

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Modesto, California

**July 2, 2015 at 3:30 p.m.**

1. [12-93049](#)-E-11 **MARK/ANGELA GARCIA**  
**Mark J. Hannon**

**CONTINUED STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
11-30-12 [[1](#)]**

Debtor's Atty: Mark J. Hannon

**The Status Conference is ~~XXXXXXXXXXXX~~.**

**Notes:**

Continued from 2/12/15

Operating Reports filed: 2/13/15; 3/14/15; 4/15/15; 5/15/15; 6/15/15

[SDN-1] Order denying disclosure statement filed 2/18/15 [Dckt 524]

[MJH-13] Objection to Claim #19-3 of United States Fire Insurance Company, Successor to Fairmont Specialty and to Claim #19-1 and #19-2 filed 2/9/15 [Dckt 509]; Amended Order setting pre-evidentiary hearing conference for 9/3/15 at 2:30 p.m. filed 4/9/15 [Dckt 569]

[MJH-15] Objection to Claim Nos. 22 and 23 of G Street Investments, LLC filed 4/2/15 [Dckt 556]; Order overruling objection filed 5/27/15 [Dckt 622]

[DMW-1] Motion of G Street Investments, LLC for Relief from Stay (Re 900 G Street, Modesto, CA) filed 3/18/15 [Dckt 539]; Order granting filed 4/17/15 [Dckt 582]

[PA-3] Interim Application for Compensation of Kristin Kirchner, Accountant filed 4/30/15 [Dckt 583]; heard 5/21/15 and continued to 7/2/15 at 10:30 a.m.

[DMW-2] Motion of Secured Creditor G Street Investments, LLC to Compel Chapter 11 Trustee to Turn Over Cash Collateral filed 5/4/15 [Dckt 588]; Order denying filed 5/27/15 [Dckt 624]

[PA-5] Ex Parte Application to Employ Katzakian Real Estate as Real Estate Broker filed 5/6/15 [Dckt 600]; Order granting filed 5/7/15 [Dckt 606]

[PA-5] Motion to Approve Stipulation re Consent to Sale of Collateral and Carve Out Agreement in Favor of Bankruptcy Estate filed 6/11/15 [Dckt 631], set for hearing 7/2/15 at 10:30 a.m.

Chapter 11 Trustee's Status Report filed 6/25/15 [Dckt 640]

**JULY 2, 2015 STATUS CONFERENCE**

This bankruptcy case was filed on November 30, 2012, and was designated by Debtor as a "small business case." Petition, Dckt. 1 at 1. When Debtor in Possession was unable to prosecute the case and obtain a timely confirmation

**July 2, 2015 at 3:30 p.m.**

**- Page 1 of 13 -**

of a plan, the court ordered the appointment of a chapter 11 trustee on October 3, 2013. Dckt. 256. This case is now 942 days old. The only proposed disclosure statement (for which a creditor and Debtor were the proponents) was not approved.

### **Trustee's Status Report**

On June 25, 2015, the Chapter 11 Trustee filed his Status Report. As summarized below, the Trustee is reporting that now some headway is being made in this case.

- I. Oakdale Property – On May 16, 2015, the Trustee filed a motion to employ a real estate agent to market this property for sale. The Chapter 11 Trustee reports that the Debtors are "cooperating" with the Trustee in the marketing and sale of the property.
- II. Stipulation with USFI and McDonald Creditors – These creditors assert liens against the Oakdale Property. A settlement has been reached with these two creditors and the Trustee for the sale of the Oakdale Property and a carve out for the bankruptcy estate. The motion for approval of the stipulation is on the court's July 2, 2015 calendar.  
  
Under the terms of the stipulation: (1) the Property is to be sold within six months; (2) McDonald will have a secured claim of \$8,135 and an unsecured claim of \$8,135; (3) the USFI claim will be paid as allowed by the court upon resolution of Debtor's objection to the USFI claim; (4) 20% of the net sales proceeds (after sales expenses and paying the McDonald secured claim) shall be paid to the estate and unencumbered monies; (5) if the Property is not sold within six months, USFI withdraws its consent to the sale and may proceed with a foreclosure sale.
- III. G Street Investments – A settlement is being discussed, and the Trustee is waiting to receive proposed language for plan treatment which would resolve all disputes with this creditor.
- IV. USFI litigation with Debtor – USFI has filed a nondischargeability complaint. Debtor has filed an objection to the USFI claim – asserting that it should be allowed in the amount of \$450,000 as a secured claim and \$14,896.98 as an unsecured claim. USFI has filed the claim in the amount of \$678,028.35. The Trustee does not intend to intervene in the objection to the claim, but believes that Debtor is "motivated" to litigate the objection because Debtor is defending the nondischargeability action. The Trustee reports that it has been represented to him by counsel for USFI that these disputes have been resolved and a settlement agreement is being drafted.
- V. Chapter 11 Plan – The Trustee reports that YP Directory and the Trustee are working on a plan, with the cooperation of the Debtor.

