

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Modesto, California

September 3, 2015 at 2:00 p.m.

1. [12-92143](#)-E-7 WILLIAM/SHEILA KILLIAN STATUS CONFERENCE RE: COMPLAINT
[15-9024](#) 7-8-15 [[1](#)]
KILLIAN ET AL V. NATIONAL
COLLEGIATE STUDENT LOAN TRUST

Plaintiff's Atty: Charles L. Hastings
Defendant's Atty: Raymond F. Moats

Adv. Filed: 7/8/15
Answer: 8/7/15

Nature of Action:
Dischargeability - student loan

Notes:

Plaintiff's Status Conference Statement filed 8/26/15 [Dckt 10]

SUMMARY OF COMPLAINT

The Complaint alleges that the Plaintiff-Debtor's student loan obligations are dischargeable.

SUMMARY OF ANSWER

The Answer admits and denies allegations in the Complaint.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) to determine the dischargeability of a debt. Complaint ¶¶ 2, 3, Dckt. 1. In its answer, Defendant National Collegiate Student Loan Trust 2007-4 admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 2, 3, Dckt. 9. 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 Pre-Trial Scheduling Order setting the following dates and deadlines:

The Plaintiff alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding

pursuant to 28 U.S.C. § 157(b)(2) to determine the dischargeability of a debt. Complaint ¶¶ 2, 3, Dckt. 1. In its answer, Defendant National Collegiate Student Loan Trust 2007-4 admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 2, 3, Dckt. 9. 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.

- a. Initial Disclosures shall be made on or before -----, 2015.
- b. Expert Witnesses shall be disclosed on or before -----, 2015, and Expert Witness Reports, if any, shall be exchanged on or before -----, 2015.
- c. Discovery closes, including the hearing of all discovery motions, on -----, 2015.
- d. Dispositive Motions shall be heard before -----, 2015.
- e. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- p.m. on -----, 2015.

2. [14-90473](#)-E-7 ROBERT WOJTOWICZ AND
[14-9023](#) SHERRI HERTZIC-WOJTOWICZ
HERTZIC-WOJTOWICZ V. IRM
CORPORATION

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
7-11-14 [[1](#)]

Plaintiff's Atty: Shane Reich
Defendant's Atty: unknown

Adv. Filed: 7/11/14
Answer: none

Nature of Action:
Recovery of money/property

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Notes:

Continued from 7/23/15 to allow Plaintiff additional time to investigate the identity of the successor entity to the judgment creditor.

Order denying request for entry of default filed 7/24/15 [Dckt 44]

3. [13-91315-E-7](#) APPLEGATE JOHNSTON, INC.
[15-9020](#)
MCGRANAHAN V. C&T WELDING,
INC. ET AL

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
6-30-15 [[1](#)]

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty:
Helga A. White [C & T Welding, Inc.; Skyline Steel Erectors, Inc.; Cal
West Steel Detailing LLC]
Christopher J. Hersey [SecureCom, Inc.]

Adv. Filed: 6/30/15

Answer:

7/29/15 [C & T Welding, Inc.; Skyline Steel Erectors, Inc.; Cal West Steel
Detailing LLC]
8/13/15 [SecureCom, Inc.]

Nature of Action:

Recovery of money/property - preference

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Notes:

[HAW-1] Motion to Consolidate filed 7/30/15 [Dckt 13]; Notice of Withdrawal of
Motion to Consolidate filed 8/21/15 [Dckt 22]

SUMMARY OF COMPLAINT

The Plaintiff-Trustee commenced this Adversary Proceeding to avoid what is asserted to be a preferential transfer (11 U.S.C. § 547), a fraudulent transfer and to recover the transfer. Five defendants are named in this Adversary Proceeding. It is alleged that Debtor made the following payments which are asserted to be voidable preferences: \$90,222.36 to Defendant C&T and Defendant Skyline; \$8,494.11 to Defendants C&T and PDM; \$4,361.31 to Defendants C&T, Ahern, and Skyline; \$32,535.32 to Defendants C&T and Ahern; and \$13,440.00 to Defendants C&T and Cal West; all within ninety days of the commencement of the Debtor's bankruptcy case.

The Complaint further alleges the transfers were avoidable fraudulent conveyances under federal bankruptcy law and California law due to Debtor receiving less than reasonably equivalent value for the monies paid to the respective Defendants. Relief is also sought pursuant to 11 U.S.C. § 550 for monetary judgments against the Defendants.

