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In re:
JAMES LARRY SACCHERI and JUDITH ANN
SACCHERI,

Debtors.

Adv. No. 09-01273-B

Dept. F, Courtroom 13, Fresno,
California
Honorable Richard T. Ford

V.

INTRODUCTION

1

1 was filed by the defendant On July 12, 2010.

2 On April 6, 2011 the Court held a Final Pre-Trial hearing
3 and it bifurcated the issues relating to liability from the
4 damage claims. The fourth claim of the amended complaint for
5 relief against defendant, Judith A Saccheri, was dismissed. The
6 trial relating to liability was set for May 9 and May 10, 2011.
7 At the conclusion of the trial the matter was submitted to allow
8 for further Findings and Briefs. The matter relating to
9 liability is now ready for a decision.
10

11 JURISDICTION

12 The Court makes the following Findings of Fact and
13 Conclusions of Law pursuant to Federal Rule of Bankruptcy
14 Procedure 7052 and Federal Rule of Civil Procedure 52.
15 Jurisdiction exists pursuant to 28 U.S.C. 1334. Venue is proper
16 under 28 U.S.C. 1409(a). The District Court has generally
17 referred these matters to the Bankruptcy Court for hearing
18 pursuant to 28 U.S.C. 157(a) and the United States District
19 Court, Eastern District of California, General Orders 182 and
20 223. This is a core proceeding within the meaning of 28 U.S.C.
21 157(b) (2) A and I. The specific issues raised in the complaint
22 are 523 (a) (4) and 523 (a) (2) (A) .
23
24

25 APPEARANCES

26 Plaintiff appeared by its counsel, Jeff Reich, and the
27 defendant appeared in Pro Per.
28

FINDINGS OF FACT

1
2 1. On September 4, 2003, the defendant, as sole
3 incorporator of St. Lawrence Valley Dairy, Inc., a California
4 corporation, designated himself the sold director of the
5 corporation and the President, Secretary and Chief Financial
6 Officer of the Corporation.

7
8 2. Also on September 4, 2003, the defendant, as the sole
9 director of the corporation, signed a real estate purchase
10 contract to purchase an operating dairy farm in Chateaugay, New
11 York, including land, buildings, improvements, livestock,
12 machinery and equipment.

13 3. The defendant on September 4, 2003 also prepared a
14 document entitled "Action by Unanimous Written Consent of the
15 Sole Director" wherein he provided for the setting up of bank
16 accounts and locating the corporations principal executive office
17 to Fresno, California. Although there was no writing in the
18 corporation papers, including the minutes, the defendant provided
19 himself with a salary of \$30,000 per annum, payable \$2,500 per
20 month. The three other directors testified that they allowed
21 this salary although it was never discussed. On the other hand
22 the defendant testified that in October, 2004, the board of
23 directors and the defendant agreed to modify his compensation so
24 that he would receive a salary of \$52,000 per year as an
25 employee, he would receive \$30,000 as a management fee per year
26 as an independent contractor and he would accrue deferred
27
28

1 compensation of \$22,000 per year, plus he would continue to
2 receive \$250 toward his health insurance costs, and he would
3 continue to receive reimbursement for all his business and travel
4 expenses. This testimony by the defendant was not believable.
5 It was contrary to the testimony of all of the other board
6 members. There was nothing in writing in any of the books and
7 records that this agreement was ever made. In fact there was no
8 written evidence that he was entitled to any salary, health cost,
9 or reimbursement of expenses. It just happened and no one said
10 anything about it.
11

12 The defendant testified that from November 12, 2003 until
13 February 20, 2008 he sometimes received money from plaintiff in
14 excess of his compensation. He said the money received by
15 defendant was approved by the directors and completely accounted
16 for by defendant in the books and records as management fees,
17 expense reimbursements, dividends, loans or interest. The
18 monthly payment of \$250 for health insurance was shown on the
19 year end profit and loss statements for 2004, 2005 and 2006.
20 What the defendant fails to comprehend is that he was not
21 authorized to take money from the corporation that was not
22 authorized in advance by the Board. He attempted to account for
23 the funds by listing them in some of the books, somewhere, as
24 loans, dividends, interest etc. These acts of taking
25 unauthorized funds amounts to embezzlement, fraud, etc and it is
26 no defense to say that he listed them somewhere in the books and
27
28

1 records. That only helps to prove the amount of damages
2 plaintiff is entitled to recover back.