2. [12-93049](#)-E-11 MARK/ANGELA GARCIA  
[13-9029](#)  
UNITED STATES FIRE INSURANCE  
COMPANY V. GARCIA ET AL

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
8-23-13 [[1](#)]

Plaintiff's Atty: Gregory M. Salvato  
Defendant's Atty: Mark J. Hannon

<b>The Status Conference is <del>XXXXXXXXXXXXXX</del>.</b>
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Adv. Filed: 8/23/13  
Answer: 10/4/13

Amd. Cmplt. Filed: 4/30/15  
Answer: 5/20/15

Nature of Action:  
Dischargeability - false pretenses, false representation, actual fraud  
Dischargeability - fraud as fiduciary, embezzlement, larceny  
Dischargeability - willful and malicious injury

Notes:

Continued from 4/16/15 (specially set at 3:30 p.m.). Plaintiff granted leave to file and serve an amended complaint on or before 4/30/15. Responsive pleadings to an amended complaint, if filed, to be filed and served on or before 5/21/15.

Amended Complaint filed 4/30/15 [Dckt 64]

Answer to Amended Complaint filed 5/20/15 [Dckt 70]

#### **JULY 2, 2015 STATUS CONFERENCE**

On June 25, 2015, United States Fire Insurance Company ("USFI") filed a Status Report in this Adversary Proceeding. Dckt. 72. It states that USFI believes that an agreement has been reached which settles this Adversary Proceeding and the objection to claim filed by Mark and Angela Garcia ("Defendant-Debtor") Debtors. USFI's counsel has transmitted the final forms for the Stipulation for Entry of Judgment and Stipulation for allowance of the USFI claim (POC 19-3).

The Report further states that USFI contemplates that no court approval is required, and unless otherwise ordered by the court. USFI does intend to seek court approval of the compromise with respect to the allowance of its claim in the Defendant-Debtor's bankruptcy case.

3. [14-91454-E-11](#) THE CIVIC PLAZA, LLC  
CAH-6 Mark J. Hannon

CONTINUED MOTION FOR  
CONDITIONAL APPROVAL OF  
DISCLOSURE STATEMENT FILED BY  
DEBTOR  
1-13-15 [[112](#)]

**Final Ruling:** No appearance at the July 2, 2015 hearing is required.

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Local Rule 9014-1(f)(1) Motion - No Hearing Required.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, creditors, parties requesting special notice, and Office of the United States Trustee on January 13, 2015. By the court's calculation, 107 days' notice was provided. 28 days' notice is required.

The Motion to Approve Disclosure Statement has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the non-responding parties and other parties in interest are entered.

<b>The Motion to Approve Disclosure Statement is dismissed without prejudice.</b>
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The Civic Plaza, LLC ("Debtor-in-Possession") filed the instant Motion to Approve Disclosure Statement on January 13, 2015. Dckt. 112.

The hearing on the Motion was set March 5, 2015. On February 6, 2015, in light of the stipulation filed by the parties, the court continued the hearing to 3:30 p.m. on April 20, 2015. Dckt. 132.

On March 26, 2015, the Debtor-in-Possession filed a Motion to Sell. Dckt. 145. On April 16, 2015, the court granted the Motion to Sell and authorized the Debtor-in-Possession to sell the real property commonly known as 1727 N Street, Merced, California. Dckt. 153.

A review of the Disclosure Statement and Plan shows that the Debtor-in-Possession premised both on the assumption that the Debtor-in-Possession would be retaining the Property.

#### **APRIL 30, 2015 HEARING**

At the hearing, the court noted that, in light of the court authorizing the sale of the Property, it appeared that the Disclosure Statement and Plan no longer reflect the intentions of the Debtor-in-Possession.