SUMMARY OF ANSWERS

An Answer has been filed C&T, Skyline, and Cal West. Dckt. 11. The Answer admits and denies specific allegations in the Complaint. The answer

includes twenty-one affirmative defenses.

No answers have been filed by Ahern Rentals, Inc. Or PDM Zsteel Erectors, Inc.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 7, 8, Dckt. 1.

In their Answer, Defendants C&T, Skyline, and Cal West admit the allegations of jurisdiction alleged in Paragraph 6 of the Complaint. Answer, p. 2:15-16.

With respect to the contention that this is a core proceeding, these three Defendants state,

"Defendants admit that generally the Bankruptcy Court would have jurisdiction over 11 USC §§ 547 and 550 actions. But, as to the State law issues involved in this litigation, Defendants do not consent to the Bankruptcy court's rendering of a final judgment pursuant to *Stern v. Marshal*, 564 U.S. ___, 131 S. Ct. 2594 (2011) and cases decided thereafter involving the Bankruptcy Court's Article III jurisdiction."

Answer, p. 2:17-26, 3:1-13.

The court does not understand the term "state law issues," as used in the Answer. If it means a state law claim upon which there is no constitutionally core basis for an Article 1 judge to enter the final judgment and order, as was the counter-claim in *Stern*, the court concurs that consent for an Article I judge to issue final orders and judgments is required. Otherwise, the bankruptcy judge will make proposed findings and recommendations to the district court judge as provided in 28 U.S.C. § 157(c)(1).

However, if Defendants mean that if there is a constitutionally core matter arising under the Bankruptcy Code or in the bankruptcy case and there is an "issue" to be determined under state law then the bankruptcy judge cannot determine that "issue" as part of conducting a core proceeding, the court does not concur. Many core bankruptcy proceedings are dependent on the bankruptcy judge interpreting and applying state law.

Here, there are two legal theories advanced. First, the Plaintiff-Trustee alleges that under the Bankruptcy Code, applying the unique bankruptcy law principals of "preference," the transfers may be avoided. This appears to be a classic "arising under the Bankruptcy Code" core proceeding.

The second theory is that the transfers were a fraudulent conveyance under both the Bankruptcy Code and California law. The issue of a bankruptcy judge addressing a fraudulent conveyance claim was addressed decades ago by the Supreme Court in *Northern Pipeline Construction v. Marathon Pipe Line Company*, 458 U.S. 50 (1982). There, the Supreme Court concluded that while Congress created a provision for fraudulent conveyances under the Bankruptcy Code, there was in common law a claim for fraudulent conveyance, which a party would otherwise have the right to litigate the issue before an Article III judge.

However, the Court in *Northern Pipe Line* further recognized that the federal substantive bankruptcy law principal of a "preference" which the prior bankruptcy referees were properly empower to adjudicate and enter final judgment on, as that was not something for which an Article III judge was required.

At the Status Conference these three defendants clarified their statement concerning "issues" and core proceedings to be xxxxxxxxxxxxxxxx.

4. [13-91315-E-7](#) APPLEGATE JOHNSTON, INC. STATUS CONFERENCE RE: COMPLAINT
[15-9030](#) 7-9-15 [[1](#)]
MCGRANAHAN V. ACE AUTOMATIC
GARAGE DOORS, INC.

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: Helga A. White

Adv. Filed: 7/9/15
Answer: 8/6/15

Nature of Action:
Recovery of money/property - preference

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Notes:

Plaintiff's Discovery Plan filed 8/25/15 [Dckt 9]

Notes:

Plaintiff's Discovery Plan filed 8/24/15 [Dckt 11]

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendant Ace Automatic Garage Doors, Inc. received payments totaling \$24,704.27 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

SUMMARY OF ANSWER

In the Answer Defendant admits and denies specific allegations in the Complaint. The Answer also states seventeen affirmative defenses.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1.

In the Answer, the Defendants admit the allegations of federal jurisdiction. Answer, p. 2:1-24, Dckt. 7.

With respect to this Adversary Proceeding for the avoidance of a preference pursuant to 11 U.S.C. § 547, Defendants do not admit that this is a core proceeding, and also do not consent to the bankruptcy judge entering order or final judgment.

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 Defendant having asserted that this adversary proceeding may not be a core matter and they did not consent to the bankruptcy judge entering orders and final judgment on non-core matters, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the a hearing on the core or non-core nature of the claims in this adversary proceeding shall be conducted at 10:30 a.m. on xxxxxxxxxx, 2015.

