

No. 08-538

In the Supreme Court of the United States

WILLIAM G. SCHWAB, PETITIONER

v.

NADEJDA REILLY

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT*

**BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER**

RAMONA D. ELLIOTT
General Counsel
P. MATTHEW SUTKO
Associate General Counsel
ERIC K. BRADFORD
CATHERINE B. SEVCENKO
Attorneys
*Executive Office for United
States Trustees*
Washington, D.C. 20530

ELENA KAGAN
Solicitor General
Counsel of Record
TONY WEST
Assistant Attorney General
MALCOLM L. STEWART
Deputy Solicitor General
JEFFREY B. WALL
*Assistant to the Solicitor
General*
WILLIAM S. KANTER
MELISSA N. PATTERSON
Attorneys
Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217

QUESTION PRESENTED

Whether a Chapter 7 trustee is required by Federal Rule of Bankruptcy Procedure 4003(b) or this Court's decision in *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992), to object to a debtor's claimed exemption when the debtor is entitled to an exemption in the amount claimed, but the debtor incorrectly lists the market value of the property as equal to the amount of the exemption.

TABLE OF CONTENTS

	Page
Interest of the United States	1
Statement	3
Summary of argument	9
Argument:	
I. A trustee is required to object only to the property claimed as exempt, not to the debtor’s market valuation of that property	12
A. A trustee is required to object to a debtor’s description of the property, asserted legal basis for the exemption, or claimed value of the exemption	12
B. Because the debtor’s estimated market valuation is not part of her claim of exemption, a trustee’s disagreement with that valuation provides no basis for objecting to the exemption	16
II. Respondent’s arguments that petitioner was required to object to her market valuation of her property lack merit	18
A. Respondent did not indicate an intention to exempt the full value of the asset	18
1. Respondent’s Schedule C is most naturally read as claiming exemptions only for a definite, fixed interest	18
2. Related provisions of the Bankruptcy Code and Rules reinforce the conclusion that respondent’s claimed exemption in her kitchen equipment was limited to a specific dollar amount	23

IV

Table of Contents—Continued:	Page
B. Petitioner’s proposal to liquidate the kitchen equipment and divide the proceeds between respondent and her creditors did not undermine any legitimate reliance interest created by expiration of the 30-day objection period	29
Conclusion	31

TABLE OF AUTHORITIES

Cases:

<i>An-Tze Cheng, In re</i> , 308 B.R. 448 (B.A.P. 9th Cir. 2004), aff’d, 160 Fed. Appx. 644 (9th Cir. 2005)	25
<i>Barroso-Herrans, In re</i> , 524 F.3d 341 (1st Cir. 2008)	19, 20, 22, 24
<i>Hyman, In re</i> , 967 F.2d 1316 (9th Cir. 1992)	19, 23, 24
<i>Local Loan Co. v. Hunt</i> , 292 U.S. 234 (1934)	25
<i>Marrama v. Citizens Bank</i> , 549 U.S. 365 (2007)	28
<i>Taylor v. Freeland & Kronz</i> , 503 U.S. 638 (1992)	9, 11, 18, 21, 22, 23
<i>United States v. Budd</i> , 144 U.S. 154 (1892)	25

Statutes and rules:

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23	3
§ 1501(a), 119 Stat. 216	3
Bankruptcy Code, 11 U.S.C. 101 <i>et seq.</i> :	
Ch. 1, 11 U.S.C. 101 <i>et seq.</i> :	
11 U.S.C. 104(a)	5
11 U.S.C. 104(b)(3)	5

Statutes and rules—Continued:	Page
11 U.S.C. 104 note (Supp. IV 2004)	5
11 U.S.C. 104 note	5
Ch. 3, 11 U.S.C. 301 <i>et seq.</i> :	
11 U.S.C. 301 (2000)	3
11 U.S.C. 307	2
11 U.S.C. 323	6
11 U.S.C. 326(a)	7
11 U.S.C. 330(b)	7
11 U.S.C. 341 (2000)	6
11 U.S.C. 341(a)	8
11 U.S.C. 343	6
Ch. 5, 11 U.S.C. 501 <i>et seq.</i> :	
11 U.S.C. 507 (2000)	3
11 U.S.C. 521(1) (2000)	5, 6
11 U.S.C. 521(3) (2000)	3
11 U.S.C. 521(4) (2000)	3
11 U.S.C. 522 (2000)	3
11 U.S.C. 522(b)(1) (2000)	4
11 U.S.C. 522(c) (2000)	3
11 U.S.C. 522(d) (2000)	3, 4
11 U.S.C. 522(d)(1) (2000)	4
11 U.S.C. 522(d)(2) (2000)	4
11 U.S.C. 522(d)(3) (2000)	4
11 U.S.C. 522(d)(4) (2000)	4
11 U.S.C. 522(d)(5) (2000)	<i>passim</i>
11 U.S.C. 522(d)(6) (2000)	<i>passim</i>
11 U.S.C. 522(d)(7) (2000)	4, 13

VI

Statutes and rules—Continued:	Page
11 U.S.C. 522(d)(9) (2000)	4, 13
11 U.S.C. 522(d)(10)(A)-(C) (2000)	4, 14
11 U.S.C. 522(d)(10)(C) (2000)	13
11 U.S.C. 522(d)(10)(D)-(E) (2000)	4
11 U.S.C. 522(d)(11)(A) (2000)	4, 14
11 U.S.C. 522(d)(11)(B) (2000)	4
11 U.S.C. 522(d)(11)(C) (2000)	4
11 U.S.C. 522(d)(11)(E) (2000)	4
11 U.S.C. 522(l) (1988)	17
11 U.S.C. 522(l)	<i>passim</i>
11 U.S.C. 541(a)	3
Ch. 7, 11 U.S.C. 701 <i>et seq.</i>	<i>passim</i>
11 U.S.C. 701	6
11 U.S.C. 701-727 (2000)	3
11 U.S.C. 704 (2000)	6
11 U.S.C. 704(1) (2000)	3
11 U.S.C. 704(4) (2000)	6
11 U.S.C. 704(9) (2000)	6, 7
11 U.S.C. 706(a)	28
11 U.S.C. 725	29
11 U.S.C. 726 (2000)	3, 7
Ch. 13, 11 U.S.C. 1301 <i>et seq.</i>	3, 28
11 U.S.C. 1306(b)	28
28 U.S.C. 581-589a	2
28 U.S.C. 586(a)	6
Fed. R. Bankr. P.:	
Rule 1007 (2003)	13

