

(as of March 27, 2008)

**The Abuse of Uncontrolled Judicial Power  
in The *DeLano* Case  
showing a coordinated judicial wrongdoing  
in the form of a bankruptcy fraud scheme<sup>i</sup>**

*DeLano* is a federal bankruptcy fraud case. As part of 12 such cases, it reveals fraud conducted through coordinated wrongdoing that is so egregious as to betray overconfidence born of a long standing practice: Fraud has been organized into a bankruptcy fraud scheme<sup>2</sup>. This case was commenced by a bankruptcy petition filed with Schedules A-J and a Statement of Financial Affairs on January 27, 2004, by the DeLano couple. (04-20280, WBNY (§V)) Mr. DeLano, however, is a most unlikely candidate for bankruptcy, for at the time of filing he was a 39-year veteran of the banking and financing industry and was and continued to be employed by M&T Bank precisely as a bankruptcy officer. He and his wife, a Xerox technician, declared:

1. that they had in cash and on account only \$535 (D:31), although they had declared that their monthly excess income was \$1,940 (D:45); and in the FA Statement (D:47) and their 1040 IRS forms (D:186) that they had earned \$291,470 in just the three years prior to their filing;
2. that their only real property was their home (D:30), bought in 1975 (D:342) and appraised in November 2003 at \$98,500, as to which their mortgage was still \$77,084 and their equity only \$21,416 (D:30)...after making mortgage payments for 30 years! and receiving during that period at least \$382,187...through a string of eight mortgages! (D:341) *Mind-boggling!*<sup>3</sup>
3. that they owed \$98,092 –spread over 18 credit cards (D:38)- while they valued their household goods at only \$2,810 (D:31), less than 1% of their earnings in the previous 3 years and their excess income for 2 months! Even couples in urban ghettos end up with goods in their homes of greater value after having accumulated them over their worklives of more than 30 years.
4. Theirs is one of the trustee's 3,907 *open* cases<sup>4</sup> and their lawyer's 525<sup>5</sup> before the same judge.

These facts show that this was a scheme-insider offloading more than 78% of his and his wife's debts (D:58) in preparation for traveling light into a golden retirement. They felt confident that they could make such incongruous, implausible, and suspicious declarations in the schedules and that neither the schemers would discharge their duty nor the creditors exercise their right to require that bankrupts prove their petition's good faith by providing supporting documents.

Moreover, they had spread their debts thinly enough among their 20 institutional creditors (D:38) to ensure that the latter would find a write-off more cost-effective than litigation to challenge their petition. So they assumed that the sole individual creditor, who in addition lives hundreds of miles from the court, would not be able to afford to challenge their good faith either. But he did! The Creditor analyzed their petition and documents and estimated that the DeLano Debtors had concealed assets worth at least \$673,657!(§II)

The Creditor requested that the DeLano Debtors produce financial documents as obviously pertinent to prove the good faith of any debtors' bankruptcy petition as their bank account statements. Yet the trustee, who is supposed to represent the creditors' interests, tried to prevent the Creditor from even meeting with the DeLanos. After the latter denied *every single document* requested by the Creditor, he moved for orders of production. Contrary to their duty to determine whether the Debtors had engaged in bankruptcy fraud by concealing assets, the bankruptcy judge, the district judge, and the Court of Appeals also denied *every single document* requested<sup>6</sup>. Then they eliminated the Creditor by disallowing his claim in a sham evidentiary hearing.

Revealing how incriminating these documents are, to oppose their production the DeLanos, with the trustee's recommendation and the bankruptcy judge's approval, have been allowed to pay their lawyers \$27,953 in legal fees (§XI)...although they had declared only \$535 in cash and on account! To date \$673,657 is still unaccounted for. Where did it go and for whose benefit?

---

<sup>i</sup> The documents referenced by D: and §# are in [http://Judicial-Discipline-Reform.org/Follow\\_money/DeLano\\_docs.pdf](http://Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf)

<sup>2</sup> [Http://Judicial-Discipline-Reform.org/Follow\\_money/how\\_fraud\\_scheme\\_works.pdf](http://Judicial-Discipline-Reform.org/Follow_money/how_fraud_scheme_works.pdf).

<sup>3</sup> [Http://Judicial-Discipline-Reform.org/Follow\\_money/Penfield\\_homesale.pdf](http://Judicial-Discipline-Reform.org/Follow_money/Penfield_homesale.pdf).

<sup>4</sup> [Http://Judicial-Discipline-Reform.org/docs/Trustee\\_Reiber\\_3909\\_cases.pdf](http://Judicial-Discipline-Reform.org/docs/Trustee_Reiber_3909_cases.pdf).

<sup>5</sup> [Http://Judicial-Discipline-Reform.org/docs/Werner\\_525\\_before\\_Ninfo.pdf](http://Judicial-Discipline-Reform.org/docs/Werner_525_before_Ninfo.pdf).

<sup>6</sup> [Http://Judicial-Discipline-Reform.org/Follow\\_money/docs\\_denied.pdf](http://Judicial-Discipline-Reform.org/Follow_money/docs_denied.pdf).