3 4. On November 24, 2003, Michael Montgomery became a member
4 of the board of directors of plaintiff with the defendant and
5 also became Secretary/Treasurer of plaintiff.

6 Mr Montgomery had been a client of the defendant for over 20
7 years and had been his friend. He trusted him completely and
8 anything that defendant wanted him to sign he would sign
9 it-without reading it.
10

11 5. On April 12, 2004, James Kozera, Joan Kozera, Michael
12 Montgomery and defendant were elected directors of plaintiff, and
13 defendant was elected President; James Kozera was elected Vice-
14 President and Michael Montgomery was elected as
15 Secretary/Treasurer. The Kozeras were also long time clients of
16 defendant.

17 6. Defendant James Saccheri acted as the president (CEO)
18 and as a member of the board of directors of plaintiff, St.
19 Lawrence Valley Dairy, from late 2003 until early 2008, when he
20 resigned both positions. During his tenure, defendant prepared
21 all of the financial books and records of the plaintiff and had
22 control of the checkbooks.
23

24 7. Each of the other directors, James Kozera, Joan Kozera,
25 and Mike Montgomery, testified that defendant did not have
26 authority to take money from the dairy for his personal use. The
27 Kozeras and Mr. Montgomery, all believable and convincing
28

1 witnesses, did not know defendant was using corporation money
2 for his personal uses. Defendant actively concealed the fact
3 that he was taking money from the dairy.

4 8. The defendant had a line item on the balance sheet that
5 he called North Country Trust or NC Trust. It supposedly held
6 assets of the dairy that had not been expended, but all it really
7 reflected was the money defendant had taken—his “loans.” From
8 late 2003 to the end of 2007 NC Trust had grown to over
9 \$400,000.00, reflecting the total sum defendant had taken from
10 the dairy without authorization or knowledge of the board.
11

12 9. Defendant misrepresented the financial condition of the
13 company and concealed that he was taking money. The balance
14 sheets for 2004 through 2007 materially misrepresent the
15 financial condition of the company. (Exhibits 17 - 20)

16 10. Defendant was an attorney for over 20 years. While he
17 resigned from the Bar with charges pending, as an experienced
18 attorney he would have known the importance of documenting
19 financial arrangements made with others. Yet, defendant did not
20 document any of the loans he allegedly received from plaintiff.
21 The money taken was not a loan and it was not authorized.
22

23 11. The defendant was also the trustee and drafter of the
24 Palmira Marando Trust. Palmiro Marando is Mr. Montgomery's
25 grandmother. Defendant borrowed \$81,525.00 from the plaintiff
26 to repay monies he had taken from the Palmira Marando Trust.
27 (Exhibit 51) Mr. and Mrs. Kozera and Mr. Montgomery testified
28

1 that they never authorized the Marando loans and never knew about
2 them.

3 12. Defendant was also the representative of the Trenhaile
4 Estate. Defendant alleged that he borrowed \$152,504.44 from
5 the plaintiff to repay monies he had taken from the Trenhaile
6 Estate. (Exhibit 51) Mr. and Mrs. Kozera and Mr. Montgomery
7 testified, and they were believed, that they never authorized
8 the Trenhaile loans and never knew about them. The defendant
9 testified that he got permission from the Board to borrow money
10 from the corporation to repay his obligation to Trenhaile.
11 However that testimony is not believable nor is there any
12 documentation to support his testimony regarding the
13 transactions involving Trenhaile or Palmira Marando Trust.
14

15 13. The Kozeras and Mr. Montgomery made clear that they would
16 only invest in a debt free corporation. In a prospectus, that the
17 defendant gave to the Kozeras, he emphasized that plaintiff would
18 be entirely investor funded. (Exhibit 4) There would be no loans
19 to finance the operation. The defendant had no source of income
20 or a full time job in the later part of 2003 to bring in an
21 income and the Defendant was desperate to buy and fund the
22 business. He then planned a new venture to buy a dairy in New
23 York, but he had no funds to do this. He got his friends and
24 clients involved. At this point he found that he was still
25 \$300,000 short.
26

27 The Kozeras each testified that they were on the board of
28

1 directors as of April, 2004, yet defendant never brought up the
2 subject of borrowing \$350,000.00 from Yankee Farm Credit with
3 them, either at a board meeting or otherwise. They made clear
4 that they opposed any borrowing to finance the startup of the
5 dairy. The authorization to get the loan was never authorized by
6 a board of directors' vote. It could not have been authorized
7 because the Kozeras would have opposed it.