VII

Rules—Continued:	Page
Rule 1007(b)(1) (1991)	5, 13
Rule 1007(c) (1996)	5
Rule 1009(a)	27
Rule 2002	29
Rule 2003(a) (1993)	6, 23
Rule 2015(a)(2)	7
Rule 4003 (2000)	10, 13, 18
Rule 4003(a) (1990)	5, 8, 13, 17
Rule 4003(b) (1988)	11
Rule 4003(b) (2000)	<i>passim</i>
Rule 4003(c)	6
Rule 5009	7
Rule 6004	29
Official Form 6 (1973):	
Schedule B-4	16, 17
Schedule B-5	16
Official Form 6	13
Schedules A-J (2003)	5
Schedule C (1991)	<i>passim</i>
Official Form 6 advisory committee’s note (1991)	17
Miscellaneous	
<i>Collier on Bankruptcy</i> (Alan N. Resnick & Henry J. Sommer, eds., 15th ed. rev. 2007):	
Vol. 1	20
Vol. 9	30

VIII

Miscellaneous—Continued:	Page
Executive Office for United States Trustees, United States Dep’t of Justice, <i>Handbook for Chapter 7 Trustees</i> (July 2002) < http://www.usdoj.gov/ust/eo/private_trustee/library/chapter07/docs/7handbook1008/Ch7_Handbook.pdf >	6
69 Fed. Reg. 8482 (2004)	5
72 Fed. Reg. 7082 (2007)	5
<i>General Orders and Forms in Bankruptcy</i> , 172 U.S. 653 (1898)	16
H.R. Rep. No. 595, 95th Cong., 1st Sess. (1977)	2
United States Dep’t of Justice, <i>United States Trustee Program Strategic Plan FY 2005-2010</i> (visited July 16, 2009) < http://www.usdoj.gov/ust/eo/ust_org/StrategicPlanFY2005-2010.pdf >	2
United States Trustee Program, United States Dep’t of Justice, <i>Preliminary Report on Chapter 7 Asset Cases: 1994 to 2000</i> (June 2001) < http://www.usdoj.gov/ust/eo/private_trustee/library/chapter07/docs/assetcases/Publicat.pdf >	6

In the Supreme Court of the United States

No. 08-538

WILLIAM G. SCHWAB, PETITIONER

v.

NADEJDA REILLY

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT*

**BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER**

INTEREST OF THE UNITED STATES

Respondent, a debtor in a Chapter 7 bankruptcy proceeding, filed a form (Schedule C) on which she claimed an exemption, in a specified amount, for property used in her business. On the same Schedule C, respondent also stated her belief that the actual value of the property was equal to the amount of the claimed exemption. Petitioner, the bankruptcy trustee, did not object to the claimed exemption. Petitioner determined, however, that the property was worth substantially more than the amount of the claimed exemption, and he proposed to sell the property and divide the proceeds, giving respondent the amount of the exemption and distributing the rest to creditors. The courts below found that petitioner was barred from selling the property because he had not

objected to the claimed exemption within the 30-day period provided by Federal Rule of Bankruptcy Procedure 4003(b). That holding raises an issue of substantial importance to the United States.

The Attorney General appoints United States Trustees, who are Justice Department officials, to supervise the administration of bankruptcy cases and to oversee trustees in regions comprising the vast majority of the federal judicial districts. 28 U.S.C. 581-589a. By statute, “[t]he United States trustee may raise and may appear and be heard on any issue in any case or proceeding under this title.” 11 U.S.C. 307. United States Trustees “serve as bankruptcy watchdogs to prevent fraud, dishonesty, and overreaching in the bankruptcy arena.” H.R. Rep. No. 595, 95th Cong., 1st Sess. 88 (1977). The United States Trustee Program thus “acts in the public interest to promote the efficiency and to protect and preserve the integrity of the bankruptcy system.” United States Dep’t of Justice, *United States Trustee Program Strategic Plan FY 2005-2010*, at 2 (visited July 16, 2009) <http://www.usdoj.gov/ust/eo/ust_org/StrategicPlanFY2005-2010.pdf>. The United States therefore has a substantial interest in the effective implementation of the bankruptcy system and in the avoidance of unwarranted burdens on bankruptcy trustees’ performance of their duties.

In addition, the United States is the largest creditor in the Nation. Numerous federal agencies frequently appear as creditors in Chapter 7 cases. Because a bankruptcy estate’s assets are typically scarce, the United States has an interest in preventing and deterring Chapter 7 debtors from undervaluing assets in a way that might prevent their use to satisfy claims of the United States.

STATEMENT

1. A debtor commences a voluntary bankruptcy case by filing a petition in bankruptcy court. 11 U.S.C. 301. Individual debtors typically file for relief under Chapter 7 or Chapter 13 of the Bankruptcy Code. The present case arises under Chapter 7, which provides for a liquidation of a debtor's non-exempt pre-petition assets in exchange for a discharge of debts. 11 U.S.C. 701-727. Commencement of a Chapter 7 case creates an "estate" that includes all of the debtor's "legal or equitable interests * * * in property as of the commencement of the case." 11 U.S.C. 541(a). The debtor must surrender all non-exempt estate property to the Chapter 7 trustee, who takes custody of such property, liquidates it, and disburses the proceeds to creditors in accordance with their rights and priorities under the Code. 11 U.S.C. 507, 521(3) and (4), 704(1), 726.¹

A debtor is entitled, however, to claim various statutory exemptions to prevent the distribution of specified categories of property. 11 U.S.C. 522. Generally speaking, "property exempted [from the estate] is not liable during or after the case for any debt of the debtor that arose * * * before commencement of the case." 11 U.S.C. 522(c). Section 522(d) specifies the types of

¹ Congress enacted the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Act), Pub. L. No. 109-8, 119 Stat. 23, on April 20, 2005, one day before respondent filed for bankruptcy, see Pet. App. 2a. Although the Act amended Title 11 in certain respects, virtually all of those amendments did not take effect until October 17, 2005, see Act § 1501(a), 119 Stat. 216, and would not affect this case in any event. Unless otherwise noted herein, references to the Bankruptcy Code and Rules are therefore to the versions in effect in April 2005.

property that a debtor may exempt from the estate under the Bankruptcy Code.²

Under Section 522(d), there are two basic types of exemptions. A few exemptions allow a debtor to exempt particular types of property regardless of their value. For instance, a debtor may fully exempt unmaturing life insurance contracts (other than credit life insurance contracts), 11 U.S.C. 522(d)(7); professionally prescribed health aids, 11 U.S.C. 522(d)(9); some forms of public assistance, veterans' or disability benefits, 11 U.S.C. 522(d)(10)(A)-(C); and awards under a crime victim's reparation law, 11 U.S.C. 522(d)(11)(A).

Most of the Code's exemptions, however, allow a debtor to exempt only an "interest" in a type of property, typically up to a maximum dollar value.³ For instance, a debtor may exempt an interest in a residence up to \$18,450, 11 U.S.C. 522(d)(1); an interest in a motor vehicle up to \$2,950, 11 U.S.C. 522(d)(2); an aggregate interest in household goods up to \$9,850, 11 U.S.C. 522(d)(3); an aggregate interest in jewelry up to \$1,225, 11 U.S.C. 522(d)(4); and an aggregate interest "in any implements, professional books, or tools, of the trade of the debtor" up to \$1,850, 11 U.S.C. 522(d)(6). In addition, the so-called wild card exemption allows a debtor to exempt an aggregate interest "in any property" up to

² States are permitted to opt out of the federal bankruptcy exemptions and thereby require debtors to claim exemptions under state and federal nonbankruptcy law. 11 U.S.C. 522(b)(1). Respondent resides and filed for bankruptcy in Pennsylvania, which has not opted out of the federal bankruptcy exemptions. J.A. 26a, 56a.

