

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

DONALD F. ASHLEY, JR. and : BK No. 99-13185
BRIGETTE ASHLEY : Chapter 7
Debtors

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TITLE: *In re Ashley*

CITATION: 2000 WL 1560203 (Bankr. D.R.I. Sept. 7, 2000)

ORDER OVERRULING TRUSTEE'S OBJECTION TO EXEMPTIONS

Before the Court is the Chapter 7 Trustee's Objection to the Debtors' claimed homestead exemption under R.I. Gen. Laws § 9-26-4.1 (the "Homestead Act"). The Trustee seeks to enforce an exception enumerated in the Homestead Act which withholds the exemption from debts owing to a federally insured deposit taking institution. The statute states:

In addition to the property exempt from attachment as set forth in § 9-26-4, an estate of homestead to the extent of one hundred thousand dollars (\$100,000) in the land and buildings may be acquired pursuant to this section by an owner or owners of a home or one or all who rightfully possess the premise by lease or otherwise, and who occupy or intend to occupy said home as a principal residence. Said estate shall be exempt from the laws of attachment, levy on execution and sale for payment of debts or legacies except in the following cases:

...

(7) For a debt heretofore or hereafter owing to a federally insured deposit taking

institution or a person regulated or
licensed under title 19.

R.I. Gen. Laws § 9-26-4.1.

We have on this same day, in more detail, dealt with a similar issue in *In re Strandberg*, B.K. No. 99-11012 (Bankr. D.R.I. Sept. 7, 2000), where we followed the First Circuit Court of Appeals decision in *Patriot Portfolio, LLC v. Weinstein (In re Weinstein)*, 164 F.3d 677 (1st Cir. 1999), and said "the Rhode Island Homestead Act is preempted by Section 522(c), and that the only debts for which the debtor's exempt property is liable are those enumerated in subsections (1)-(3) of Section 522(c). *Weinstein*, 164 F.3d at 682-83." *Strandberg*, slip op. at 8. Because a debt owing to a federally insured deposit taking institution is not one of the Section 522(c) exceptions, the Debtors' exemption is unaffected and must be allowed as claimed.

Accordingly, the Trustee's Objection to the claimed exemption is OVERRULED.

Enter judgment consistent with this opinion.

Dated at Providence, Rhode Island, this 7th day of
September, 2000.

/s/ Arthur N. Votolato
Arthur N. Votolato
U.S. Bankruptcy Judge