

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX COUNTY

AYER DISTRICT COURT
DOCKET NUMBER 0748CV0568

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|-------------------------------------|---|
| TROY CAPITAL, LLC, ASSIGNEE OF EASY |) |
| LOAN CORPORATION, ASSIGNEE OF GE |) |
| CAPITAL FINANCIAL INC. |) |
| Plaintiff |) |
| |) |
| Vs |) |
| |) |
| |) |
| FRANK P. KARKOTA, JR |) |
| Defendant |) |
| |) |
| |) |
| |) |

DEFENDANT’S OBJECTION TO PLAINTIFF’S REQUEST FOR SUMMARY JUDGMENT

The defendant objects to summary judgment because there is evidence of perjury and criminal conduct in this case. Full discovery should be conducted to determine the scope of this perjury.

1. Attached are two exhibits which were both signed under penalty of perjury and contradict each other. Exhibit 1 is a sworn statement by the plaintiff. Paragraph 14 states “The last payment on the Account of \$97.00 was received on or about January 24, 2003.” Paragraph 18 states “There are no further credits or setoffs due to the Defendant.” Exhibit 2 is a sworn statement by Attorney George Nader to the Bankruptcy Court. On the fifth page of that exhibit marked as “EXHIBIT B – FINAL ACCOUNT – Schedule of Disbursements” there is a report of \$983.95 made to the GE Capital Corporation account.
2. The document by Attorney George Nader was sent to the plaintiff’s attorney on November 13, 2007. Thus the plaintiff has had ample time to contact GE Capital Corporation and to determine its authenticity and verify whether this payment was actually made. The plaintiff also had the opportunity to determine from GE Capital Corporation that this was not a clerical error. He has clearly stated in Exhibit 1 that the payment was never made through the Bankruptcy Court.
3. On March 1, 2006 the defendant filed a complaint, with the Massachusetts Board of Bar Overseers, against Attorney George Nader charging that he embezzled funds intended for GE Capital Corporation and committed perjury to cover his crimes. On December 1, 2006 the BBO concluded its investigation and ruled that

Attorney George Nader had done nothing illegal or unethical. Exhibit 3 is the final letter from the BBO. The entire complaint and the response were submitted to this Court as an exhibit on January 30, 2008.

4. The defendant submitted an interrogatory to the plaintiff to determine the cause of the discrepancy between the plaintiff's statements and the documents from the bankruptcy. The plaintiff refused to answer these questions. Exhibit 4 is the defendant's interrogatory and the plaintiff's response.
5. The defendant requested documents from the BBO regarding their investigation. The BBO refused to supply those documents. On January 30, 2008 the defendant asked the court to compel discovery from the BBO and again the request was refused.
6. GE Capital Corporation never filed objections with the Bankruptcy Court. Since the purported investigation by the BBO occurred between March 1, 2006 and December 1, 2006, GE Capital Corporation should have been aware of the discrepancy before they sold the account to the plaintiff.
7. The defendant DID NOT file for bankruptcy because he was unwilling or unable to pay the creditors. The defendant was behind on withholding taxes and was dealing with an extremely hostile IRS agent. The defendant entrusted \$20,000 to his Attorneys George Nader and Edmund Polubinski to pay the IRS in full. The attorneys claimed that the IRS refused payment and was in the process of seizing the business. They stated that bankruptcy was the only alternative to IRS seizure. The attorneys never examined the company books, business plan, pending orders or any aspect of the business. They took approximately \$8000 of the funds, intended for the IRS, for their legal fees, retainers and filing fees. They were advised that most (97%) of the company debt was in the name of, or cosigned by, the defendant. The Bankruptcy Court ordered that payment be withheld from ALL creditors. In order to pay the attorneys' legal fees, assets had to be liquidated, making the company no longer viable. For every dollar that the creditors lost, the defendant lost ten dollars. The defendant's career has been irreparably damaged by the bankruptcy and subsequent legal actions.
8. Attorney George Nader was aware that most of the company debt was in the name of, or cosigned by, the defendant. Both the Bankruptcy judge and the US Trustee were also aware that many accounts were in the name of, or cosigned by, the defendant. When the complaint was filed with the BBO, they, too, were advised that most of the debt was in the name of, or cosigned by, the defendant. Attorney George Nader, the Bankruptcy Judge, the US Trustee and the BBO found this to be irrelevant and they all considered the bankruptcy to be ethical, legal and proper.

This case has exposed serious legal misconduct. It appears that the plaintiff has committed perjury in an attempt to collect an account that was discharged in a

bankruptcy. The other alternative is that the defendant's attorney, George Nader, perpetrated a fraudulent bankruptcy in which he embezzled funds and committed perjury to conceal his crime. Then the Massachusetts Board of Bar Overseers obstructed the investigation of the crime to prevent Attorney Nader from being prosecuted.

I urge the court to wait until all of the evidence is presented before making a judgment.

Frank P. Karkota, Jr.
Pro Se
17 Cowdry Hill Road
Westford, MA 01886
978 392-0091

April 10, 2008

CERTIFICATE OF SERVICE

I, Frank P. Karkota, Jr. pro se, hereby certify that I have, this April 10, 2008, handed a copy of the above request for documents to the Plaintiff's attorney, Brian Aylward, 5 Essex Green Drive, Peabody, MA 01960, or his agent.

Frank P. Karkota, Jr. Pro Se