

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:) CASE NO. BK05-46050
)
MALOLEY LAND COMPANY, INC.,) CH. 12
)
Debtor(s).)

ORDER

Hearing was held in Lincoln, Nebraska, on February 7, 2007, regarding Filing No. 137, Motion for Contempt Order, filed by Agri Co-op. Toffie Maloley appeared for pro se debtor Maloley Land Company, Inc., and Thomas Jeffers appeared for Agri Co-op.

Agri Co-op, the recipient of an order of the court compelling the debtor to deliver the USDA 2005 loan deficiency check in the amount of \$3,137.36 to Agri Co-op by December 19, 2006, has filed a motion for contempt against the debtor because he has failed to comply.

The debtor did not respond to the motion, but has recently filed statements that he is attempting to pay Agri Co-op the amount it is due by making payments of \$500 per month for six months. He is also attempting to obtain the funds which represent the proceeds of the check in question from his former spouse, whom he claimed improperly took possession of the check. Filings No. 154 and 162 are the representations by Mr. Maloley that he is making installment payments. Agri Co-op has not responded to such representations.

Since the debtor is attempting to comply with the requirement that Agri Co-op receive its funds, and since he claims he does not have possession of the check or the ability to deliver the check but is attempting to get his former spouse to do so, an order for contempt is not appropriate.

IT IS ORDERED the Motion for Contempt Order (Fil. #137) is denied without prejudice.

DATED this 9th day of April, 2007.

BY THE COURT:

/s/ Timothy J. Mahoney
Chief Judge

Notice given by the Court to:
Toffie Maloley
*Thomas Jeffers
Richard Lydick
U.S. Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.