



**Comment to Proposed FRBP 4004**

**09-BK-021**

Rob Harris o Rules\_Support

01/11/2010 01:28 PM

Cc: "Bason, Neil W.", PCalifano

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Dear Rules Committee:

I am a member of the Insolvency Law Committee ("ILC") of the State Bar of California. My focus has been to analyze the proposed changes to FRBP 4004. What has concerned me chiefly has been the reference in the proposed revision to section 727(d) of the Code without specification of any sub-section. Your Rules Committee comment suggests to me that the only factual situation the modification is intended to address is the undiscovered fraud detailed in section 727(d)(1). Can you advise whether that is the intent of the change?

A respected colleague on ILC contends that the proposed Rule's reference to section 727(d) alone, without specification of a sub-section, was intended to and does, in fact, cover section 727(d)(1) through (d)(4) and, further, extends to include various kinds of misconduct in the "gap period". My colleague's views respectfully dissent from the position of Judge Wesley Steen in In re Shankman, 2009 WL 2855731 (Bankr. S.D. Tex. 2009).

I would very much appreciate it if the author of the Rules Committee Comment (or some other representative) could make himself or herself available for a call with me as soon as possible so that ILC can move forward with the California State Bar approval process for submission of a timely comment.

I look forward to hearing back and appreciate your time and consideration.

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