UNITED STATE BANKRUPTCY COURT
DISTRICT OF MINNESOTA

Bky. Case No. 03-41501

In re:

SCOTT ALLEN OLIN,

Debtor.

POLK COUNTY FAIR SOCIETY, INC.

Plaintiff,

Adv. Case No. 03-4145

-v-

SCOTT ALLEN OLIN,

Defendant.

AMENDED NOTICE OF HEARING AND MOTION UPON APPLICATION FOR ENTRY OF DEFAULT JUDGMENT

TO: Scott Allen Olin, Debtor
11800 Eldorado Street Northwest
Apartment 310
Coon Rapids, Minnesota 55433

Habbo Fokkena, U.S. Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, Minnesota 55415

Becky A. Moshier, Attorney for Debtor
2233 University Avenue West, Suite 420
St. Paul, Minnesota 55114

1. Plaintiff, Polk County Fair Society, Inc., moves the Court for the relief requested below and gives Notice of Hearing.

2. The Court will hold a hearing on this Motion at 2:30 p.m. on Wednesday, August 18, 2004, in Courtroom No. 7 West, at U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415.

3. Any response to this Motion must be filed and delivered not

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later than August 13, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays) or August 9, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§157 and 1334 Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 was filed on March 1, 2003. The case is now pending in this Court.

5. This Motion arises under Fed. R. Bankr. P. 7055. This Motion is filed under Fed. R. Bankr. P. 9014 and Local Rule 7055-1. Movant requests entry of a default judgment against the Defendant, Scott Allen Olin who has failed to file an Answer or otherwise appear in this matter, and that the time allowed by law and specified in the Summons for the Defendant to answer has elapsed.

WHEREFORE, Polk County Fair Society, Inc. moves the Court for an Order granting a default judgment and such other relief as may be just and equitable.

Dated: 2-23-04

Timothy T. Sempf, #217025
NOVITZKE, GUST, SEMPF & WHITLEY
Attorneys for Plaintiff
314 Keller Ave. No., Ste. 399
Amery, WI 54001 715-268-6130

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AFFIDAVIT OF MERIT

SCOTT ALLEN OLIN,

Defendant.

STATE OF WISCONSIN)
) ss.
COUNTY OF POLK)

I, Shirley Ganter, being first duly sworn, deposes and states:

1. That I am the duly elected secretary of the Polk County Fair Society, Inc.

2. That on the 23rd day of February, 2004, a Summons and Complaint was served upon the Attorney for Debtor, Becky A. Moshier, by way of Certified Mail, #7002 0510 0000 0336 0476.

3. That on the 23rd day of February, 2004, a Summons and Complaint was served upon the Debtor, Scott Allen Olin, by way of Certified Mail, #7002 0510 0000 0336 0452.

4. That on the 23rd day of February, 2004, a Summons and Complaint was served upon the Trustee, Habbo Fokkena by way of Certified Mail, #7002 0510 0000 0336 0469.

5. That an Affidavit of Service was filed with this court on or about February 23rd, 2004.

6. More than 30 days since the date of the Summons has lapsed with no response from Defendant, Scott Allen Olin or his attorney.

7. To the best of my knowledge, information and belief, the full name and address of Defendant is as follows: Scott Allen Olin, 11800 Eldorado Street Northwest, Apartment 310, Coon Rapids, Minnesota 55433. This is the address contained within the Defendant's Chapter 7 Petition.

8. To the best of my knowledge, information and belief, Defendant, Scott Allen Olin is not now, nor has been at any time relevant hereto, a member of the military, an infant or of noncompetent status.

Shirley Ganter

Shirley Ganter

Subscribed and sworn to before me this 22nd day of July, 2008.

NELEETA L. MAURER NOTARY PUBLIC WISCONSIN

Neleeta L. Maurer
Notary Public, Polk County, WI
My commission expires 11/18/07.

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SCOTT ALLEN OLIN,

Defendant.

This matter came before the Court upon the Polk County Fair Society, Inc.'s Amended Motion for Entry of Default Judgment in Adversary Proceeding Number 03-4145. Based upon the pleadings, file and record herein, and pursuant to local Bankruptcy Rule 7055-1 and 9021-1, this Court makes the following **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER FOR JUDGMENT:**

1. Plaintiff, Polk County Fair Society, Inc., is an agency with the State of Wisconsin with an address of 1349 - 85th Avenue, Amery, Wisconsin 54001.

2. Defendant, Scott Allen Olin is a Debtor in the above-captioned Chapter 7 bankruptcy and is formerly the treasurer of the Polk County Fair Society, Inc. and at all times relevant to this action, has been a resident of the State of Minnesota.

