

# Bankruptcy case ends, but Hecker's debts will live on

Former auto mogul still faces federal trial on fraud charges

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Denny Hecker's bankruptcy case will go down in history, but not for reasons the former auto mogul will want to brag about. Instead of getting a chance to shed his debts and start over, Hecker will remain liable for about \$400 million in debt and still must fight federal charges of bankruptcy fraud that could put him in prison for the rest of his life.

U.S. Bankruptcy Court Judge Robert Kressel closed the book on one part of the story Wednesday, approving a settlement between Hecker and the bankruptcy trustee in which Hecker agreed that none of his remaining debt would be forgiven.

At the hearing in federal court in Minneapolis, Kressel asked Hecker three questions to make sure he understood the ramifications of the agreement.

Hecker, 57, dressed in a gray suit, solemnly answered yes to each one.

Hecker and his lawyer, John Neve, declined to comment after the hearing.

The trustee, Randall Seaver, made a rare appearance but also declined to comment.

Hecker, who once owned a large dealership network, filed for Chapter 7 bankruptcy protection in June after he was unable to repay loans that he had personally guaranteed. He estimated then that he owed \$767 million and put his assets at \$18.5 million.

But Seaver soon accused Hecker of hiding assets and lying to the court. In January, he filed a lawsuit arguing that Hecker's debts should not be discharged. Many of his allegations have since become part of a 25-count federal criminal indictment

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Denny Hecker leaves the parking ramp after a bankruptcy hearing in Minneapolis. Hecker may have decided to rather than imperil his criminal case. If he was going discharge, he'd have to make statements that are i against him in his criminal trial, said David Leibowitz Chicago and editor-in-chief of the American Bankrup Commercial Fraud Manual. (Pioneer Press: Jean Pier

against Hecker. Hecker has pleaded not guilty of the charges, which include wire fraud, money laundering, conspiracy and bankruptcy fraud.

### A RARE CONCLUSION

Bankruptcy experts said the Hecker case is probably the biggest personal bankruptcy in Minnesota, but its conclusion makes it even rarer.

Nationwide, only about seven of 10,000 bankruptcies end without debts being discharged, and even then the amounts generally are much smaller, with the typical personal bankruptcy involving \$30,000 to \$50,000 in debt.

"The only reason Hecker filed bankruptcy was to get a discharge. That means the whole thing was a failure," said Bloomington bankruptcy attorney Craig Andresen. "In hindsight, he's probably wishing he hadn't done it. A lot of bad things happened in this case. Some of them were even tragic."

Hecker's friend and former father-in-law, Bill Prohofsky, died March 4, apparently after shooting himself in the head. His death came a week after Seaver had accused him of helping Hecker hide assets.

Prohofsky's alleged involvement was just one of seven "schemes" that Seaver laid out in making the case for why Hecker's debt should not be forgiven.

Seaver claimed that two weeks before filing bankruptcy, Hecker gave Prohofsky \$80,000, instructing him to use the money to pay Hecker's bills and provide cash and gift cards to Hecker's girlfriend, Christi Rowan.

Seaver also alleged that Hecker transferred \$235,000 in cash to Rowan and funded an "expensive and extravagant lifestyle for her."

Seaver compiled a list of assets he said Hecker had concealed, including motorcycles, boats, trailers, golf carts, numerous luxury watches, \$500 in travelers checks, a police interceptor vehicle, a handgun, boat docks and lifts worth more than \$25,000, six first-class tickets to Hawaii, several club memberships, a 2008 Land Rover, and hundreds of dollars in \$2 bills.

In a separate lawsuit, Seaver accused Rowan of hiding assets and asked her to turn over to the estate numerous gifts — including a \$30,000 Harrison K-9 guard dog. Rowan didn't respond to the suit, and Kressel granted a default judgment, requiring her to pay \$425,000 and turn over the items.

Shortly after Prohofsky's death, both of Hecker's criminal defense attorneys asked to withdraw from the case, saying they had not been paid, and one did withdraw.

In mid-March, the trustee announced the settlement with Hecker.

In exchange for agreeing that none of his debt would be discharged, Rowan gets to keep the guard dog.

"There are only so many resources and so many problems," Bill Skolnick, Hecker's bankruptcy attorney at the time, said then.

Hecker may have decided to accept the debt rather than imperil his criminal case.

"If he was going to contest the discharge, he'd have to make statements that are incriminatory against him in his

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criminal trial," said David Leibowitz, a trustee in Chicago and editor-in-chief of the recently published American Bankruptcy Institute's Commercial Fraud Manual. "So you'd have to think this is the least of his worries right now."

Indeed, Hecker's remaining criminal defense lawyer, Bill Mauzy, now has asked to withdraw from the case because he hasn't been paid. A hearing on his request is scheduled for Monday.

#### NOW, THE CREDITORS

Leibowitz said Hecker's bankruptcy is "big but by no means the biggest" in the country. He put Hecker among the likes of New York Ponzi scheme fraudsters Bernie Madoff and Marc Dreier, who both were forced into personal bankruptcy after being convicted of fraud. Leibowitz expects neither of them will get their debts discharged, either.

Hecker's settlement means the trustee can focus on liquidating assets, which will go to repay creditors.

About 100 creditors have filed their official claims against Hecker with the court, putting the total debt at just over \$638 million.

How much of that will hang over Hecker's head won't be determined for some time: Some of the claims may be denied or reduced, and some of the debt will be paid down as assets are liquidated. Hecker has said he expects it to total about \$400 million.

Creditors, such as Chrysler Financial, that have claims secured by some of Hecker's assets will get paid as those assets are sold. Chrysler Financial's claim of nearly \$365 million accounts for 57 percent.

Any remaining money from asset sales will go to cover administrative expenses, then to pay alimony, child support and back taxes. Unsecured creditors get whatever's left, with the money divided up proportionally.

Administrative expenses — paying the trustee, his lawyers, and other professionals, such as accountants and auctioneers — typically consume about 30 percent to 40 percent of the total assets collected, according to a report from the U.S. trustee's office.

Other claims include about \$10 million owed to former business associates; his ex-wife Tamitha Hecker's claim for \$15 million stemming from a post-nuptial agreement; legal fees; radio advertising expenses for Hecker's car dealerships; and unpaid tax, title and license fees for cars sold by his dealerships. There also are claims for garbage pickup at his Medina residence, jewelry purchases and more than \$800,000 in Las Vegas gambling debts. About \$250,000 comes from 42 claims by former employees of Hecker who were not paid when the dealerships closed a year ago.

In a separate matter, Kressel approved a settlement between Seaver and Hecker's ex-wife, Tamitha Hecker, allowing her to keep cash and jewelry and to get part of the proceeds from the sale of Hecker's belongings.

She gets to keep two cars, money she has in a safe-deposit box and bank accounts, and all jewelry except for a Rolex watch Hecker gave her in July 2008. Seaver's attorney, Matt Burton, said Wednesday the safe-deposit box contains an estimated \$185,000 and that the jewelry could be worth between \$700,000 and \$800,000.

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