³ Some exemptions are limited not to a maximum dollar value, but to the value "reasonably necessary for support of the debtor." 11 U.S.C. 522(d)(10)(D)-(E); see 11 U.S.C. 522(d)(11)(B), (C) and (E).

\$975, plus up to \$9,250 of any unused amount of the residence exemption. 11 U.S.C. 522(d)(5).⁴

2. Within 15 days after filing the petition, the debtor must file several schedules of assets and liabilities. 11 U.S.C. 521(1); Fed. R. Bankr. P. 1007(c); Fed. R. Bankr. P. Official Form 6, Schedules A-J. One of those schedules, Schedule C, requires the debtor to specify “a list of property that the debtor claims as exempt.” 11 U.S.C. 522(l); see Fed. R. Bankr. P. 4003(a) (requiring, in tandem with Rule 1007(b)(1), that the debtor “list the property claimed as exempt” on Schedule C). For each claimed exemption, Schedule C contains four columns on which the debtor provides a “description of [the] property,” the “law providing [the] exemption,” the “value of [the] claimed exemption,” and the “current market value of [the] property without deducting [the] exemption.” Fed. R. Bankr. P. Official Form 6, Schedule C (capitalization omitted); see J.A. 57a-58a.

“Unless a party in interest objects” to the exemptions set forth by the debtor on Schedule C, “the property claimed as exempt on such list is exempt.” 11 U.S.C. 522(l). A party in interest

may file an objection to the list of property claimed as exempt only within 30 days after the meeting of creditors held under § 341(a) is concluded or within

⁴ The exemption amounts are adjusted every three years based on the Consumer Price Index. 11 U.S.C. 104(a). The exemption amounts were last adjusted in 2007. See 72 Fed. Reg. 7082 (2007) (11 U.S.C. 104 note). The pre-2007 amounts listed in the text apply to the present case because respondent filed her petition in April 2005. See 11 U.S.C. 104(b)(3); see also 11 U.S.C. 522(d); 69 Fed. Reg. 8482 (2004) (11 U.S.C. 104 note (Supp. IV 2004)).

30 days after any amendment to the list or supplemental schedules is filed, whichever is later.

Fed. R. Bankr. P. 4003(b). The bankruptcy court may extend the 30-day period for filing objections upon a showing of cause. *Ibid.* The objecting party bears the burden of proving that the challenged exemption has not been properly claimed. Fed. R. Bankr. P. 4003(c).

3. When a Chapter 7 petition is filed, the United States Trustee designates a private trustee to administer the bankruptcy estate. 11 U.S.C. 323, 701, 704; 28 U.S.C. 586(a)(1). The trustee is a fiduciary of the estate, charged with securing the estate's assets, defending the estate against improper claims or other adverse interests, and liquidating the estate for the benefit of creditors. 11 U.S.C. 704. That process generally begins with a required meeting of the debtor's creditors, held between 20 and 40 days after the petition is filed. 11 U.S.C. 341; Fed. R. Bankr. P. 2003(a). At that meeting, the trustee can verify the debtor's financial affairs, assets, and liabilities by questioning the debtor under oath. 11 U.S.C. 343.

Based on the debtor's schedules, the testimony at the creditors' meeting, and any factual investigation, the trustee may determine that the estate does not have sufficient non-exempt assets to liquidate for the benefit of creditors. 11 U.S.C. 341, 521(1), 704(4), and 704(9); Executive Office for United States Trustees, United States Dep't of Justice, *Handbook for Chapter 7 Trustees*, at 8-1 (July 2002) <http://www.usdoj.gov/ust/eo/private_trustee/library/chapter07/docs/7handbook1008/Ch7_Handbook.pdf>. Historically, approximately 95 to 97% of Chapter 7 cases yield no assets for creditors. United States Trustee Program, United States Dep't of Justice, *Preliminary Report on Chapter 7 Asset Cases*:

1994 to 2000, at 7 (June 2001) <http://www.usdoj.gov/ust/eo/private_trustee/library/chapter07/docs/assetcases/Publicat.pdf>. The trustee currently receives a \$60 fee for the administration of a no-asset case. 11 U.S.C. 330(b).

In the remaining Chapter 7 cases, the trustee generally liquidates the estate property through either a private sale or a public auction. The trustee then typically prepares a report for the bankruptcy court that describes the disposition of the estate assets and proposes a plan for distribution of proceeds to creditors. 11 U.S.C. 704(9); Fed. R. Bankr. P. 2015(a)(2) and 5009. Through the trustee's distribution, the debtor receives the amount of her exemptions and creditors receive the remaining proceeds according to their statutory priority. 11 U.S.C. 726. In addition to the trustee's \$60 fee, the trustee may move in such cases for additional "reasonable compensation." 11 U.S.C. 326(a).

4. Respondent owned a catering business in Conynham, Pennsylvania. Pet. Br. 14. In April 2005, she filed a petition for Chapter 7 relief. Pet. App. 2a. On her Schedule C, respondent invoked two Bankruptcy Code provisions as bases for exempting specified interests in kitchen equipment that respondent had previously used in her business. J.A. 58a.

First, respondent invoked 11 U.S.C. 522(d)(6), which allowed her to exempt an interest in "tools[] of the trade" of up to \$1,850. J.A. 58a. Respondent listed the value of the claimed exemption as \$1,850. *Ibid.* Second, respondent invoked 11 U.S.C. 522(d)(5), the wild card exemption, which allowed her to exempt an interest in "any property" of up to \$10,225 (because she did not claim a residence exemption). J.A. 58a. Respondent listed the value of the claimed exemption as \$8,868.

Ibid. In the fourth column of Schedule C, respondent identified the current market value of the business equipment as \$10,718, an amount equal to the sum of the two claimed exemptions of \$1,850 and \$8,868. *Ibid.*

Petitioner was appointed trustee for respondent's estate. Believing that the kitchen equipment might be worth more than \$10,718, petitioner obtained an appraisal indicating the equipment was worth approximately \$17,000. Pet. Br. 15. On June 22, 2005, petitioner held the creditors' meeting required by 11 U.S.C. 341(a). J.A. 11a. Petitioner did not file within the next month an objection to the "list [of] property claimed as exempt," Fed. R. Bankr. P. 4003(a), including respondent's claimed interests in kitchen equipment, see J.A. 11a-13a.