3. On or about June 14, 1993, a complaint was filed against the debtor named herein by the State of Wisconsin for a violation of Wis. Stat. §943.20(1)(b), Theft-Business Setting (>$2500).

4. That said violation alleged that the debtor named herein had embezzled from the Polk County Fair Society, Inc. for which the debtor was serving as a duly elected treasurer.

5. That on or about March 28, 1994, the Court found the debtor named herein guilty of embezzling an amount of $33,731.62 from the Polk County Fair Society, Inc a class C felony in violation of Wis. Stat. §943.20(1)(b), Theft-Business Setting (>$2500).

6. That as a condition of the debtor's probation, he was to repay the Polk County Fair Society, Inc. an amount of $33,731.62 during the course of five (5) years.

7. That on or about May 15, 2002, the State of Wisconsin, by and through the Honorable James R. Erickson, Circuit Judge of Polk County, Wisconsin, did sign a Judgement for Restitution against the debtor named herein for the amount of $33,731.62.

8. That on or about May 24, 2002, the Clerk of the Circuit Court for Polk County, State of Wisconsin, did docket a Judgment for Money against the debtor named herein.

9. That on March 1, 2003, the defendant filed Chapter 7 Bankruptcy, in the United States Bankruptcy Court, District of Minnesota.

10. That on the 7th of April, 2003, a letter was written to the U.S. Bankruptcy Court objecting to the discharge of the defendant's debt to the Polk County Fair Society.

11. That on the 18th of February, 2004, a Summons was issued by the U.S. Bankruptcy Court and provided to me.

12. That on the 23rd of February, 2004, I served said Summons and a Complaint upon the Attorney for Debtor, Becky A. Moshier, by way of Certified Mail, #7002 0510 0000 0336 0476.

13. That on the 23rd of February, 2004, I served said Summons and Complaint upon the Debtor, Scott Allen Olin, by way of Certified Mail, #7002 0510 0000 0336 0452.

14. That on the 23rd of February, 2004, I served said Summons and Complaint upon the Trustee, Habbo Fokkena, by way of Certified Mail, #7002 0510 0000 0336 0469.

15. That at no time did either the defendant or anyone acting on his behalf serve or file and answer to the aforementioned Summons and Complaint.

16. To date, the plaintiff has incurred court fees in the amount of $150.00.

CONCLUSIONS OF LAW

1. This case arose under 11 U.S.C. §523(a)(7). This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(1). This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §1334.

2. The entire amount of the original indebtedness owed by debtor to the Polk County Fair Society, Inc., represents money, property, and/or credit obtained through a criminal action and is therefore non-dischargeable under §523(a)(7) pursuant to Kelly v Robinson, 479 U.S. 36, 107 S.Ct. 353 (1986).

3. That pursuant to Federal Rules of Bankruptcy Procedure §7012, Debtor had 30 days in which to answer the Summons and Complaint of the plaintiff, however, he did not do so. The debt, therefore, is non-dischargeable.

4. Based upon the foregoing, the Debtor's total debt to the Polk County Fair Society, Inc., in the amount of $33,731.62 is non-dischargeable pursuant to 11. U.S.C. §423(a)(7).

ORDER FOR ENTRY OF JUDGMENT

1. That judgment shall be entered in favor of the Polk County Fair Society, Inc. and against the Debtor in the total amount of $33,731.62.

2. That the Debtor's debt to the Polk County Fair Society, Inc. in the amount of $33,731.62 is excepted from discharge pursuant to 11 U.S.C. §523(a)(7)

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: _____ BY THE COURT:

_____
Nancy C. Dreher
United States Bankruptcy Judge

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UNSWORN DECLARATION FOR PROOF OF SERVICE

Timothy T. Sempf, an attorney with Novitzke, Gust, Sempf & Whitley, Attorneys at Law, licensed to practice law in this Court, with office address of 314 Keller Avenue North, Suite 399, Amery, Wisconsin 54001, declares that on the 26th day of July, 2004, I served the annexed Notice of Hearing and Motion Upon Application for Entry of Default Judgment with required documents on the parties referred to below by mailing to each of them a copy thereof by enclosing the same in an envelope with first class postage prepaid, and depositing same in the post office at Amery, Wisconsin, addressed to each of them as follows:

Scott Allen Olin, Debtor
11800 Eldorado St NW
Apartment 310
Coon Rapids, MN 55433

Becky A. Moshier,
Attorney for Debtor
2233 University Ave W Ste 420
St. Paul, MN 55114

Habbo Fokkena, U.S. Trustee
1015 U.S. Courthouse
300 South Fourth St
Minneapolis, MN 55415

and I declare under penalty of perjury, that the foregoing Unsworn Declaration for Proof of Service consisting of 1 page is true and correct.

Dated: 7-23-04

Timothy T. Sempf