IT IS FURTHER ORDERED that Ace Automatic Garage Doors, Inc., the Defendant, shall file and serve on or before xxxxxxxx, 2015, a brief addressing the contentions as to whether the claims for relief pursuant to 11 U.S.C. §§ 547 and 550 in the Complaint are core or non-core. On or before xxxxxxxx, 2015, the Plaintiff-Trustee shall file and serve his responsive brief on the issue of whether such claims are core or non-core. On or before xxxxxxxx, 2015, Defendant shall file a Reply, if any, to the Plaintiff-Trustee's brief.

5. [13-91315-E-7](#) APPLGATE JOHNSTON, INC.
[15-9021](#)
MCGRANAHAN V. BAY CITY
MECHANICAL, INCORPORATED

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
6-30-15 [[1](#)]

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: William C. Last

Adv. Filed: 6/30/15
Answer: 7/29/15

Nature of Action:
Recovery of money/property - preference

Notes:

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendant Bay City Mechanical, Incorporated received payments totaling \$254,819 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

SUMMARY OF ANSWER

Defendant admits and denies the specific allegations of the Complaint. Defendant also pleads thirteen affirmative defenses.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1. In its answer, Defendant Bay City Mechanical, Inc. admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 3, 4, Dckt. 9. 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 Pre-Trial Scheduling Order setting the following dates and deadlines:

a. The Plaintiff alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1. In its answer, Defendant Bay City Mechanical, Inc. admits the allegations of jurisdiction and core

proceedings. Answer ¶¶ 3, 4, Dckt. 9. To the extent that any issues in this Adversary Proceeding are related to proceedings, 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 claims and issues in this Adversary Proceeding referred to the bankruptcy court.

b. Initial Disclosures shall be made on or before **October 5, 2015**.

c. Expert Witnesses shall be disclosed on or before -----, 2015, and Expert Witness Reports, if any, shall be exchanged on or before -----, 2015.

d. Discovery closes, including the hearing of all discovery motions, on -----, 2015.

e. Dispositive Motions shall be heard before -----, 2015.

f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- p.m. on -----, 2015.

6. [13-91315-E-7](#) **APPLEGATE JOHNSTON, INC.**
[15-9022](#)
MCGRANAHAN V. AMERICAN EXPRESS
BANK, FSB

STATUS CONFERENCE RE: COMPLAINT
6-30-15 [[1](#)]

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: Robert S. Lampl

Adv. Filed: 6/30/15
Answer: none

Nature of Action:
Recovery of money/property - preference

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Notes:

Stipulation to Extend Time to Respond to Complaint filed 7/30/15 [Dckt 9]; no order submitted

Second Stipulation to Extend Time to Respond to Complaint filed 8/13/15 [Dckt 10]; no order submitted

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendant American Express Bank received payments totaling \$407,264.14 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

The Plaintiff-Trustee also states as the Third Cause of Action an objection to the claim of American Express Bank (Proof of Claim No. 45-1) in the Debtor's bankruptcy case.

SUMMARY OF ANSWER

American Express Bank filed its Answer, admitting and denying specific allegations in the Complaint. The Answer also states six affirmative defenses.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1. In its answer, American Express Bank admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 3, 4, Dckt. 13. 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 Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. The Plaintiff alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1. In its answer, American Express Bank admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 3, 4, Dckt. 13. To the extent that any issues in this Adversary Proceeding are related to proceedings, 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 claims and issues in this Adversary Proceeding referred to the bankruptcy court.
- b. Initial Disclosures shall be made on or before October 5, 2015.
- c. Expert Witnesses shall be disclosed on or before -----, 2015, and Expert Witness Reports, if any, shall be exchanged on or before -----, 2015.
- d. Discovery closes, including the hearing of all discovery motions, on -----, 2015.
- e. Dispositive Motions shall be heard before -----, 2015.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- p.m. on -----, 2015.

7. [13-91315-E-7](#) APPLEGATE JOHNSTON, INC.
[15-9023](#)
MCGRANAHAN V. REX MOORE
ELECTRICAL CONTRACTORS &

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
6-30-15 [[1](#)]

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: Jason E. Rios

Adv. Filed: 6/30/15
Answer: 8/6/15

Nature of Action:
Recovery of money/property - preference

The hearing on the core or non-core status of this adversary proceeding will be conducted at 10:30 a.m. on ~~xxxxxxxxxxxx~~, 2015. The Status Conference is continued to that time and date.