Seven weeks after the creditors' meeting, on August 10, 2005, petitioner filed with the bankruptcy court a motion to sell the kitchen equipment. J.A. 13a, 141a-143a. By selling the equipment, petitioner could distribute \$10,718 of the proceeds to respondent as her exempt interest, while distributing any remaining after-expense proceeds to creditors. See J.A. 142a-143a. Respondent objected to the proposed sale, contending that she had claimed an exemption for the kitchen equipment in its entirety and that petitioner's failure to object to the exemption foreclosed him from consummating the sale. See J.A. 145a-148a.

5. a. After a hearing, the bankruptcy court denied the motion to sell without written opinion. Pet. App. 27a-28a. On appeal, the district court affirmed. *Id.* at 19a-26a. The court stated that, because respondent had identified the same sum (\$10,718) as both the amount of the claimed exemption and the value of the kitchen equipment, her clear intent was to exempt the entire

value of the asset. *Id.* at 24a-25a. Relying substantially on this Court’s decision in *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992), the district court concluded that “[a]s [respondent] exempted the entire value, and the trustee never objected, she is entitled to the entire value, even if the trustee asserts it is worth more than she estimated.” Pet. App. 25a.

b. The court of appeals affirmed. Pet. App. 1a-18a. Relying on *Taylor*, the court found it “important” that respondent had “valued the business equipment at \$10,718 and claimed an exemption in the same amount.” *Id.* at 11a. The court stated that “[s]uch an identical listing put [petitioner] on notice that [respondent] intended to exempt the property fully.” *Ibid.* The court of appeals concluded that “once Rule 4003’s 30-day period elapsed without [petitioner] filing an objection or a request for an extension, the property became fully exempt from the bankruptcy estate regardless of its ultimate market value.” *Id.* at 12a.

SUMMARY OF ARGUMENT

1. a. Under Section 522(l) and Rule 4003(b), the Chapter 7 trustee must object to a claimed exemption within a specified period of time or the relevant property will be treated as exempt. To claim an exemption, a debtor must include on Schedule C, as on all its predecessor schedules, a description of the property, the legal basis for the exemption, and the value of the claimed exemption. Most of the statutory exemptions, including those (11 U.S.C. 522(d)(5) and (6)) that respondent invoked for the kitchen equipment at issue in this case, allow the debtor to exempt an “interest” in particular types of property up to a specified dollar amount. Where, as here, a debtor accurately describes an asset

that is exemptible in the claimed amount under applicable law, the debtor has stated a facially valid exemption that is not subject to any objection.

b. At various points in time, Schedule C and its predecessor schedules have required the debtor to supply the trustee with additional information, such as the property's location, use, or market value. In accord with the demands of the current Schedule C, respondent identified a supposed market value for the property in question. That additional information, however, has no bearing on the validity of a debtor's claimed exemption. A claim of exemption informs the trustee that, according to the debtor, she has an interest in property that does not belong to the estate. By contrast, a market valuation informs the trustee whether, according to the debtor, there is an additional interest in the same property that does belong to the estate. If the trustee doubts the accuracy of the debtor's valuation, he may seek to have the property appraised, but such doubt provides no basis for objecting to an otherwise valid exemption. For that reason, a trustee's failure to object to a claimed exemption in the manner or within the time period prescribed by Rule 4003 does not preclude the trustee from selling the asset and distributing to creditors any proceeds in excess of the debtor's exempt interest.

2. a. Contrary to the court of appeals' conclusion, respondent's Schedule C did not suggest an intent to exempt her kitchen equipment in its entirety regardless of the equipment's actual value. Rather, by claiming an exemption in a particular dollar amount, respondent indicated her intent to exempt only a definite, fixed interest in the property. Respondent might have indicated her intent to exempt the kitchen equipment in its entirety by using terms such as "unknown" or "100% of

its value” to describe the value of the claimed exemption, but she used no such terminology.

Respondent’s use of a specific dollar figure to describe the claimed exemption distinguishes this case from *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992), in which the debtor claimed an indefinite interest by listing the value of her exemption as “unknown.” Because the property at issue in *Taylor* (a claim for lost wages in a pending lawsuit) was not one of the assets that a Chapter 7 debtor may exempt in its entirety regardless of its value, that claimed exemption was invalid on its face. Although the Court in *Taylor* held that the trustee had forfeited his objection to that exemption by failing to object within Rule 4003(b)’s 30-day deadline, the Court did not suggest that a trustee who questions the debtor’s separate market valuation must object to a facially valid exemption in order to preserve his right to obtain an appraisal, sell the property, and distribute any excess proceeds to creditors. Nothing in *Taylor*, moreover, supports the court of appeals’ conclusion that respondent, by using the same dollar figure to identify both the amount of the claimed exemption and the market value of the property, had manifested an intent to exempt the kitchen equipment in its entirety regardless of its actual value.

Petitioner’s contrary understanding—that respondent’s use of specific dollar amounts in the third column of Schedule C reflected an intent to claim as an exemption the amounts stated—reflects a much more natural reading of the form. That interpretation of respondent’s Schedule C also has other advantages: it places the responsibility on debtors, who know best what they intend to claim, to complete their schedules in a way that accurately communicates their intent; and it sensibly re-

solves any ambiguity in a way that renders claimed exemptions valid rather than invalid. Presuming that respondent intended to claim a valid exemption is particularly reasonable here because respondent invoked two statutory subsections (11 U.S.C. 522(d)(5) and (6)) that are limited by their terms to “interest[s]” in property up to specific dollar amounts, and the dollar amounts she listed as the value of the claimed exemption fell within the applicable statutory caps.

b. Contrary to the court of appeals’ conclusion, the expiration of the objection period gave respondent no right to assume that she would be allowed to keep her kitchen equipment. To be sure, petitioner’s failure to object within that period meant that the property respondent claimed as exempt would be treated as exempt. Properly understood, however, respondent’s Schedule C claimed an exemption for an interest in the kitchen equipment in the amount of \$10,718. Whether respondent would receive that amount in cash (if petitioner sold the property) or in physical property (if he did not) was left to petitioner to decide during the administration of the estate.

ARGUMENT

I. A TRUSTEE IS REQUIRED TO OBJECT ONLY TO THE PROPERTY CLAIMED AS EXEMPT, NOT TO THE DEBTOR’S MARKET VALUATION OF THAT PROPERTY

A. A Trustee Is Required To Object To A Debtor’s Description Of The Property, Asserted Legal Basis For The Exemption, Or Claimed Value Of The Exemption

1. Section 522(*l*) of the Bankruptcy Code establishes the basic process by which debtors claim exemptions and trustees and other parties in interest object to those exemptions. Section 522(*l*) requires the debtor to file “a

list of property that the debtor claims as exempt.” Section 522(l) does not specify, however, the precise manner in which debtors must claim their exemptions or trustees must file their objections.

