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AccuPay president refuses to testify in bankruptcy court

Beverly Carden invokes Fifth Amendment rights during creditor hearing

By Lorraine Mirabella, The Baltimore Sun

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The nearly two dozen creditors of payroll firm AccuPay Inc. who jammed a hearing room in Baltimore's federal courthouse Tuesday left with no more answers than when they arrived.

Bel Air-based AccuPay, which filed for Chapter 7 bankruptcy in March, is being investigated for allegedly defrauding clients, many of whom run small businesses in Harford County, by failing for years to remit their tax payments to federal and state tax collectors.

The creditors meeting at the Edward A. Garmatz Federal Building, a routine step in the bankruptcy process, offered the first chance since the allegations came to light for creditors to get answers from owners of AccuPay, which shut down abruptly at the end of February.

But Beverly Carden, the firm's president and the only AccuPay officer at the hearing, refused to answer questions about her company and its assets, invoking her Fifth Amendment right to avoid self-incrimination. Carden, who sat with her back to creditors, spoke in a barely audible voice when asked a series of questions by an attorney for court-appointed bankruptcy trustee Brian A. Goldman.

Chapter 7 allows for an orderly liquidation of a company's assets to pay off creditors. In a financial statement filed with the court, AccuPay lists \$502,054.02 in debts and \$326,206.31 in assets.

Carden's firm is under criminal investigation by the Internal Revenue Service and the Bel Air Police Department, whose officials have warned that potential victims could number in the hundreds.

Several clients have filed lawsuits against AccuPay, claiming total losses of more than \$465,000. Some creditors were dismayed to learn that the AccuPay bankruptcy meant they could not continue with lawsuits seeking repayment of their lost money.

An attorney for several creditors, Stuart Levine, said he believes the IRS is owed an estimated \$2 million. A spokesman for the IRS said the agency does not comment on individual taxpayers' situations.

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After the hearing, Carden did not respond to a request for a comment, quickly leaving the hearing room as creditors remained, some visibly angry. Carden's attorney, Alan Cohen, also declined to comment.

"Our goal is to gather as much money as we can and use the money to pay creditors equally," Evan M. Goldman, the attorney for the bankruptcy trustee, told creditors after the hearing. "If there's stuff you think I should know, tell me."

He also urged creditors who had not done so to file a claim with the court, saying, "If you don't file a claim, you will never get paid."

George R. Carter, CEO of Edgemere-based real estate services firm MLSS Title, has filed a court claim showing AccuPay owes \$36,000 that was to have been paid in Maryland and federal taxes last year and in this year's first quarter. He found out his business' taxes had not been paid after reading news accounts of allegations and said he attended the creditors meeting to get some answers

"I was expecting to find out if they had enough assets to pay the creditors," he said after the hearing. "I can't imagine that AccuPay has enough assets to pay. Besides being upset with AccuPay, I'm upset with the state of Maryland that doesn't require bonding for a company like that."

"I'm stuck," Carter said. "It could affect my business. I might be in a situation where I have to close because of it."

After the hearing, several creditors huddled together outside the courthouse, sharing experiences with one another.

Audrey Novak, executive director of Maryland Society for Sight, said the \$20,000 that AccuPay allegedly failed to send to tax collectors was money donated to the nonprofit so the agency could provide services such as vision screening for children at preschools and Head Start centers and mobile eye care for the homeless. Novak said the organization had to draw money from an endowment fund to continue the services.

Tammy Miller, whose husband owns Elite Transport, an excavating company with five employees, said she hopes the criminal investigations will bring some justice.

"It's taken us down," she said of the business needing to pay the allegedly missing taxes — \$23,000 — a second time. "We've compensated and got a loan and took care of it, but it's going to hurt us. We wanted to pay off what we owed."

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