To offer the Debtor-in-Possession the opportunity to file an amended Disclosure Statement and Plan, the court continued the hearing to 3:30 p.m. on July 2, 2015. Dckt. 158. The court ordered that an amended disclosure statement, if any is desired in connection with the present proceedings, shall

be filed on or before June 1, 2015, and any responses or objections thereto shall be filed and served on or before June 18, 2015. Notice of the continued hearing date and the deadline for filing an amended disclosure statement and objections thereto shall be filed and served by the Debtor in Possession on or before May 15, 2015. Any responses or objections to the Disclosure Statement shall be filed and served on or before June 18, 2015.

#### **WITHDRAWAL**

On April 28, 2015, the Debtor-in-Possession filed a Notice of Withdrawal of Motion for Conditional Approval of Disclosure Statement Dated January 13, 2015. Dckt. 155. The Debtor-in-Possession states that because the property is being sold, the Debtor-in-Possession is no longer proposing the terms in the Disclosure Statement.

#### **DISCUSSION**

The Debtor-in-Possession having filed a Withdrawal of the Motion, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) and Federal Rules of Bankruptcy Procedure 9014 and 7041 the Motion is dismissed without prejudice.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Approval of the Disclosure Statement filed by the Debtor-in-Possession having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is dismissed without prejudice.

4. [14-91565-E-11](#) RICHARD SINCLAIR

CONTINUED STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
11-24-14 [[1](#)]

Debtor's Atty: Pro Se

Notes:

Continued from 3/26/15

[RCS-1] Order denying motion to dismiss case filed 3/31/15 [Dckt 136]

[KVD-1] Motion for Relief From the Automatic Stay to Continue Litigation Pending in Superior Court filed 4/1/15 [Dckt 138]; Withdrawn 5/5/15 [Dckt 181]

[HAR-5] Motion for Apprehension of Debtor Richard Sinclair filed 4/3/15 [Dckt 147]; Order denying filed 5/4/15 [Dckt 177]

Further Stipulation to Extend Deadline to File Complaint to Determine Dischargeability of Debt filed 4/24/15 [Dckt 170]; Order approving filed 4/25/15 [Dckt 172]

[RCS-2] Order denying protective order filed 5/4/15 [Dckt 179]

Order on Objections to Production of Documents for 2004 Examination filed 6/8/15 [Dckt 204]

#### **JULY 2, 2015 STATUS CONFERENCE**

This Chapter 11 case was filed on November 24, 2015. It has now been pending for 281 days. No plan of reorganization or disclosure statement have been filed. Richard Sinclair, the Debtor, has served continuously as the Debtor in Possession since the commencement of this case. Only two Monthly Operating Reports have been filed. These are:

A. For December 2014, Dckt. 53, with the following information:

1. Current Assets -

a.	Cash/Cash Equivalents.....	\$	1
b.	Accounts Receivable (Net).....	\$1,000,000	
c.	Real Property.....	\$Lease	
d.	FF&E.....	\$	2,500
e.	Vehicles.....	\$	2,500
f.	Stocks/Bonds.....	\$	2,000

2. December 2014 Cash Receipts/(Disbursements)

a.	Receivables +55.....	\$	3,009
b.	Salaries.....	(\$	1,200)
c.	Draws.....	(\$	1,808)

B. For January 2015, Dckt. 101, with the following information:

1. Current Assets -

a.	Cash/Cash Equivalents.....	\$	1
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July 2, 2015 at 3:30 p.m.

- Page 6 of 13 -

b. Accounts Receivable (Net).....\$ 1,000,000  
 c. Contingent Suits.....\$50,000,000  
 d. Real Property.....\$Lease  
 e. FF&E.....\$ 2,500  
 f. Vehicles.....\$ 2,500  
 g. Stocks/Bonds.....\$ 2,000

2. January 2015 Cash Receipts/(Disbursements)

a. Receivables +55.....\$ 6,624  
 b. Salaries.....(\$ 1,150)  
 c. Draws.....(\$ 2,452)  
 d. Contract Labor.....(\$ 2,500)  
 e. Legal Costs.....(\$ 1,924)  
 f. Office Expenses.....(\$ 260)