8
9 14. Mike Montgomery signed a document that purported to be
10 documentation of a board of directors' resolution authorizing the
11 \$350,000.00 loan. Mr. Montgomery also signed the other papers
12 required by the lender for the loan, including a personal
13 guarantee. (Ex K, L,M,P,O,R,T,U,V) .

14 Mr. Montgomery testified that he was unaware of the loan,
15 despite having signed the documents. Mr. Montgomery explained
16 that he did not read legal papers. He referred them to his
17 lawyer, defendant, whom Mr. Montgomery absolutely trusted. Mr.
18 Montgomery would sign whatever papers defendant asked him to sign.
19 Mr. Montgomery explained that defendant was "family," over 40
20 years before Mr. Montgomery had been in defendant's wedding to his
21 grandmother's first cousin. Defendant had been Mr. Montgomery's
22 attorney for over 20 years and had been his friend. Montgomery
23 even signed documents, that he had not read, "under penalty of
24 perjury". Even though he may have committed a crime, which is
25 not relevant to these issues, he is completely believable about
26 signing and not reading ANY documents.
27
28

1 15. The Kozeras trusted the defendant. They had known him
2 from as far back as elementary school, and defendant had acted as
3 their attorney on various matters. In his roles as president and
4 director and the source of corporation financial records, the
5 members of the board of directors trusted defendant and relied on
6 him for his reports on the progress of the dairy. Although the
7 defendant denied that Mr. Montgomery didn't know about the loan,
8 the evidence is convincing that neither Montgomery or the Kozeras
9 knew about the loan.
10

11 16. Yankee Farm Credit required that the loan be secured by
12 a mortgage against the dairy property. (Exhibit M) This was a
13 significant long term debt and substantially exceeded any other
14 obligation of the plaintiff. Yet, nowhere on the financial
15 documents of the plaintiff does defendant ever show the Yankee
16 Farm Credit loan as a long term liability. The balance sheets of
17 the dairy from 2004 through 2007, prepared by Defendant,
18 materially misrepresented the financial condition of the company.
19 (Exhibits 17-20)
20

21 17. In late 2007, when Mr. Montgomery first learned about
22 the Yankee Farm Credit \$350,000 loan and that he had guaranteed
23 it, he called a meeting of the shareholders. Over the next
24 several weeks and several meetings of the shareholders and
25 directors, other revelations of what the defendant had been doing
26 came to light. Defendant first resigned as president and then,
27 later, resigned from the board of directors.
28

1 18. At the April 1, 2008, shareholder meeting, "He
2 [defendant] was asked about why he took money from the dairy
3 operations. His reply was that he was in debt from his declining
4 law practice 1995 to 2000. Then from 2000 to 2004 he accumulated
5 even more personal consumer debt." (Page 6, Exhibit 29)

6 19. After negotiations, defendant entered into a settlement
7 agreement with plaintiff. As part of the settlement, defendant
8 agreed to pay \$375,000.00 evidenced by two promissory notes (one
9 for \$299,000.00 and the other for \$76,000.00, the latter of which
10 was secured by a deed of trust on defendant's house). (Exhibits
11 10-13) Defendant paid on the notes for a few months but then
12 defaulted.
13

14 20. The minutes of the April 1, 2008, meeting reveal, "Jim
15 [defendant] states that he intends to pay back all money owed by
16 him to the dairy including the payment of the Yankee Farm Credit
17 loan (using the dairy as collateral) he obtained in 2004 in order
18 to "fund" his shares." (Exhibit 29)

19 21. Regarding the stock subscription agreements, the
20 documents establish that investors would not receive their stock
21 until they paid cash at \$100.00 per share. (Exhibit 33) The
22 defendant did not pay cash for the more than 3,000 shares he
23 received. He did, however, take over \$38,000.00 in dividends on
24 those shares. (Exhibits 45, 46)
25

26 From 2003 until 2008, the other directors were not aware that
27 defendant had not paid for his shares. There was no reference in
28

1 any of the financial documents that defendant had received his
2 shares on credit. The balance sheets of the plaintiff, all
3 prepared by defendant, totally misrepresented the financial
4 condition of plaintiff. (Exhibits 17-20)

5 22. As president, director and trustee of the funds of the
6 plaintiff, defendant was a fiduciary of the plaintiff and owed the
7 plaintiff fiduciary duties of loyalty and care.

