items that qualify as exempt personal and household goods under 31 F.S.M.C. 209(2)(a). In re Mix, 19 FSM R. 63, 64 (Pon. 2013).

A boat and its motor are exempt to the combined value not in excess of \$2,500 and a motor vehicle is exempt not to exceed \$1,500 in value, and if the vehicle exceeds the \$1,500 exempt valuation and the boat and motor exceed their \$2,500 exempt valuation, then they can be sold with the excess going to the creditors and the debtor keeping the exempt value. In re Mix, 19 FSM R. 63, 64-65 (Pon. 2013).

Since a son falls within the definition of an insider, a debtor=s transfers of property to his son at any time after one year before the debtor=s bankruptcy filing are voidable as preferences or as fraudulent transfers. The Receiver shall recover these items or their cash value from the son if they are in his possession. In re Mix, 19 FSM R. 63, 65 (Pon. 2013).

One of the debtor=s duties is to cooperate with the trustee or receiver in the administration of the estate. In re Mix, 21 FSM R. 454, 456 (Pon. 2018).

The bankruptcy receiver is required, subject to court order, to administer the assets of the receivership estate, and, with the court=s approval, to distribute those assets to the debtor=s creditors pursuant to the priorities set out in 31 F.S.M.C. 107 and 108. And, to accomplish those ends, the receiver is granted, but not limited to, certain powers, including the powers to void preferences and fraudulent transfers. Panuelo v. Sigrah, 22 FSM R. 341, 362 (Pon. 2019).

The receivership estate consists of all of the debtor=s property at the time of the bankruptcy application, except exempt property, plus certain other property acquired afterwards. Panuelo v. Sigrah, 22 FSM R. 341, 362 n.11 (Pon. 2019).

The debtor=s death does not abate a liquidation case under chapter 2 of Title 31. In such event, the estate will be administered and the case concluded in the same manner, so far as possible, as though the death had not occurred. Panuelo v. Sigrah, 22 FSM R. 341, 363 (Pon. 2019).

– Discharge

A debtor is not entitled to a discharge from creditors= claims if the debtor has transferred property with intent to defraud after date of application and the debtor may also be denied a discharge for a fraudulent transfer of a debtor=s interest in property incurred within one year before the application for receivership. In re Panuelo, 16 FSM R. 339, 344 & n.1 (Pon. 2009).

The Bankruptcy Act=s purpose is to fairly balance the interests of creditors and debtors in circumstances where the debtor is unable to meet his financial obligations when due, and to do this a receiver is required to marshal all of the debtor=s non-exempt assets and to manage those assets, during the pendency of the proceeding, in the estate=s best interest, and at the end of the proceeding, give the debtor who has not abused the bankruptcy system an opportunity to get a fresh start. But a debtor who has abused the bankruptcy system is not entitled to a discharge of his debts and a fresh start. In re Panuelo, 16 FSM R. 339, 344-45 (Pon. 2009).

The court can discharge in the FSM the debt owed to the Marshall Islands because a discharge operates as an injunction against the continuation of any act or action to collect a debt as a personal liability of the debtor, but since the discharge or injunction would be enforceable only in the FSM, the Marshall Islands Social Security Administration might still seek to collect its claim in the Republic of the Marshall Islands or in some other foreign country, constrained only by the application of comity by those countries= courts. In re Mix, 18 FSM R. 600, 602-03 (Pon. 2013).

The debtor=s failure to cooperate and the unauthorized transfer of property out of the debtor=s estate can result in the denial of the debtor=s bankruptcy application and the dismissal of the bankruptcy case without discharging any of the applicant=s debts. In re Mix, 21 FSM R. 454, 456 (Pon. 2018).

The clerk shall serve a "notice of no discharge" on all creditors who have either filed proofs of claim or who were listed as creditors when a debtor=s voluntary bankruptcy application is dismissed without a discharge of the debtor=s debts. In re Mix, 21 FSM R. 454, 457 (Pon. 2018).

The defenses of fraud, misrepresentation, and illegality are unavailable as defenses to an action on a judgment unless they are part of the recognized defenses – payment, release, accord and satisfaction, or

the statute of limitations (the court also recognizes that a discharge in bankruptcy of a judgment debt would likely constitute a good defense as a release) – but fraud would be an available defense if there was fraud on the court in obtaining the judgment. FSM Dev. Bank v. Carl, 22 FSM R. 365, 374 (Pon. 2019).

– Dismissal

The court may dismiss a bankruptcy application if it is in "the best interests of the debtor and the creditors" or if the debtor=s application was in bad faith. In re Panuelo, 15 FSM R. 23, 28 (Pon. 2007).

It may be that the Bankruptcy Code=s only remedy for unauthorized transfers of property in the debtor=s estate after the start of a bankruptcy case is to dismiss the case without a discharge of the debtor=s debts. In re Panuelo, 16 FSM R. 339, 344 (Pon. 2009).

A debtor in bankruptcy is required to cooperate with the receiver, and his failure to cooperate with the receiver may subject his bankruptcy application to a dismissal for substantial abuse without any of his debts being discharged. In re Panuelo, 16 FSM R. 339, 344 (Pon. 2009).

A debtor=s transfers of his property to others after the commencement of a bankruptcy can result in the dismissal of his application for bankruptcy protection without the discharge of his debts. In re Panuelo, 16 FSM R. 339, 344 (Pon. 2009).