C. For February 2015 ---- Not Filed

D. For March 2015 ---- Not Filed

E. For April 2015 ---- Not Filed

F. For May 2015 ---- Not Filed

G. For June 2015 ---- Not Filed

**Review of Claims Filed in Chapter 11 Case**

Proof of Claim No.	Creditor	Amount	Secured/Priority/Unsecured
1	Internal Revenue Service	\$42,366	Priority - 100%
2	Capital One Bank	\$8,557	Unsecured
3	Pascuzzi, Pascuzzi & Stoker	\$56,788	Unsecured
4	Fox Hollow of Turlock Owners Association	\$1,337,074	Unsecured
5	Paypal	\$4,269	Unsecured
6	CB Merchant Services	\$4,443	Unsecured
7	Andrew Katakis	\$1,000,000	Unsecured
8	Deborah Sinclair	\$152,988	Priority - \$128,883 Unsecured - \$ 24,106
9	Neumiller 7 Beardslee	\$813,717	Unsecured
10	Stanislaus County	\$330	Unsecured
11	Stanislaus County	\$350	Unsecured
12	Stanislaus County	\$172	Unsecured
13	Stanislaus County	\$445	Unsecured

14	Stanislaus County	\$150	Unsecured
15	Stanislaus County	\$300	Unsecured
16	Stanislaus County	\$300	Unsecured
17	Stanislaus County	\$581	Unsecured
18	Stanislaus County	\$539	Unsecured
19	Stanislaus County	\$493	Unsecured
20	Stanislaus County	\$448	Unsecured
21	Stanislaus County	\$406	Unsecured
22	Stanislaus County	\$343	Priority - \$343
23	Pacific Bell Telephone Co.	\$166	Unsecured
24	Stanley Flake	\$2,337,073	Unsecured
25	Deutsche Bank National Trust Company	\$694,227	Secured (8212 Oak View Drive)
26	California Equity Management and Fox Hollow of Turlock Owners' Association	\$5,000,000	Unsecured
27	California Equity Management and Fox Hollow of Turlock Owners' Association	Appears to be Duplicate of POC 26	
28	Deutsche Bank National Trust Company	\$157,915	Secured (22734 Black Hawk Dr.

#### **Review of Schedules Filed in This Case**

#### **I. Schedules Filed December 12, 2014; Dckt. 42**

##### **A. Schedule A**

##### **1. 8212 Oak View Dr.**

- a. Interest..... "20 year leasehold"
- b. Value..... \$175,000 (Exempt)

##### **B. Schedule B Assets Include:**

- 1. Cash.....\$ 13
- 2. Financial Inst Accounts.....\$ 2,000
- 3. Law Office Receivables.....\$1,000,000
- 4. Claim Against Katakis.....\$6,000,000
- 5. Receivables List.....\$1,000,000
- 6. Office Furniture/Supplies.....\$ 15,000

##### **C. Schedule D, Secured Claims**

**July 2, 2015 at 3:30 p.m.**



1. Deutsche Bank, Trustee.....("\$468K to \$675K")

D. Schedule E, Priority Claims

1. Wage Claims.....(\$ 47,000)  
2. Child/Spousal Support.....(\$[not stated])  
3. Franchise Tax Board.....(\$ 10,000)  
4. Internal Revenue Service.....(\$ 100,000)

E. Schedule F, General Unsecured Claims

1. Andrew Katakis.....("\$750K-\$980K")  
2. Fox Hollow of Turlock Owr's Assn..("\$750K-\$980K")  
3. California Equity.....(\$750K-\$980K")  
4. Stan Flake.....("amount unknown")  
5. Capstone Trust.....("amount unknown")  
6. Neumiller 7 Beardslee.....(\$673,000)  
7. Pascuzzi, Moore 7 Stoker.....(\$ 56,375)  
8. Stanislaus County Tax Collector..(\$ 6,600)  
9. State Bar of California.....(\$ 5,000)  
10. Paypal.....(\$ 4,270)  
11. Capital One.....(\$[not stated])  
12. Western Valley Insurance.....(\$ 4,000)  
13. Chase Mortgage..... "they foreclosed"  
14. Linda Catron.....(\$750,000)  
15. David Aviel.....(\$750,000)  
16. CA State Auto Assn.....(\$ 5,150)  
17. Umpqua Bank.....(\$ 1,793)  
18. Chase Bank.....(\$ 1,793)  
19. Nevada County Superior Court.....(\$ 2,550)  
20. Stanislaus County Superior Court..(\$ 1,500)  
21. County of Tuolumne.....(\$ 780)  
22. San Francisco Superior Court.....(\$ 500)  
23. US District Court.....(\$ 900)  
24. US District Court.....(\$ 700)  
25. Capital One.....(\$ 3,000)  
26. US Bank.....(\$ 5,000)  
27. Paul Frassetto, Esq.....(\$ 2,500)  
28. Gregory Simonian, Esq.....(\$ 2,750)