8 23. Defendant committed both fraud and defalcation while so
9 acting as a fiduciary of plaintiff.

10 24. Defendant misrepresented and concealed that he was
11 taking funds from plaintiff for his own use.

12 25. Defendant knew that the funds belonged to plaintiff and
13 that he should ask for permission, first, to take them, but did
14 not do so, because he knew permission would be denied.

15 26. Defendant intended that plaintiff rely on his
16 misrepresentations and concealment. His false presentations of
17 plaintiff's financial condition through the balance sheets were
18 intended to lull the other members of the board of directors into
19 a false sense of confidence about the financial condition of
20 plaintiff.

21 27. The other directors did, in fact, justifiably rely on
22 defendant's misrepresentations and concealment. They had no
23 reason not to believe him. The financial documents all looked
24 good; those documents concealed the money defendant had taken from
25 plaintiff. Until his deceit was discovered, defendant never
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1 revealed that he was taking money from the plaintiff that he
2 should not be taking.

3 28. Plaintiff was clearly damaged by defendant's
4 misrepresentations and concealment. The money defendant took to
5 repay the money he took from the Marando Trust and the Trenhaile
6 Estate are examples of the damages. Plaintiff has not recovered
7 this money. Defendant's so-called loans from plaintiff have not
8 been repaid; defendant defaulted on his agreement to repay that
9 money.
10

11 29. These actions by defendant constituted fraud while
12 acting in a fiduciary capacity and also constituted clear breach
13 of his fiduciary duties to plaintiff. The obligations he incurred
14 thereby are not dischargeable under 11 U.S.C. §523(a)(4).

15 30. As president and as a director, defendant was an agent
16 and fiduciary of plaintiff. In those roles defendant had care,
17 custody and control over the finances of plaintiff, including the
18 financial books and records.

19 31. In that role, defendant took and converted to his own
20 use and benefit substantial funds belonging to plaintiff. He
21 concealed this fact from the other directors and shareholders.
22

23 32. These actions by defendant constituted embezzlement; the
24 obligations defendant incurred thereby are not dischargeable under
25 11 U.S.C. §523(a)(4).

26 33. Defendant obtained dividends from plaintiff through
27 false pretenses, false representations and fraud.
28

1 34. The stock subscription agreements and the understandings
2 of everyone participating was that no one would receive shares
3 until the stock was paid for. Defendant falsely represented to
4 everyone that he had purchased over \$300,000.00 of shares at
5 \$100.00 a share, when he, in fact, paid nothing for them.

6 35. Defendant took over \$38,000.00 in dividends to which he
7 was not entitled.

8 36. These actions by defendant constituted fraud and he
9 obtained funds by false pretenses; the obligations defendant
10 incurred thereby are not dischargeable under 11 U.S.C.
11 §523(a)(2)(A)..
12

13 37. Defendant misrepresented and concealed the \$350,000.00
14 Yankee Farm Credit loan from plaintiff. At the April 1, 2008,
15 shareholders' meeting, defendant stated: "Jim [defendant] states
16 that he intends to pay back all money owed by him to the dairy
17 including the payment of the Yankee Farm Credit loan (using the
18 dairy as collateral) he obtained in 2004 in order to 'fund' his
19 shares." (Exhibit 29) For that whole time, from 2004 to late
20 2007, defendant had been able to actively conceal and hide the
21 fact that he had arranged a loan against the dairy property and
22 had used that loan to cover what he should have invested in the
23 plaintiff to begin with.
24

25 38. Defendant knew that the other directors and shareholders
26 would not approve borrowing money in order to establish the dairy
27 business. Defendant also knew that the others would not approve
28

1 of him becoming a shareholder without investing the funds required
2 to purchase the shares.

3 39. Defendant intended that the others rely on his
4 misrepresentations and concealment.

5 40. The other directors did justifiably rely on his
6 misrepresentations and concealment. Defendant had to trick Mike
7 Montgomery into signing necessary documents for the loan. But,
8 that was not hard. Mr. Montgomery would sign whatever documents
9 the defendant - his attorney, friend, and family member--would
10 give him to sign, generally without reading them. Mr. Montgomery
11 was the first director to discover that anything was amiss, when
12 he called the meeting in late 2007 to discuss what he had
13 learned--that the dairy had a large loan against it, which he and
14 defendant had signed for.