Notes:

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendants Rex Moore Electrical Contractors & Engineers, A California Partnership, received payments totaling \$126,000 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550. It is alleged that Rex Moore Group, Inc. is a general partner and liable for the avoided preferential payment.

The Plaintiff-Trustee also states as the Third Cause of Action an objection to the claim of American Express Bank (Proof of Claim No. 45-1) in the Debtor's bankruptcy case.

SUMMARY OF ANSWER

In the Answer, the two defendants admit and deny specific allegations in the Complaint. The Answer also alleges eleven affirmative defenses.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 4, 5, Dckt. 1.

In the Answer, the Defendants admit the allegations of federal

jurisdiction. Answer ¶ 4, Dckt. 9.

With respect to this Adversary Proceeding for the avoidance of a preference pursuant to 11 U.S.C. § 547, Defendants do not admit that this is a core proceeding, and also do not consent to the bankruptcy judge entering order or final judgment.

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 Defendants having asserted that this adversary proceeding may not be a core matter and they did not consent to the bankruptcy judge entering orders and final judgment on non-core matters, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the a hearing on the core or non-core nature of the claims in this adversary proceeding shall be conducted at 10:30 a.m. on xxxxxxxxxx, 2015.

IT IS FURTHER ORDERED that Rex Moore Electrical contractors & Engineers, A California Partnership, and Rex Moore Group, Inc., the Defendants, shall file and serve on or before xxxxxxxx, 2015, a brief addressing their contentions as to whether the claims for relief pursuant to 11 U.S.C. §§ 547 and 550 in the Complaint are core or non-core. On or before xxxxxxxx, 2015, the Plaintiff-Trustee shall file and serve his responsive brief on the issue of whether such claims are core or non-core. On or before xxxxxxxx, 2015, Defendants shall file a Reply, if any, to the Plaintiff-Trustee's brief.

8. [13-91315-E-7](#) APPLEGATE JOHNSTON, INC. STATUS CONFERENCE RE: COMPLAINT
[15-9026](#) 7-9-15 [[1](#)]
MCGRANAHAN V. STEPHEN CIARI
PLUMBING AND HEATING, INC.

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: Matthew P. James

Adv. Filed: 7/9/15
Answer: 8/21/15

Nature of Action:
Recovery of money/property - preference

The hearing on the core or non-core status of this adversary proceeding will be conducted at 10:30 a.m. on ~~xxxxxxxxxxxx~~, 2015. The Status Conference is continued to that time and date.

No
tes:

Stipulation for Extension of Time to Respond to Complaint filed 8/5/15 [Dckt 7]; Order approving filed 8/6/15 [Dckt 8]

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendant Stephen Ciari Plumbing and Heating, Inc. received payments totaling \$32,392.74 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

The Plaintiff-Trustee also states as the Third Cause of Action an objection to the claim of Setphen Ciari Plumbing and Hearing, Inc. (Proof of Claim No. 86-1) in the Debtor's bankruptcy case.

SUMMARY OF ANSWER

In the Answer Defendant admits and denies specific allegations in the Complaint. The Answer also states twenty-one affirmative defenses.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1.

In the Answer, the Defendants admit the allegations of federal jurisdiction. Answer ¶ 4, Dckt. 9.

With respect to this Adversary Proceeding for the avoidance of a preference pursuant to 11 U.S.C. § 547, Defendants do not admit that this is a core proceeding, and also do not consent to the bankruptcy judge entering

order or final judgment.

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 Defendant having asserted that this adversary proceeding may not be a core matter and they did not consent to the bankruptcy judge entering orders and final judgment on non-core matters, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the a hearing on the core or non-core nature of the claims in this adversary proceeding shall be conducted at 10:30 a.m. on xxxxxxxxxx, 2015.

IT IS FURTHER ORDERED that Stephen Ciari Plumbing and Hearing, Inc., the Defendant, shall file and serve on or before xxxxxxxx, 2015, a brief addressing the contentions as to whether the claims for relief pursuant to 11 U.S.C. §§ 547 and 550 in the Complaint are core or non-core. On or before xxxxxxxx, 2015, the Plaintiff-Trustee shall file and serve his responsive brief on the issue of whether such claims are core or non-core. On or before xxxxxxxx, 2015, Defendant shall file a Reply, if any, to the Plaintiff-Trustee's brief.