The court may issue such orders as are enforceable in the FSM and although the court cannot enforce its orders in another country, the court does have a certain extraterritorial reach. The bankruptcy court can, in appropriate circumstances, hold in contempt a debtor or dismiss the debtor=s bankruptcy application when the debtor has not obeyed a court order to sell property the debtor has in another country and remit the proceeds to the receiver of the debtor=s estate. In re Mix, 18 FSM R. 600, 602 & n.2 (Pon. 2013).

The debtor=s failure to cooperate and the unauthorized transfer of property out of the debtor=s estate can result in the denial of the debtor=s bankruptcy application and the dismissal of the bankruptcy case without discharging any of the applicant=s debts. In re Mix, 21 FSM R. 454, 456 (Pon. 2018).

If a bankruptcy case is dismissed without a discharge of the applicant=s debts, then the interest that was unaccrued when the application was filed but which, without the bankruptcy application, would have accrued during the proceeding=s pendency, will mature and the debtor will be liable for it. In re Mix, 21 FSM R. 454, 456 n.1 (Pon. 2018).

A voluntary bankruptcy case where the debtor has neither contacted the receiver nor offered to assist in the marshaling and sale of his non-exempt assets, cannot continue in this manner. In re Mix, 21 FSM R. 454, 457 (Pon. 2018).

When a debtor=s voluntary bankruptcy application is dismissed (and the receivership dissolved) and his debts that were the subject of that application not discharged, the stay against commencement or continuation of legal proceedings against the debtor that took effect automatically by operation of law because of the bankruptcy application, ends since the bankruptcy proceedings are terminated. All judgment creditors and any other creditors are then free to pursue their claims as if no bankruptcy application had been made. In re Mix, 21 FSM R. 454, 457 (Pon. 2018).

– Priorities

For the purpose of administering a bankruptcy estate in the FSM, a foreign government=s unsecured claim, even though reduced to judgment, will be relegated to the class of allowed unsecured claims in 31

F.S.M.C. 108(1)(e). In re Mix, 18 FSM R. 600, 603 (Pon. 2013).

– Receiver/Trustee

A receiver=s proposed compensation of \$125 an hour with a cap on the amount paid based on a percentage of the amount disbursed to creditors, even though the proposal places an upper limit on the compensation, this proposed compensation is still based solely on time-referenced billing, which the court is statutorily barred from approving. In re Panuelo, 15 FSM R. 640, 641 (Pon. 2008).

When a \$125 per hour compensation rate is barred because the statute prohibits compensation based solely on time-referenced billing; when \$125 an hour seems to be proposed merely because it is the prevailing rate for private attorneys on Pohnpei and the receiver is a lawyer; and when much of the work needed in administering a debtor=s estate in bankruptcy may not be lawyer work and non-lawyer work is not compensated at lawyer rates even when done by a lawyer, the receiver will be asked to submit a new compensation proposal. In re Panuelo, 15 FSM R. 640, 641-42 (Pon. 2008).

Bankruptcy Rule 2008 refers only to blanket bonds in Rule 2010 which may be authorized when a trustee or receiver is qualified in a number of cases. A bond will not be required when the receiver has been qualified in only one case, and when the bond requirement is discretionary, especially in this early stage of development of bankruptcy law and the small number of persons who might be able to qualify as a bankruptcy receiver or trustee and the lack of insurance companies that could issue a bond. In re Panuelo, 15 FSM R. 640, 642 (Pon. 2008).

A receiver can move to compel the attendance of persons at a creditors= meeting because interested parties can make such motions, and the receiver stands in the debtor=s shoes and the debtor is included in the definition of an "interested party." In re Panuelo, 16 FSM R. 339, 343 (Pon. 2009).

The receiver is statutorily empowered to avoid preferences paid to creditors made on or within 90 days, or within one year if the creditor was an insider, before the bankruptcy application, and to avoid fraudulent transfers made within one year before the application for receivership, and to recover the transferred property for the estate=s benefit. In re Panuelo, 16 FSM R. 339, 343 (Pon. 2009).

It would make little sense if the receiver could avoid a fraudulent transfer made one day before the debtor applied for bankruptcy protection but could not avoid a fraudulent transfer made one day after. In re Panuelo, 16 FSM R. 339, 344 (Pon. 2009).

When a debtor has failed to file supplemental schedules with corrected information about his property as required, the receiver should be permitted to do it based on the information she has uncovered and any further information she may develop. In re Panuelo, 16 FSM R. 339, 345 (Pon. 2009).

One of the debtor=s duties is to cooperate with the trustee or receiver in the administration of the estate. In re Mix, 21 FSM R. 454, 456 (Pon. 2018).

Creditor interests are served by the appointment of a receiver to marshal all of the debtor=s non-exempt assets and to manage those assets, during the pendency of the proceeding, in the best interests of the estate. In re Mix, 21 FSM R. 454, 456 (Pon. 2018).

The FSM bankruptcy statute specifically bars receiver=s compensation based solely on time referenced billing. Panuelo v. Sigrah, 22 FSM R. 341, 353 (Pon. 2019).

The bankruptcy receiver is required, subject to court order, to administer the assets of the receivership estate, and, with the court=s approval, to distribute those assets to the debtor=s creditors pursuant to the priorities set out in 31 F.S.M.C. 107 and 108. And, to accomplish those ends, the receiver is granted, but not limited to, certain powers, including the powers to void preferences and fraudulent transfers. Panuelo v. Sigrah, 22 FSM R. 341, 362 (Pon. 2019).