Rule 4003 of the Federal Rules of Bankruptcy Procedure supplies those details. It requires that the debtor “list the property claimed as exempt under § 522 of the Code on the schedule of assets required to be filed by Rule 1007.” Fed. R. Bankr. P. 4003(a). Rule 1007, in turn, requires the debtor to file “schedules of assets and liabilities, * * * prepared as prescribed by the appropriate Official Forms.” Fed. R. Bankr. P. 1007(b)(1). Official Form 6 contains the schedules of assets and liabilities that a debtor must file, and Schedule C requires the debtor to list “property claimed as exempt.” Fed. R. Bankr. P. Official Form 6, Schedule C (capitalization omitted).

Rule 4003 also provides that any party in interest, including a trustee,

may file an objection to the list of property claimed as exempt only within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later.

Fed. R. Bankr. P. 4003(b). The bankruptcy court may extend the time for filing objections upon a showing of cause. *Ibid.* Absent a timely objection, “the property claimed as exempt on such list is exempt.” 11 U.S.C. 522(l).

2. Under the Code, a debtor may exempt some types of property, regardless of their value. See 11 U.S.C. 522(d)(9) (professionally prescribed health aids); 11 U.S.C. 522(d)(10)(C) (disability benefits); 11 U.S.C.

522(d)(7) (unmatured life insurance contracts); 11 U.S.C. 522(d)(10)(A)-(C) (public assistance, veterans', illness, and unemployment benefits); 11 U.S.C. 522(d)(11)(A) (awards under a crime victim's reparation law). Most of the Code's exemptions, however, including the two exemptions that respondent invoked with respect to the kitchen equipment at issue, are limited to the debtor's "interest" in particular types of property up to a maximum dollar amount. See 11 U.S.C. 522(d)(5) and (6); J.A. 58a. When an asset is worth more than the interest that the debtor has exempted, the excess value belongs to the estate, not the debtor. Under those circumstances, the trustee may liquidate the debtor's exempt interest and the estate's non-exempt interest by selling the asset, and he may then distribute to the debtor and creditors their respective shares of the proceeds.

3. Because the nature of the asset determines whether the debtor can claim it in whole or only in part, "the list of property that the debtor claims as exempt" under Section 522(*l*) must include (a) a description of the asset, (b) the legal authority that provides the exemption, and (c) the value of the claimed exemption. See Fed. R. Bankr. P. Official Form 6, Schedule C. Those are the three pieces of information that a trustee needs in order to determine whether a claimed exemption is valid. So long as the debtor has an interest in property that is potentially exemptible; the debtor identifies the legal basis for her claimed exemption; and the debtor's claimed exemption does not exceed any applicable legal limit, then the debtor has asserted a valid exemption that the trustee has no reason to challenge. Conversely, a challenge to any of those three things—the property description, legal basis for the exemption, or value of the exemption—is an objection to the exemption itself, and

thus must be made within the 30-day time period provided by Rule 4003(b).

4. In the present case, petitioner had no valid basis for objecting to respondent's claimed exemptions for her interests in the kitchen equipment. With respect to that equipment, respondent claimed an exemption of \$1,850 under 11 U.S.C. 522(d)(6) (the tools of the trade exemption) and an exemption of \$8,868 under 11 U.S.C. 522(d)(5) (the wild card exemption). J.A. 58a. It is undisputed that respondent properly described the kitchen equipment; that the statutory subsections she invoked apply to the property at issue; and that the values of her claimed exemptions did not exceed the maximum values permitted by those subsections. Respondent therefore claimed two valid exemptions for her interests in the kitchen equipment.

Because respondent's exemptions had an adequate basis in law and fact, petitioner did not object to either exemption within the 30-day time period provided by Rule 4003(b). The absence of an objection from petitioner (or any other party in interest) means that "the property claimed as exempt on such list is exempt." 11 U.S.C. 522(l). The property claimed as exempt on respondent's Schedule C were two interests in kitchen equipment valued at \$1,850 and \$8,868. Because petitioner did not object within the 30-day time period provided by Rule 4003(b), respondent is entitled to receive the value of those property interests during the administration of the estate.

B. Because The Debtor's Estimated Market Valuation Is Not Part Of Her Claim Of Exemption, A Trustee's Disagreement With That Valuation Provides No Basis For Objecting To The Exemption

A claim of exemption informs the trustee that, according to the debtor, she has an interest in property that does not belong to the estate. A market valuation informs the trustee whether, according to the debtor, there is an additional interest in the same property that does belong to the estate. The market valuation provided by the debtor on the fourth column of Schedule C thus facilitates the trustee's administration of the estate by helping him to discern whether particular assets have sufficient non-exempt value to justify liquidation by sale or auction. The presence or absence of additional value belonging to the creditors, however, has no bearing on whether the interest that the debtor claims as exempt is in fact exempt under the applicable statutory provisions.

That understanding of the Code is confirmed by the history of the relevant provisions and schedules. Since the Bankruptcy Act was enacted in 1898, Schedule C and its predecessors (Schedules B-4 and B-5) have required the debtor to provide the information necessary to determine the validity of her claimed exemptions: namely, a description of the property, a specification of the legal basis for the exemption, and a statement of the value of the claimed exemption. Compare *General Orders and Forms in Bankruptcy*, 172 U.S. 653, 677 (1898) (Form 1, Schedule B.(5)), and Fed. R. Bankr. P. Official Form 6, Schedule B-4 (1973), with Fed. R. Bankr. P. Official Form 6, Schedule C (1991). At various points in time, however, Schedule C and its predecessors have required other types of information that do not bear on the validity of the debtor's claimed exemptions.

Prior to 1991, for example, Schedule B-4 required the debtor to state the location of the property and its present use, although it did not require the debtor to estimate the market value of the property. That was true even though then, as now, the debtor was required to file on Schedule B-4 “a list of property that the debtor claims as exempt.” 11 U.S.C. 522(*l*) (1988); see Fed. R. Bankr. P. 4003(a) (1990) (requiring, in tandem with Rule 1007(b)(1), that the debtor “list the property claimed as exempt” on Schedule B-4). In 1991, Schedule B-4 was amended and retitled Schedule C. *Inter alia*, those amendments required the debtor to state the property’s location on Schedule A (real property) and Schedule B (personal property) instead of Schedule C; eliminated the prior requirement that the debtor state the property’s present use; and required the debtor to state the property’s market value. See Fed. R. Bankr. P. Official Form 6 advisory committee’s note (1991). The recency of the requirement that the debtor identify the market value of property for which exemptions are claimed reinforces the conclusion that such valuations do not bear on the propriety of a debtor’s claimed exemptions.

In order to preserve his challenge to a claimed exemption, a trustee or other party in interest must “object[.]” within a specified period to the “list of property that the debtor claims as exempt.” 11 U.S.C. 522(*l*); see Fed. R. Bankr. P. 4003(b) (establishing 30-day time limit, subject to extension for cause, for “[o]bjecting to a claim of exemptions”). As explained above, the “list of property that the debtor claims as exempt” includes a description of (a) an interest in an asset (b) of a particular value (c) that is exempt from the bankruptcy estate under applicable law. So long as the interest for which the debtor claims an exemption is less than or equal to

the relevant statutory cap, the trustee's belief that the debtor has understated the value of the asset provides no basis for objecting to the claimed exemption. That is because the claimed exemption—the interest that the debtor claims as hers under the applicable law—stands separate and apart from the value of the asset; the two bear no necessary, or even likely, relationship to each other. In deciding whether to object to a claimed exemption, the trustee naturally looks only to the claimed exemption—not to the independent statement of property value. For that reason, neither Section 523(l) nor Rule 4003 speaks to the time or manner in which the trustee may seek to determine (for purposes of possible liquidation) whether the debtor's statement of property value is correct.