9. [13-91315-E-7](#) APPLEGATE JOHNSTON, INC.
[15-9027](#)
MCGRANAHAN V. AJR DOOR
SERVICE, INC.

STATUS CONFERENCE RE: COMPLAINT
7-9-15 [[1](#)]

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: Douglas W. Allan

Adv. Filed: 7/9/15
Answer: 8/3/15

Nature of Action:
Recovery of money/property - preference

The hearing on the core or non-core status of this adversary proceeding will be conducted at 10:30 a.m. on ~~xxxxxxxxxxxx~~, 2015. The Status Conference is continued to that time and date.

Notes:

Plaintiff's Discovery Plan filed 8/24/15 [Dckt 11]

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendant AJR Door Service, Inc. received payments totaling \$31,950.00 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

SUMMARY OF ANSWER

In the Answer Defendant admits and denies specific allegations in the Complaint. The Answer also states seventeen affirmative defenses.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1.

In the Answer, the Defendants admit the allegations of federal jurisdiction. Answer ¶ 4, Dckt. 9.

With respect to this Adversary Proceeding for the avoidance of a preference pursuant to 11 U.S.C. § 547, Defendants do not admit that this is a core proceeding, and also do not consent to the bankruptcy judge entering order or final judgment.

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 Defendant having asserted that this adversary proceeding may not be a core matter and they did not consent to the bankruptcy judge entering orders and final judgment on non-core matters, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the a hearing on the core or non-core nature of the claims in this adversary proceeding shall be conducted at 10:30 a.m. on xxxxxxxxxx, 2015.

IT IS FURTHER ORDERED that AJR Door Service, Inc., the Defendant, shall file and serve on or before xxxxxxxx, 2015, a brief addressing the contentions as to whether the claims for relief pursuant to 11 U.S.C. §§ 547 and 550 in the Complaint are core or non-core. On or before xxxxxxxx, 2015, the Plaintiff-Trustee shall file and serve his responsive brief on the issue of whether such claims are core or non-core. On or before xxxxxxxx, 2015, Defendant shall file a Reply, if any, to the Plaintiff-Trustee's brief.

10. [13-91315](#)-E-7 APPLEGATE JOHNSTON, INC. STATUS CONFERENCE RE: COMPLAINT
[15-9028](#) 7-9-15 [[1](#)]
MCGRANAHAN V. ANNING JOHNSON
COMPANY

Final Ruling: No appearance at the September 3, 2015 Status Conference is required.

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: Brian A. Raynor

Adv. Filed: 7/9/15
Answer: none

Nature of Action:
Recovery of money/property - preference

The Status Conference is continued to 2:00 p.m. on October 1, 2015.

No
tes:

Stipulation for Extension of Time to Respond to Complaint and Order filed
7/26/15 [Dckt 7]

11. [13-91315](#)-E-7 APPLEGATE JOHNSTON, INC. STATUS CONFERENCE RE: COMPLAINT
[15-9029](#) 7-9-15 [[1](#)]
MCGRANAHAN V. STRUCK

Final Ruling: No appearance at the September 3, 2015 Status Conference is required.

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: James Struck

Adv. Filed: 7/9/15
Answer: none

Nature of Action:
Recovery of money/property - preference

The Status Conference is continued to 2:00 p.m. on October 1, 2015.

Notes:

Plaintiff's Discovery Plan filed 8/19/15 [Dckt 7]

Stipulation for Extension of Time to Respond to Complaint filed 8/19/15
[Dckt 8]; Order approving filed 8/21/15 [Dckt 9]

12. [13-91315](#)-E-7 APPLGATE JOHNSTON, INC.
[15-9031](#)
MCGRANAHAN V. FRYER ROOFING
CO., INC.

STATUS CONFERENCE RE: COMPLAINT
7-9-15 [[1](#)]

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: unknown

Adv. Filed: 7/9/15
Answer: none

Nature of Action:
Recovery of money/property - preference

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Notes:

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendant Fryer Roofing, Co. received payments totaling \$12,000.00 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

SUMMARY OF ANSWER

No Answer has been filed.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1.

13. [13-91315-E-7](#) APPLEGATE JOHNSTON, INC.
[15-9032](#)
MCGRANAHAN V. GRAYBAR ELECTRIC
COMPANY, INC.