F. Schedule I

1. Not Employed - "Attorney-Retiring"  
2. Income  
a. Social Security.....\$1,532  
3. Expenses  
a. Monthly Expenses.....(\$9995)  
(1) Does not include rent or mortgage  
(2) Includes (\$5,250) expense for employees  
(3) Does not provide for income or self

employment taxes

II. Statement of Financial Affairs - Filed December 16, 2014; Dckt. 45.

A. Question 1, Wages and Business Income:

1. 2014 - Still Calculating
2. 2013 - Still Calculating
3. 2012 - Unstated

B. Question 2, Other Income

1. Social Security \$1,532 per month (not stated for any years or annual amounts)

C. Question 3, Payments to Creditors

1. Answer to both primarily consumer debts and not primarily consumer debts ---- "NA"
2. Answer to question for all payments made to insiders within one year ---- "NA"

D. Question 18, Nature, Location, and Name of Business

1. Law Office of Richard Sinclair, "closing over last 3 years"
2. Capstone, LLC, "all lost Due to Foreclosure"
3. "Lair-----," LLC, "all lost Due to Foreclosure"
4. Las Palmas of Turlock, LLC, "all lost Due to Foreclosure"

**Review of Other Pleadings Filed by Debtor and Debtor in Possession**

On December 11, 2014, the Debtor in Possession filed a Status Report. Dckt. 37. In it the Debtor in Possession states that he "[i]ntends to pay everyone by converting his personal residence into an eight person senior care home, which will generate approximately \$17,500 per month, to retire secured and unsecured debts with a five year refinance pay off date. The alternative is that everyone gets nothing in a Chapter 7." *Id.*

In the Debtor's in Possession response to an objection to claim of exemption, he states that Debtor transferred into "his trust" (appears to be a self-settled trust) the real property commonly known as 8281 Oak View Drive in 2009. Dckt. 81. He further states that the trust was made "irrevocable" in 2012. *Id.* The Debtor in Possession concludes asserting that to the extent that he had a 20-year lease in the property which he transferred into the self-settled trust in 2009 and purports to have made irrevocable in 2012, that his 20-year trust is not valid since he never put it in writing.

In responding to the Motion to Convert this case to one under Chapter 7, the Debtor in Possession states that in his divorce from Deborah Sinclair, he

"gave" 40 acres and half the assets to her as part of the legal separation. Dckt. 87. The Debtor in Possession states that since a state court judge determined that the transfers to Deborah Sinclair were "fair," there is no issue concerning the transfers in his voluntary bankruptcy case. *Id.* Deborah Sinclair filed for dissolution of the marriage in 2011 - three years before the commencement of the current bankruptcy case. *Id.* p.22:6.5. The 40 acres transferred to Deborah Sinclair occurred in 2013, which property was the Debtor's inheritance. *Id.* at 22:9.5-11.5. FN. 1.

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FN.1. In this pleading the Debtor in Possession repeatedly states that no further review is proper because the Family Law Court, as the "independent reviewer" has determined that the transfers between the Debtor and his ex-wife were "fair." While the Debtor, facing extreme financial pressures (discussing in the pleading his financial death struggle with Mr. Katakis et al) and his then wife, Deborah Sinclair may have believed that transferring assets to her and purporting to make a trust irrevocable were "fair," that does not determine the federal issues which arose when the Debtor chose to file bankruptcy.  
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The Debtor in Possession also states that in 2003, 2004, 2005, 2006, and 2007 the Debtor transferred property of the Sinclair ranch. These were gifts he made to his children, as well as to his ex-wife as part of their divorce.

5. [14-91565-E-11](#) RICHARD SINCLAIR  
[15-9009](#)  
KATAKIS ET AL V. SINCLAIR

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
2-23-15 [[1](#)]

Plaintiff's Atty: Hilton A. Ryder  
Defendant's Atty: Pro Se

Adv. Filed: 2/23/15  
Answer: 3/30/15

Nature of Action:  
Dischargeability - false pretenses, false representation, actual fraud  
Dischargeability - fraud as fiduciary, embezzlement, larceny  
Dischargeability - willful and malicious injury

Notes:

Continued from 4/30/15. Status Conference updates to be filed and served on or before 6/23/15.

