

The document below is hereby signed.

Signed: June 2, 2011



A handwritten signature in cursive script, reading "S. Martin Teel, Jr.", is written over a horizontal line.

S. Martin Teel, Jr.
UNITED STATES BANKRUPTCY COURT
United States Bankruptcy Judge
FOR THE DISTRICT OF COLUMBIA

In re)
) Case No. 98-01321
BETTY J. PAIGE,) (Chapter 13)
)
Debtor.) **Not for Publication in**
) **West's Bankruptcy Reporter**

MEMORANDUM DECISION AND ORDER DENYING
APPLICATION FOR RELEASE OF UNCLAIMED FUNDS

On April 26, 2011, General Electric Co. filed an application for release of unclaimed funds in the amount of \$90.35 (Dkt. No. 38). General Electric's application states that it is unaware why the funds went unclaimed, that account records regarding the amounts owed on the debt have not been maintained, and that it cannot certify that the debt remains unpaid.

The burden is on General Electric to demonstrate that it is entitled to the funds sought. *Hansen v. United States*, 340 F.2d 142, 144 (8th Cir. 1965). Although the record before the court demonstrates that GE Card Services was at one time entitled to the funds, General Electric has not demonstrated a present

entitlement. The court requires pursuant to 28 U.S.C. § 2042¹ that the withdrawal of the funds and payment to General Electric be ordered only upon a demonstration by General Electric of a **present** right to the funds. See *Willametz v. Susi*, 489 F.2d 364, 366 (1st Cir. 1973).

Although the funds were originally distributed by check made payable to GE Card Services pursuant to an allowed claim, the court is not willing to deem this satisfactory evidence, standing alone, of General Electric's **present** entitlement to the funds. See *Willametz*, 489 F.2d at 366 (funds originally deposited with district court on condition that such court enjoin enforcement of previously entered but potentially duplicative state court judgment could be distributed to creditor of prevailing party despite absence of provision for such payment upon change in circumstances justifying such payment). If General Electric's claim that was the basis for the issuance of the distribution has

¹ 28 U.S.C. § 2042 provides:

No money deposited under section 2041 of this title shall be withdrawn except by order of the court.

In every case in which a right to withdraw money deposited in court under section 2041 has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, such court shall cause such money to be deposited in the Treasury in the name and to the credit of the United States. Any claimant entitled to such money may, on petition to the court and upon notice to the United States attorney and **full proof of right thereto**, obtain an order directing payment to him. [Emphasis added.]