II. RESPONDENT'S ARGUMENTS THAT PETITIONER WAS REQUIRED TO OBJECT TO HER MARKET VALUATION OF HER PROPERTY LACK MERIT

A. Respondent Did Not Indicate An Intention To Exempt The Full Value Of The Asset

1. Respondent's Schedule C is most naturally read as claiming exemptions only for a definite, fixed interest

On her Schedule C of property claimed as exempt, respondent identified kitchen equipment as one category of property; invoked 11 U.S.C. 522(d)(5) and (6) as the applicable statutory provisions; claimed exemptions of \$8,868 and \$1,850 respectively under those provisions; and stated the current market value of the equipment as \$10,718. J.A. 58. Relying substantially on this Court's decision in *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992), the court of appeals concluded that, by claiming exemptions totaling \$10,718 while valuing the kitchen

equipment in the same amount, respondent had expressed her intent to claim an exemption for the full value of the equipment, whatever that value turned out to be. See Pet. App. 11a, 13a, 17a. Petitioner, by contrast, construed respondent's Schedule C as claiming a definite, fixed exemption of \$10,718, while indicating respondent's belief that the kitchen equipment was worth precisely that sum. Pet. Br. 23. Petitioner's interpretation of the form is more natural, and this Court's decision in *Taylor* provides no support for the court of appeals' contrary view.

1. Where, as here, a debtor's Schedule C assigns a particular dollar amount to an exemption, the form is naturally read to claim an exemption limited to the specified amount, not an indefinite exemption in whatever value the property is ultimately determined to have. See, e.g., *In re Barroso-Herrans*, 524 F.3d 341, 346 (1st Cir. 2008) (“[T]he trustee’s reading of the exemptions as limited to [the claimed amount] of a \$4,000 share of the proceeds from each law suit is objectively reasonable.”); *In re Hyman*, 967 F.2d 1316, 1319 (9th Cir. 1992) (“[T]he [debtors] did not sufficiently notify others that they were claiming their entire homestead as exempt property; their schedule only gave notice that they claimed \$45,000 as exempt, which is the proper amount of their homestead allowance.”).

That is particularly true because respondent could have claimed an indefinite interest by listing the value of her claimed exemption as “unknown,” “to be determined,” or “100% of its value.” Courts and commentators have recognized that such terms “are red flags to trustees and creditors,” and therefore put them on notice that if they do not object, the whole value of the asset—whatever it might later turn out to be—will be ex-

empt.” *Barroso-Herrans*, 524 F.3d at 345 (quoting 1 *Collier on Bankruptcy* ¶ 8.06[1][c][ii], at 8-75 to 8-76 (Alan N. Resnick & Henry J. Sommer, eds., 15th ed. rev. 2007) (*Collier*)). Use of such terms may be unproblematic with respect to property that is exempt in full regardless of its value. But if respondent had used such terms in claiming exemptions under 11 U.S.C. 522(d)(5) and (6), which are limited to a debtor’s “interest” in particular categories of property up to specified dollar amounts, petitioner would have been clearly placed on notice of the need to object because the exemptions would have been invalid if the value of the kitchen equipment exceeded the sum of the relevant statutory thresholds.

Respondent used none of those “red flag” terms, but instead claimed exemptions to which she assigned the definite and fixed values of \$1,850 and \$8,868, for a total of \$10,718. Her Schedule C is most naturally read to indicate that she intended to claim an exempt interest limited to that amount *and* that she estimated \$10,718 to be the actual market value of the property. Indeed, if a debtor believes that her exemptible interest is equal to the market value of a particular asset, but wishes to make clear that she is claiming only a specific dollar interest within the applicable statutory cap in the event that the property turns out to be worth more, the debtor has no other way to communicate that intent than by using the same dollar amount in the third and fourth columns of Schedule C.

2. This Court’s decision in *Taylor* provides no support for the court of appeals’ reading of respondent’s Schedule C. In *Taylor*, a debtor listed the value of her claimed exemption in a pending lawsuit as “unknown,” and the debtor’s attorneys informed the trustee that the

suit had a potential value well in excess of any available exemption. See 503 U.S. at 640, 642. After the creditors' meeting (which triggered the 30-day objection period in Rule 4003(b)), the trustee informed the debtor that he considered the lawsuit's proceeds to be property of the estate, but he elected not to file a formal objection based on his belief that the lawsuit lacked sufficient value. *Id.* at 640-641. When the lawsuit settled for a substantial sum and the trustee belatedly demanded that the debtor turn over the proceeds, the debtor's counsel responded that the trustee's failure to file a timely objection meant that the lawsuit was fully exempt. *Id.* at 643-644.

The trustee in *Taylor* did not dispute that, by listing "unknown" as the value of the lawsuit proceeds, the debtor had claimed an exemption for the full value of the lawsuit, whatever that turned out to be. Rather, the trustee argued that, notwithstanding his failure to object to an exemption that was invalid on its face, "courts may invalidate a claimed exemption after expiration of the 30-day period if the debtor did not have a good-faith or reasonably disputable basis for claiming it." 503 U.S. at 643. The Court rejected that argument, explaining that, once Rule 4003(b)'s 30-day deadline expires without an objection, "Section 522(l) [makes] the property exempt," and the trustee "cannot contest the exemption * * * whether or not [the debtor] had a colorable statutory basis for claiming it." *Id.* at 643-644. While recognizing that Rule 4003(b)'s 30-day deadline "may lead to unwelcome results," the Court observed that the deadline also "prompt[s] parties to act" and "produce[s] finality." *Id.* at 644.

The decision in *Taylor* sheds no light on the question presented here. In *Taylor*, all agreed that the debtor

had claimed an exemption for the full recovery in her discrimination suit, whatever that amount turned out to be. The parties in *Taylor* also “agree[d] that [the debtor] did not have a right to exempt more than a small portion of these proceeds either under state law or under the federal exemptions specified in § 522(d).” 503 U.S. at 642. The trustee in *Taylor* declined to object within Rule 4003(b)’s 30-day period, not because he reasonably construed the form submitted by the debtor to claim an exemption that was within an applicable statutory cap, but because he judged that the certain costs of objection outweighed the speculative benefits to the estate. *Id.* at 641.