[HAR] Order Denying Motion for Summary Judgment filed 6/15/15 [Dckt 29]

#### **JULY 2, 2015 STATUS CONFERENCE**

On June 15, 2015, the court issued its order denying without prejudice Plaintiffs' motion for summary judgment. Dckt. 29.

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## **SUMMARY OF COMPLAINT**

Andrew Katakis, California Equity Management Group, Inc., and Fox Hollow of Turlock Owners' Association ("Plaintiffs") seek a determination that a judgment against Richard Sinclair, the Defendant-Debtor, in the amount of \$1,337,073.72 is nondischargeable pursuant to 11 U.S.C. § 523(a)(2), (4), and (6). This judgment is alleged to have been obtained in Stanislaus County Superior Court case no. 332233.

## **SUMMARY OF ANSWER**

Richard Sinclair, the Defendant-Debtor, has filed an Answer which admits and denies specific allegations in the Complaint. The Defendant-Debtor also asserts twenty-three affirmative defenses.

## **MOTION FOR SUMMARY JUDGMENT**

On April 23, 2015, Plaintiffs filed a motion for summary judgment. The Motion states with particularity (Fed. R. Civ. P. 7(b) and Fed. R. Bank. P. 7007) the following grounds:

- A. The Motion is based on the Memorandum of Points and Authorities, Statement of Undisputed Facts, the Complaint, Request for Judicial Notice, all other unspecified pleadings and papers in the file, and any other evidence and authority that Plaintiff choose to present prior to or at the hearing.
- B. The Motion seeks to have the judgment in the State Court Action in the amount of \$1,337,073.72 determined nondischargeable pursuant to 11 U.S.C. § 523(a)(2), (4), and (6).
- C. Many of the wrongful acts (which are not stated with particularity in the summary judgment motion) fit within the elements of 11 U.S.C. § 523(a)(2)(A), (4) and (6).
- D. The alleged wrongful acts establish a pattern of fraud, misrepresentation and willful malicious acts that resulted in a finding of "unclean hands."

Motion, Dckt. 11.

## **FINAL BANKRUPTCY COURT JUDGMENT**

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b). Complaint ¶ Unnumbered, p. 11:11-13, Dckt. 1. In his answer, Richard Sinclair, the Defendant-Debtor, does not expressly admit or deny the allegations of jurisdiction and core matter proceeding in the unnumbered paragraph on page 11 of the Complaint. Federal Rule of Bankruptcy Procedure 7012(b) requires that a responsive pleading to a complaint shall admit or deny an allegation that it is a core or non-core proceeding. If non-core, the responsible pleading shall state whether the responding party consents to the issuances of finals orders and judgment by the bankruptcy

July 2, 2015 at 3:30 p.m.

- Page 12 of 13 -

judge. Fed. R. Bankr. P. 7012(b). It appears that the pleading style in the Complaint, placing the allegation of jurisdiction and core proceeding on page 41 in an unnumbered paragraph may have cause the inadvertent failure to admit or deny that allegation.

At the hearing, Defendant-Debtor stated on the record that the Complaint, as pleaded, is a core proceeding. To the extent that any issues in this Adversary Proceeding are "related to" matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.

The court shall issue a Status Conference Scheduling Order in substantially the following form:

- a. The Plaintiff alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b). Complaint ¶ Unnumbered, p. 11:11-13, Dckt. 1. In his answer, Richard Sinclair, the Defendant-Debtor, does not expressly admit or deny the allegations of jurisdiction and core matter proceeding in the unnumbered paragraph on page 11 of the Complaint. Federal Rule of Bankruptcy Procedure 7012(b) requires that a responsive pleading to a complaint shall admit or deny an allegation that it is a core or non-core proceeding. If non-core, the responsible pleading shall state whether the responding party consents to the issuances of final orders and judgment by the bankruptcy judge. Fed. R. Bankr. P. 7012(b). It appears that the pleading style in the Complaint, placing the allegation of jurisdiction and core proceeding on page 41 in an unnumbered paragraph may have cause the inadvertent failure to admit or deny that allegation.

At the hearing, Defendant-Debtor stated on the record that the Complaint, as pleaded, is a core proceeding. To the extent that any issues in this Adversary Proceeding are "related to" matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.