

Home Valu trustee goes after contractors, suppliers

Article by: , Star Tribune

Updated: August 4, 2011 - 8:50 PM

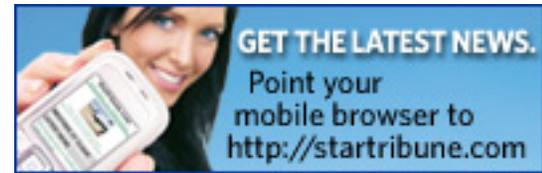
Anton Korotchuk was dumbstruck when he got a letter requesting that he return the bulk of a \$7,200 payment he received from now-defunct Home Valu for a floor installation job he performed late last year.

Vendors, suppliers, contractors and others who did business with the home-decorating firm in the three months before it dived into Chapter 7 bankruptcy will likely have to return sizable portions of disbursements they received to the trustee overseeing and liquidating the Home Valu estate.

"It is no doubt a bitter pill to swallow," wrote trustee Timothy Moratzka in a July 29 letter to Home Valu vendors. "We recognize that you did nothing wrong."

"It's a slap in the face and a kick in the butt," said Korotchuk.

Home Valu and its predecessor company, Plywood Minnesota, were run for decades by former U.S. Sen. Rudy Boschwitz and his family until they were forced into liquidation early last year by suppliers who hadn't been fully paid.



Because Home Valu was insolvent in the months leading up to its forced bankruptcy, the trustee has the right to recoup any payments the company made in those final three months to satisfy other creditors in the bankruptcy proceeding, according to bankruptcy law.

Moratzka said he sent out 138 letters similar to the one received by Korotchuk, seeking reimbursement of \$3.9 million.

"The statute tries to level the playing field for all creditors," Moratzka said earlier this week.

But try telling that to Andy Ausetth of Perfection Plus Carpeting.

"I was totally caught off guard. My heart literally stopped," Ausetth said earlier this week. "It's really been a struggle just to get by in this economy. It's check by check."

The trustee wants Ausetth to repay \$16,100. "I have nowhere near that amount," said Ausetth, noting that he paid two subcontractors with a portion of the \$16,100 he received.

On top of that, Ausetth said he is still owed \$20,000 from Home Valu for other work he performed.

The portion of bankruptcy law that allows a trustee to recover certain payments in the months leading up to bankruptcy is called the preference statute and is imposed to achieve equity among creditors.

StarTribune.com

The preference statute also is in effect when the debtor company is insolvent, which was the case with Home Valu, Moratzka said.

In the Home Valu case, "creditors won't get very much," Moratzka said. "Pennies on the dollar."

Construction attorney Blake Nelson said he sees these kind of repayment actions frequently.

"I've seen it happen time and time again to contractors. You're just trying to keep your head above water, and then you get this," Nelson said. "It's like telling someone they've got a disease. Even though the law says you can do this, it's unfair."

In his letter, Moratzka offers to settle the claim for 80 percent of the amount sought.

That is not uncommon, Nelson said.

"The trustee knows he won't get 80 cents on the dollar, but he does know he can get 30 cents on the dollar without having to hire lawyers to go out and sue everyone," Nelson said.

Korotchuk, who has been in contract with Nelson about his case, said, "I will pay back as little as possible."

David Phelps • 612-673-7269