STATUS CONFERENCE RE: AMENDED
COMPLAINT
7-13-15 [[7](#)]

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: unknown

Adv. Filed: 7/9/15
Answer: none

Amd. Cmplt. Filed: 7/13/15
Answer: none

Nature of Action:
Recovery of money/property - preference

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Notes:

SUMMARY OF AMENDED COMPLAINT

The Plaintiff-Trustee alleges that Defendant Fryer Roofing, Co. received payments totaling \$246,762.09 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

The Plaintiff Trustee also includes a Third Cause of Action objection to Proof of Claim No. 75-1 filed by Defendant.

SUMMARY OF ANSWER

No Answer has been filed.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1.

14. [13-91315](#)-E-7 APPLEGATE JOHNSTON, INC. STATUS CONFERENCE RE: AMENDED
[15-9033](#) COMPLAINT
 MCGRANAHAN V. SUNSTATE 7-13-15 [[7](#)]
 EQUIPMENT CO., LLC
 ADVERSARY PROCEEDING DISMISSED 8/14/15

Final Ruling: No appearance at the September 3, 2015 Status Conference is required.

The Adversary Proceeding having been dismissed, the Status Conference is removed from the Calendar.

Voluntary Dismiss filed August 8, 2015. Dckt. 11.

15. [13-91315](#)-E-7 APPLGATE JOHNSTON, INC. STATUS CONFERENCE RE: COMPLAINT
[15-9034](#) 7-9-15 [[1](#)]
MCGRANAHAN V. UNITED RENTALS
(NORTH AMERICA), INC.

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: J. Brian Urtonwski

Adv. Filed: 7/9/15
Answer: 8/5/15

Nature of Action:
Recovery of money/property - preference

Notes:

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendant United Rentals (North America), Inc. received payments totaling \$49,232.64 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

The Plaintiff-Trustee also states as the Third Cause of Action an objection to the claim of United Rentals (North America, Inc. (Proof of Claim No. 34-1) in the Debtor's bankruptcy case.

SUMMARY OF ANSWER

United Rentals (North America, Inc.) filed its Answer, admitting and denying specific allegations in the Complaint. The Answer also states two affirmative defenses.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1. In its answer, United Rentals (North America), Inc. admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 3, 4, Dckt. 13. 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 Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. The Plaintiff alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1. In its answer, United Rentals (North America), Inc. admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 3, 4, Dckt. 13. 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.
- b. Initial Disclosures shall be made on or before **October 5, 2015**.
- c. Expert Witnesses shall be disclosed on or before -----, 2015, and Expert Witness Reports, if any, shall be exchanged on or before -----, 2015.
- d. Discovery closes, including the hearing of all discovery motions, on -----, 2015.
- e. Dispositive Motions shall be heard before -----, 2015.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- p.m. on -----, 2015.

16. [13-91315-E-7](#) APPLEGATE JOHNSTON, INC. STATUS CONFERENCE RE: COMPLAINT
[15-9035](#) 7-9-15 [[1](#)]
MCGRANAHAN V. LGM CONSTRUCTION
CO., INC.

Final Ruling: No appearance at the September 3, 2015 Status Conference is required.

The Adversary Proceeding having been dismissed, the Status Conference is removed from the Calendar.

Voluntary Dismiss filed August 14, 2015. Dckt. 7.

17. [13-91315-E-7](#) APPLEGATE JOHNSTON, INC. STATUS CONFERENCE RE: COMPLAINT
[15-9036](#) 7-9-15 [[1](#)]
MCGRANAHAN V. FLOYD JOHNSTON
CONSTRUCTION CO., INC.

Plaintiff's Atty: Daniel L. Egan
Defendant's Atty: G. Bryan Pinion

Adv. Filed: 7/9/15
Answer: 8/24/15 [jury demanded]

Nature of Action:
Recovery of money/property - preference

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Notes:

SUMMARY OF COMPLAINT

The Plaintiff-Trustee alleges that Defendant Floyd Johnston Construction Co., Inc. received payments totaling \$9,711.70 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted that this transfer may be avoided pursuant to 11 U.S.C. § 547 and recovered by the estate as provided in 11 U.S.C. § 550.

SUMMARY OF ANSWER

Floyd Johnston Construction Co., Inc. filed its Answer, admitting and denying specific allegations in the Complaint. The Answer also states three affirmative defenses.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1. In its answer, United Rentals (North America), Inc. admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 1, Dckt. 7. 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 Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. The Plaintiff alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (E), and (O). Complaint ¶¶ 3, 4, Dckt. 1. In its answer, United Rentals (North America), Inc. admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 1, Dckt. 7. 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.
- b. Initial Disclosures shall be made on or before **October 5, 2015**.
- c. Expert Witnesses shall be disclosed on or before -----, 2015, and Expert Witness Reports, if any, shall be exchanged on or before -----, 2015.
- d. Discovery closes, including the hearing of all discovery motions, on -----, 2015.
- e. Dispositive Motions shall be heard before -----, 2015.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- p.m. on -----, 2015.