Here, by contrast, respondent used specific dollar figures, totaling \$10,718, to identify the value of the claimed exemption. J.A. 58a. Petitioner had no occasion to object to respondent’s claimed exemption because he construed that exemption exactly as it was written, as limited to a \$10,718 interest in the kitchen equipment—and that amount was within applicable statutory limits. Nothing in *Taylor* supports the court of appeals’ view that, by using the same \$10,718 figure as the market value of the kitchen equipment, respondent signaled her intent to exempt the full value of the equipment, whatever that value turned out to be. Indeed, *Taylor* cannot support that view, both because (a) the debtor in *Taylor* described the value of her claimed exemption as “unknown” rather than specifying an exact dollar amount, and (b) the Court in *Taylor* was not confronted with any interpretive question analogous to this one, given the parties’ agreement in that case that the debtor had sought to exempt the full value of the lawsuit. See *Barroso-Herrans*, 524 F.3d at 344 (“*Taylor* does not tell us *what* has been claimed as exempt—only that

whatever has been claimed as exempt is beyond the estate's grasp once the deadline has elapsed.”⁵

2. *Related provisions of the Bankruptcy Code and Rules reinforce the conclusion that respondent's claimed exemption in her kitchen equipment was limited to a specific dollar amount*

As explained above, respondent's Schedule C identified two dollar figures (\$1,850 and \$8,868), which totaled \$10,718, in the column entitled “value of claimed exemption.” Respondent's use of those specific figures is most naturally understood as claiming an exemption for a \$10,718 interest in the equipment. Related provisions of the Bankruptcy Code and Rules reinforce that conclusion.

1. Under the Rules, a trustee has limited time to review a debtor's schedules and file objections to claims of exemption. The burden should therefore be placed on the debtor, who knows best what she intends to claim as exempt, to complete her schedules in a way that accurately communicates her intent. See *In re Hyman*, 967 F.2d at 1320 n.6. Specifically, Rule 4003(b) requires objections to exemptions within 30 days of the creditors' meeting, which generally must be held 20 to 40 days after a debtor files her petition. Fed. R. Bankr. P. 2003(a). Thus, absent an extension for cause, objections to claimed exemptions must be filed within 50-70 days

⁵ Indeed, the debtor in *Taylor* was not called upon to estimate the market value of her lawsuit because the forms used at that time did not require her to do so. The debtor in *Taylor* filed for bankruptcy in 1984, seven years before then-Schedule B-4 was amended to require any estimate of market valuation from the debtor. See 503 U.S. at 640; p. 17, *supra*; Pet. Br. 28. The interpretive question that the court of appeals addressed in this case therefore could not have arisen under the law in effect at the time of the bankruptcy petition in *Taylor*.

after receiving the debtor's Schedule C. In light of that "relatively short" objection period, "it is important that trustees and creditors be able to determine precisely whether a listed asset is validly exempt simply by reading a debtor's schedules." *In re Hyman*, 967 F.2d at 1319-1320 n.6; *In re Barroso-Herrans*, 524 F.3d at 345 ("[A]fter *Taylor*, a failure to object to a claimed objection exemption has very harsh consequences for the estate, and so it is most fair to place on the debtor the burden of claiming exemptions unambiguously.").

While the Rules' time frame for asserting objections allows a trustee to identify claimed exemptions that are invalid on their face, it will often be insufficient to conduct appraisals to determine whether particular assets are worth more than the applicable exemption caps. That practical consideration reinforces the view that the time limits for "object[ing]" to a claimed exemption do not apply to a trustee's reassessment and possible rejection of the debtor's valuation of listed property. To be sure, if petitioner had construed respondent's Schedule C to claim an exemption for the full value of her kitchen equipment, he might have objected (without first performing an appraisal) on the ground that the exemption was *potentially* invalid since the kitchen equipment *might* be worth more than the applicable exemption limits. A rule of construction that encouraged such objections, however, would engender needless litigation in cases where the debtor in fact intended to claim an exemption of a specific dollar amount.

Recognizing the debtor's responsibility to state her claimed exemptions accurately also accords with the larger purposes and structure of the federal bankruptcy system. That system is premised on the notion that an "honest but unfortunate debtor who surrenders for dis-

tribution the property which [s]he owns” deserves “a new opportunity in life and a clear field for future effort.” *Local Loan Co. v. Hunt*, 292 U.S. 234, 244 (1934). For the system to function effectively, the debtor must honestly and accurately report her assets, liabilities, and exemptions so that the property can be divided between the debtor and her creditors in accordance with applicable Code provisions. See, e.g., *In re An-Tze Cheng*, 308 B.R. 448, 458 (B.A.P. 9th Cir. 2004) (“The efficacy of the bankruptcy system depends in important respects on accurate self-reporting by debtors.”), *aff’d*, 160 Fed. Appx. 644 (9th Cir. 2005) (mem.). When a debtor seeks to claim an exemption for a listed asset in its entirety, rather than for a specific monetary interest in that asset, the debtor can and should so indicate on her Schedule C.

2. To the extent that a particular Schedule C is ambiguous, the trustee should seek to resolve the ambiguity so as to render claimed exemptions valid rather than invalid. Respondent contends, and the court of appeals held, that petitioner should have interpreted her Schedule C to claim the full value of the kitchen equipment, whatever that value turned out to be. But respondent’s kitchen equipment was not among the categories of property that may be exempted from the bankruptcy estate regardless of its value. Respondent thus argues in effect that petitioner should have presumed the worst—*i.e.*, that respondent was claiming an exemption potentially in excess of the Code’s limits. The more usual and sensible presumption is that debtors are aware of the statutory limits and are attempting to claim exemptions to which they are legally entitled. See *United States v. Budd*, 144 U.S. 154, 163 (1892) (“[N]o man is

presumed to do wrong or to violate the law, and every man is presumed to know the law.”).

That presumption is particularly sound in the circumstances of this case because respondent correctly identified 11 U.S.C. 522(d)(5) and (6) as the bases for the claimed exemption. J.A. 58a. The exemptions authorized by those provisions are limited to a debtor’s “interest” in particular types of property up to specified dollar amounts. The amounts that respondent claimed as exempt under those provisions fell within the statutory caps. Given respondent’s express reliance on statutory provisions that are limited by their terms to “interest[s]” having specified maximum values, and given her use of precise dollar figures falling within those statutory maxima, petitioner had no reason to conclude that respondent was claiming a potentially invalid exemption for the full value of the equipment.

3. The court of appeals’ approach has the perverse effect of rewarding respondent for her inaccurate assessment of the market value of her kitchen equipment. If respondent had correctly listed that market value as \$17,000, she would have had no basis for opposing petitioner’s subsequent motion to sell, and she would have received a total exemption of \$10,718. But the court of appeals held that by undervaluing her property, respondent had the opportunity to receive a greater exemption—in the amount of the actual value of the property, or \$17,000.