15 41. Plaintiff was damaged by defendant's machinations.
16 Thousands of dollars of interest had to be paid on the Yankee Farm
17 Credit loan. Money that could have been spent on other things or
18 returned to the shareholders had to be expended on the principal
19 of the loan.
20

21 42. These actions by defendant constituted fraud and breach
22 of fiduciary duty, and embezzlement; Defendant's actions were
23 willful and malicious; the obligations defendant incurred thereby
24 are not dischargeable under 11 U.S.C. §523(a)(2) & (4) .
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CONCLUSIONS OF LAW

1. In re Littleton, 942 F.2d 551, 555 (9th Cir. 1991)

provides:

"Clearly, a debt can be nondischargeable for embezzlement under 523(a)(4) without the existence of a fiduciary relationship."

Under federal law, embezzlement, in the context of nondischargeability, has often been defined as "the fraudulent appropriation of property by a person to whom such property has been entrusted or into whose hands it has lawfully come." Moore v. United States, 160 U.S. 268, 269, 40 L. Ed. 422, 16 S. Ct. 294 (1885). Embezzlement, thus, requires three elements: "(1) property rightfully in the possession of a nonowner; (2) nonowner's appropriation of the property to a use other than which [it] was entrusted; and (3) circumstances indicating fraud." In re Hoffman, 70 Bankr. 155, 162 (Bankr. W.D. Ark. 1986) In re Schultz, 46 Bankr. 880, 889 (Bankr. D. Nev. 1985).

The Defendant does not dispute the findings in the Littleton case but he does attempt to add to the decision by emphasizing at page 555 that there must be a "an intent to defraud". The Court refers the defendant to number (3) above wherein it provides for circumstances indicating fraud. Fraud requires intent. So the defendant's statement is without merit.

2. Otto v. Niles (In re Niles), 106 F.3d 1456, 1462 (9TH Cir. 1997) states:

If the principal proves or the agent admits that the agent

1 has come into possession of money or other thing for the
2 principal, the agent has the burden of proving that he has
3 paid it to the principal or disposed of it in accordance with
4 his authority.

5 Therefore, based upon the Findings of the Court, the
6 defendant has committed conversion of Plaintiff's property in that
7 the subject property (money and personal property) did rightfully
8 come into the possession of Defendant, but then he appropriated it
9 to his own use by spending it or paying his bills and obligations
10 which was not known or authorized by the Plaintiffs Officers/Board
11 members/stock holders, and it was done with a fraudulent intent.

12 3. 11 U.S.C. 523(a)(4) reads:

13 "(a) A discharge. . . . does not discharge an individual
14 debtor from any debt...."

15 "(4) for fraud or defalcation while acting in a
16 fiduciary capacity,....."

17 The meaning of "fiduciary" in the context of 523(a)(4) is an
18 issue of federal law. In re Short, 818 F.2d 693, 695 (9th cir.
19 1987); In re Baird, 114 B. R. 198, 202 (9th Cir BAP 1990).
20 Further, "the broad, general definition of fiduciary-a
21 relationship involving confidence, trust and good faith-is
22 inapplicable in the dischargeability context." Ragsdale v.
23 Haller, 780 F. 2d 794, 796 (9th Cir. 1986). Section 523 (a)(4)
24 excludes constructive, resulting or implied trusts. A fiduciary
25 relationship for purposes of 523 (a)(4) exists only where there is
26 an express or statutory trust. In re Aubrey, 1111 B.R. 268, 275
27 (9th Cir. BAP 1990); see also In re Pedrazzini, 644 F. 2d 756, 758
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1 n.2 (9th Cir. 1981); "although the concept of 'fiduciary' in the
2 dischargeability context is a narrowly defined question of federal
3 law, courts look to state law to determine whether the requisite
4 trust relationship exists." In re Baird, 114 B.R. at 202; citing
5 Ragsdale, 780 F.2d at 796-97. "If state law creates an express
6 or technical trust relationship between the debtor and another
7 party and imposes trustee status upon the debtor, the debtor will
8 be a fiduciary under 523 (a) (4)." Baird, 114 B. R. At 202. See
9 also In re Cantrell, 329 F. 3rd 1119, 1125 (9th Cir. 2003)

10
11 Certain relationships are generally recognized as involving
12 fiduciary obligations within the meaning of section 523(a) (4).
13 "The president of a private corporation entrusted with funds for a
14 particular purpose"— Moreno v. Ashworth (In re Moreno), 892 F. 2d
15 417 (5th Cir. 1990).