18. [15-90717](#)-E-11 PLASMA ENERGY PROCESSES, PRELIMINARY STATUS CONFERENCE
INC. RE: VOLUNTARY PETITION
7-22-15 [[1](#)]

Debtor's Atty: Michael R. Germain

Notes:

Status Report by Debtor in Possession filed 8/13/15 [Dckt 21]

Report of Trustee at 341 Meeting filed 8/26/15

19. [14-91633](#)-E-11 SOUZA PROPANE, INC. CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
12-17-14 [[1](#)]

Debtor's Atty: David C. Johnston

Notes:

Continued from 5/21/15

Operating Reports filed: 6/12/15; 7/17/15; 8/18/15

[FWP-5] Chapter 11 Trustee's Second Motion to (1) Extend the Time to Assume or Reject Nonresidential Real Property Leases and (2) Approve Modification of Lease Agreement filed 6/4/15 [Dckt 152]; Order granting filed 7/6/15 [Dckt 175]

[FWP-6] Motion of Felderstein Fitzgerald Willoughby & Pascuzzi LLP for First Interim Allowance of Attorneys' Fees and Reimbursement of Expenses filed 6/24/15 [Dckt 165]; Interim Order filed 7/26/15 [Dckt 226]

Chapter 11 Trustee's Application to Specially Set Hearings on Motions Related to the Sale of Substantially All of the Debtor's Business Assets Free and Clear of Liens, Claims, and Encumbrances filed 7/10/15 [Dckt 176]; Order granting filed 7/10/15 [Dckt 178]

Chapter 11 Trustee's Application for Order Changing Caption of Chapter 11 Case to Reflect Debtor's Pre-Petition Name Change filed 7/14/15 [Dckt 179]; Order granting filed 7/15/15 [Dckt 181]

[FWP-7] Chapter 11 Trustee's Motion for Entry of an Order Approving Sale of

Substantially All of the Debtor's Business Assets Free and Clear of Liens, Claims, and Encumbrances filed 7/16/15 [Dckt 183]; Order granting filed 8/17/15 [Dckt 276]

[FWP-8] Chapter 11 Trustee's Motion for Authority to Assume and Assign Certain Unexpired Leases and Executory Contracts in Connection with the Proposed Sale of Substantially All of the Debtor's Business Assets filed 7/16/15 [Dckt 188]; Order denying filed 7/23/15 [Dckt 219]

[FWP-9] Chapter 11 Trustee's Motion for Authority to Reject Certain Unexpired Leases and Executory Contracts in Connection with the Proposed Sale of Substantially All of the Debtor's Business Assets filed 7/16/15 [Dckt 198]; Order granting filed 8/17/15 [Dckt 275]

[FWP-10] Chapter 11 Trustee's Objection to Claim Nos. 8 and 9 Filed by Shasta Gas Propane, Inc. filed 8/17/15 [Dckt 269], set for hearing 10/1/15 at 10:30 a.m.

Chapter 11 Trustee's Case Status Report filed 8/26/15 [Dckt 281]

20. [12-93049-E-11](#) MARK/ANGELA GARCIA
MJH-13

CONTINUED PRE-EVIDENTIARY
HEARING RE: OBJECTION TO CLAIM
OF UNITED STATES FIRE INSURANCE
COMPANY, CLAIM NUMBER 19
2-9-15 [[509](#)]

Debtors' Atty: Mark J. Hannon
Creditor's Atty: Gregory M. Salvato; Gregory S. Day

Notes:

Scheduling Order-
Initial disclosures by 4/10/15
Disclose experts by 5/15/15
Exchange expert reports by 5/29/15
Close of discovery 7/31/15

Joint Status Report filed 8/12/15 [Dckt 661]

21. [12-93049](#)-E-11 MARK/ANGELA GARCIA
[15-9013](#)
GARCIA ET AL V. G STREET
INVESTMENTS, LLC. ET AL

CONTINUED STATUS CONFERENCE RE:
AMENDED COMPLAINT
5-30-15 [[14](#)]