As explained above (see p. 16, *supra*), requiring the debtor to identify the market value of the property listed on her Schedule C assists the trustee in determining whether the property has significant additional value, beyond the interest that the debtor claims as exempt under applicable Code provisions, that may feasi-

bly be liquidated and distributed to creditors. The information currently required to be included in the fourth column of Schedule C thus facilitates the administration of the bankruptcy estate, even though it is irrelevant to the trustee's determination whether a claimed exemption is valid. A debtor who believes that an asset has significant non-exemptible value, however, might perceive an incentive to list on her Schedule C a market value at or very close to the claimed exemption, in order to dissuade the trustee from undertaking an appraisal and sale. Acceptance of the interpretive approach adopted by the court of appeals would create an additional incentive to such undervaluations of property.

4. Petitioner's approach entails no unfairness to debtors. If a debtor intends to exempt the full value of an asset, whatever that value may be, she may convey that intent by saying so explicitly or by using "unknown" or similar language to describe the value of the claimed exemption. See pp. 19-20, *supra*. In addition, a debtor may amend her Schedule C "as a matter of course at any time before the case is closed." Fed. R. Bankr. P. 1009(a). If a debtor claims as exempt a specific dollar interest that is beneath the applicable cap, based on the mistaken belief that the dollar figure represents the asset's true market value, nothing prevents her from claiming a larger exemption when she discovers her mistake (when, for example, the trustee moves to sell the property). The Rules therefore provide a straightforward solution for debtors who mistakenly undervalue property and who are entitled to claim larger exemptions: express amendment by debtors of those claimed

exemptions, not implied enlargement of those exemptions by courts.⁶

In the present case, there was little reason for respondent to amend because she was not entitled to claim a larger exemption.⁷ Nevertheless, respondent had ample *opportunity* to claim a larger exemption if she believed that one was authorized under the Code. At the creditors' meeting, petitioner informed respondent's attorney that the likely value of the kitchen equipment was approximately \$17,000, and that petitioner intended to sell the property in order to generate funds for unsecured creditors. Br. in Opp. 3-4 & n.1. That statement of intent strongly suggested that petitioner understood respondent to be claiming an exemption limited to a \$10,718 interest in the equipment. At that point, if respondent had intended to claim an exemption for the kitchen equipment in its entirety, she could have amended her Schedule C to claim the full value of \$17,000

⁶ Absent bad faith, a debtor could convert her case from Chapter 7 to Chapter 13, and her property would remain her own rather than being transferred to a bankruptcy estate. 11 U.S.C. 706(a), 1306(b); *Marrama v. Citizens Bank*, 549 U.S. 365 (2007). In addition, a Chapter 7 debtor could use her post-petition income to repurchase property given over to the bankruptcy estate.

⁷ Indeed, respondent's total claimed exemptions under the Code's wild card provision actually exceeded the applicable statutory cap. Respondent invoked the wild card exemption for an interest of \$8,868 in the kitchen equipment, as well as for interests totaling \$26 in bank accounts and interests totaling \$2,306 in food goods at her restaurant. J.A. 57a-58a. Thus, respondent claimed a total wild card exemption of \$11,200, or \$975 more than she was permitted at the time. 11 U.S.C. 522(d)(5). When petitioner did not object (apparently because the food-stuffs were perishable items that could not be readily sold), respondent received a windfall of the additional \$975.

(to which petitioner presumably would have objected, as in excess of the wild card exemption limit of \$10,225).

But respondent did not amend—which makes this case the flipside of *Taylor*. In *Taylor*, the debtor told the trustee that she intended to claim the asset’s full value, and the trustee asserted no objection to that facially invalid exemption. Here, the trustee told the debtor that the asset was worth more than her exemption and that the trustee intended to liquidate the property, and the debtor neither amended her Schedule C nor informed the trustee that he had misunderstood the extent of the exemption that she intended to claim. Moreover, because trustees must apply to sell property and provide notice of that application to the debtor, 11 U.S.C. 725; Fed. R. Bankr. P. 2002, 6004, the Court need not be concerned that debtors in future cases will lack notice of any undervaluation.

B. Petitioner’s Proposal To Liquidate The Kitchen Equipment And Divide The Proceeds Between Respondent And Her Creditors Did Not Undermine Any Legitimate Reliance Interest Created By Expiration Of The 30-Day Objection Period

The court of appeals asserted that its approach “accords with bankruptcy’s promise of a fresh start,” because “[o]nce the period for objection lapses, all parties know what property belongs to the bankruptcy estate and what remains with the debtor.” Pet. App. 16a. That assertion is correct as far as it goes. Once Rule 4003(b)’s 30-day period expires, “the property claimed as exempt” on a debtor’s Schedule C “is exempt.” 11 U.S.C. 522(l). But the “property claimed as exempt” on Schedule C is not always or even typically an entire asset or tangible item. See pp. 4, 14, *supra*. The Code

permits only a handful of in-kind exemptions for entire assets. Most of the Code's exemptions instead allow a debtor to exempt an "interest" in property, up to a maximum dollar value. Accordingly, the "property claimed as exempt" on Schedule C is often an interest worth a certain dollar amount, which the debtor will receive in cash if the trustee liquidates the asset by sale or auction.

By specifying precise dollar figures as the value of her claimed exemptions in the kitchen equipment, and by relying on statutory provisions (11 U.S.C. 522(d)(5) and (6)) that are limited by their terms to "interest[s]" in property up to a specified amount, respondent's Schedule C expressed an intent to claim as exempt an interest in kitchen equipment worth a total value of \$10,718. Once the period for filing objections expired, respondent knew that she would be allowed to retain that interest, either in cash (if the trustee sold the equipment) or in physical property (if he did not). But the trustee's failure to object gave respondent no basis for assuming that she could retain the physical property rather than the dollar value of the interest claimed to be exempt. That choice is always the trustee's, and it is frequently made after the period to object has expired.

The court of appeals was therefore wrong in stating that, if respondent's "listing were construed to exempt only that portion of the property having the value stated[,] the provisions finalizing exemptions if no objections are filed would be rendered meaningless." Pet. App. 16a-17a n.4 (quoting 9 *Collier* ¶ 4003.02[1], at 4003-5). If respondent's Schedule C had identified \$17,000 as the correct market value for the kitchen equipment, and the trustee had failed to object to her claimed \$10,718 exemption, respondent would have known that the equipment was subject to liquidation, in

which case she would receive her exempt interest in cash proceeds from the sale. On petitioner's approach, respondent will have precisely that same certainty when she undervalues property. What respondent actually seeks, and what the court of appeals granted her, was a different kind of certainty: the certainty that she could keep an asset's full value, which she had not claimed as exempt and to which she was not statutorily entitled.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

RAMONA D. ELLIOTT
General Counsel

P. MATTHEW SUTKO
Associate General Counsel

ERIC K. BRADFORD
CATHERINE B. SEVCENKO
Attorneys
Executive Office for United
States Trustees

ELENA KAGAN
Solicitor General

TONY WEST
Assistant Attorney
General

MALCOLM L. STEWART
Deputy Solicitor General

JEFFREY B. WALL
Assistant to the Solicitor
General

WILLIAM S. KANTER
MELISSA N. PATTERSON
Attorneys

JULY 2009