16 Based on the courts findings above, the defendant is a
17 fiduciary. The next question then is has there been a fraud or
18 defalcation and whether it was committed in relation to the
19 debtor's responsibilities. Bugna v. McArthur (In re Bugna), 33
20 F.3rd 1054 (9th Cir. 1994).

21
22 Defalcation is defined as the misappropriation of trust funds
23 or money held in a fiduciary capacity. In re Lewis, 97 F 3rd 1186
24 (9th Circ 1996). Vizcaino v. Microsoft Corp., 97 F3d 1187 (9th
25 Cir. 1996) It includes the innocent default of a fiduciary who
26 fails to account fully for money received. In re Short, 818 F 2d
27 at 694. To the extent In re Martin, 161 B.R. 672 (9th Cir. BAP
28

1 1993) conflicts with this standard, it is overruled. An
2 individual may be liable for defalcation without having the intent
3 to defraud.

4 Finally, turning to fraud, section 523(a)(4) requires actual
5 fraud as defined by state law. See Roussos v. Michaelide, 251
6 B.R. 86,94 (BAP 9th Cir. 2000). In California, the plaintiff must
7 show the following to prove actual fraud; (1) misrepresentation,
8 concealment or non-disclosure of a material fact; (2) made
9 consciously by the defendant; (3) with the intent and purpose to
10 deceive or induce the plaintiff; (4) justifiable reliance by the
11 plaintiff; and (5) a resulting damage. Odorizzi v. Bloomfield
12 School, 246 Cal App 2d 123, 128 (1966).

14 Clearly the evidence elicited in this case fulfills the five
15 requirements set for above.

16 4. The plaintiff's third claim is for "Money and Goods
17 Obtained by False Pretenses, False Representation or Actual
18 Fraud". The 9th Circuit has outlined the five elements which a
19 creditor must prove in order to prevent a debtor' discharge from
20 entering under 11 U. S. C. 523(a)(2)(A); (1) the debtor makes the
21 representations; (2) that at the time he knew they were false;
22 (3) that he made the representations with the intent and purpose
23 of deceiving the creditor; (4) that the creditor relied on such
24 representation; (5) that the creditor sustained the allege loss
25 and damage as a proximate result. In re Kirsch, 973 F. 2d 1454,
26 1457 (9th Cir., 1992). Each element must be established by a
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1 preponderance of evidence. In re Slyman, 234 F.3rd 1081,1086 (9th
2 Cir. 2000). The creditors reliance must be "justified". In re
3 Kirsh, 973 F. 2d 1454, 1460 (9th Cir. 1992).

4 These five elements have all been proven by plaintiff by a
5 preponderance of evidence. The money the defendant took was
6 disguised as loans. The defendant took dividends although he had
7 not paid for his shares as was required. The plaintiffs were
8 required to pay interest and principal on the \$350,000 Yankee
9 Farm Credit loan that defendant hid from plaintiff.

10
11 5. As to the new claims Plaintiff is attempting to make
12 pursuant to 11 U.S.C. 523(a)(6) in his proposed Findings of Fact,
13 this claim was not set forth in the Third Amended Complaint, nor
14 was that claim discussed or provided for in the Final Pre-Trial
15 Order. Likewise there was no consent by Defendant to pursue that
16 claim at trial. In reviewing plaintiffs proposed findings at page
17 one, line 26through 28 no such claim was made. Therefore the
18 court will not entertain a request pursuant to 11 U.S.C. 523(a)(6)
19 for a Judgment on those grounds.

20 CONCLUSION

21
22 The Court finds that Defendant is liable for a debt in a
23 unspecified amount to Plaintiff and that the debt is not
24 dischargeable pursuant to 11 U. S. C. 523(a)(2)(A) and 11 U.S.C.
25 523(a)(4).

26
27 The Court sets the date of July 11, 2011, at 11:30 a.m. in
28

1 Department F, Courtroom 13 for a further status conference hearing
2 to set a discovery cut off date, if requested, and to fix a trial
3 date to hear the matters regarding damages.

4
5 DATED: June 29, 2011.

6 /S/
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RICHARD T. FORD, Judge
9 United States Bankruptcy Court
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