Plaintiff's Atty: Mark J. Hannon
Defendant's Atty:
David M. Wiseblood [G Street Investments, LLC]
Unknown [Iain MacDonald]

Adv. Filed: 4/10/15
Answer: none

Amd. Cmplt. Filed: 5/30/15
Answer: none

Nature of Action:
Validity, priority or extent of lien or other interest in property
Injunctive relief -imposition of stay
Subordination of claim or interest

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Notes:

[DMW-2] Defendant G Street Investments, LLC's Motion to Dismiss So-Called Adversary Complaint filed 5/11/15 [Dckt 10]; Order dismissing as moot filed 6/15/15 [Dckt 21]

Joint Status Report filed 8/11/15 [Dckt 28]

22. [14-91454](#)-E-11 THE CIVIC PLAZA, LLC

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
10-22-14 [[1](#)]

Debtor's Atty: C. Anthony Hughes

Notes:

Continued from 7/23/15

[CAH-8] Debtor's Motion to Dismiss Case filed 8/6/15 [Dckt 8], set for hearing 9/3/15 at 10:30 a.m.

23. [15-90358](#)-E-11 LAWRENCE/JUDITH SOUZA

STATUS CONFERENCE RE: VOLUNTARY
PETITION
4-10-15 [[1](#)]

Debtors' Atty: David M. Meegan

Notes:

Continued from 5/21/15

Operating Reports filed: 6/3/15 [Apr]; 6/12/15 [May]; 7/14/15; 8/11/15

[AP-1] Motion for Relief from Automatic Stay [Fannie Mae] filed 6/23/15 [Dckt 74]; Order granting filed 7/24/15 [Dckt 95]

[MHK-5] Debtors' Motion for Authority to Sell Real Property [87 W. Canal Drive, Turlock, CA] filed 8/6/15 [Dckt 96], to be heard 9/3/15 at 10:30 a.m.

[MHK-6] Debtors' Motion for Authority to Sell Real Property [121 W. Syracuse Avenue, Turlock, CA] filed 8/6/15 [Dckt 103], to be heard 9/3/15 at 10:30 a.m.

[MHK-1] Debtors' Supplemental Motion to Continue to Use Cash Collateral filed 8/11/15 [Dckt 114], to be heard 9/3/15 at 10:30 a.m.

Status Report filed 8/18/15 [Dckt 119]

24. [13-91189](#)-E-11 MICHAEL/JUDY HOUSE

STATUS CONFERENCE RE: VOLUNTARY
PETITION
6-25-13 [[1](#)]

Debtors' Atty: Robert M. Yaspan

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Notes:

Continued from 2/12/15

Operating Reports filed: 3/12/15; 4/15/15; 5/22/15; 6/15/15; 6/22/15 [Amd. May]; 7/14/15; 8/13/15

[RMY-14] Order granting Motion for Approval of Stipulation to Extend Order on Motion to Authorize Use of Cash Collateral [through 6/30/15] and continuing hearing to 6/11/15 at 10:30 a.m. filed 3/10/15 [Dckt 269]

[RMY-15] [*dropped from calendar*] Debtors' Motion for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral; (B) Granting Adequate Protection to Pre-petition Secured Parties; and (C) Scheduling a Final Hearing filed 2/19/15 [Dckt 258]

[RMY-16] Debtors' Motion for Extension of Time to File Their Supplemental Schedule filed 5/22/15 [Dckt 273]; Order granting filed 6/15/15 [Dckt 298]

[RMY-17] Application to employ land surveyor filed 5/28/15 [Dckt 278]; Order granting filed 6/15/15 [Dckt 299]

[RMY-18] Debtors' Motion for Entry of Interim Orders (A) Authorizing the Continued Use of Cash Collateral; (B) Granting Adequate Protection to Pre-petition Secured Parties; and (C) Scheduling Further Hearings filed 5/28/15 [Dckt 284]; Order

[RMY-14] Order granting Motion for Approval of Stipulation to Extend Order on Motion to Authorize Use of Cash Collateral [through 10/31/15] and continuing hearing to 10/1/15 at 10:30 a.m. filed 6/15/15 [Dckt 300]

[RMY-19] Motion to Approve Compromise filed 7/2/15 [Dckt 302]; Order granting filed 8/24/15 [Dckt 320]

[RMY-11] Order that the Objection to Claim of Karen D. House is dismissed with prejudice filed 8/14/15 [Dckt 321]

Status Conference Report filed 8/20/15 [Dckt 313]