

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Barbara E. King Gohl

Case No. 04-43134

Chapter 7

Debtor.

David Gohl,

Plaintiff,

Adv. No. _____

vs.

COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBT

Barbara E. King Gohl,

Defendant.

David Gohl, plaintiff, states the following:

1. Plaintiff is a resident of the State of Minnesota and the former spouse of Debtor Barbara King Gohl.
2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157(a) and 1334, and Local Rule 1070-1.
3. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(1).
4. Debtor and Plaintiff were divorced pursuant to a Judgment and Decree entered on April 30, 2002 in Scott County, Minnesota, District Court File No. 2001-775. At the time of the divorce, Debtor owned and operated a business called Secure Products Distributing, Inc., d/b/a

Video Securities Distributing (“Secure Products”). During the marriage, Plaintiff had personally guaranteed certain of Secure Products debts and obligations.

5. Paragraph 10 of the Scott County Judgment and Decree provides, in part:

[Debtor] is hereby awarded all right, title, interest and equity in and to the business known as Secured Products Distributing, Inc., d/b/a Video Securities Distributing, a Minnesota corporation. [Debtor] shall indemnify and hold [Plaintiff] harmless from any liability or obligation whatsoever regarding said business.

6. The Scott County Court reserved jurisdiction to redistribute property for any losses incurred by one or the other party resulting from any default on payments or obligations outlined in the decree.

7. Secure Products and Debtor failed to pay the debts and obligations of Secure Products. In 2003, Plaintiff was sued individually by two separate creditors of Secure Products due to the personal guarantees he had executed on behalf of Secure Products.

8. Telex Communications, Inc. (“Telex”), a creditor of Secure Products, entered judgment against Plaintiff individually in the amount of \$11,811.11. Plaintiff settled with Telex by paying the sum of \$7,000 as and for full and final payment and the judgment has been satisfied in full.

9. Associated Bank Minnesota, NA (“Associated Bank”), another creditor of Secure Products, commenced suit against Plaintiff and Debtor individually to recover for defaults in the obligations of Secure Products. The action is entitled Associated Bank Minnesota, N.A. vs. Secure Products Distributing, Inc, David Gohl and Barbara Gohl, Hennepin County District Court No. CT-03-18449.

10. Plaintiff had personally guaranteed two loans that Secure Products had borrowed from Associated Bank. As of March 12, 2004, Associated Bank claimed it was owed the sum

of \$26,693.82 plus per diem interest of \$4.74756 from March 12, 2004 on one loan and the sum of \$35,165.18 plus per diem interest of \$5.97352 from March 12, 2004 on the other loan, together with attorneys' fees and collection costs. Associated Bank also had a claim against Debtor for conversion. Associated Bank's claims against Debtor are subject to the automatic stay provisions of 11 U.S.C. §362(a).

11. By Order dated May 26, 2004, the Hennepin County District Court judgment was entered against Debtor and in favor of Plaintiff for any sums found owing to Associated Bank from Plaintiff. Judgment was also entered in favor of Plaintiff and against Debtor in the amount of \$6,126.20 as and for attorneys fees and costs incurred in connection with the proceeding.
12. Following motion by Plaintiff, the Scott County District Court, the Honorable William E. Macklin presiding, ordered payment into court of the proceeds from the sale of the debtor's home to insure payment of Secure Products' debts.
13. By Order dated August 18, 2004, the Bankruptcy Court avoided the judicial lien created by the Scott County District Court.
14. The debts owed to Plaintiff by debtor pursuant to her indemnity obligations set forth in the Scott County Judgment and Decree are nondischargeable under 11 U.S.C. § 523(a)(15) as they are within the purview of the discharge exception for debts incurred by the debtor in connection with a divorce decree and are not for alimony, maintenance or support.

Wherefore, Plaintiff prays that this Court determine that the debts owed to him by Debtor which were incurred in connection with the property settlement provisions of the divorce decree entered by the Scott County District Court be excepted from discharge in this bankruptcy proceeding.

Respectfully Submitted:

Dated: August 30, 2004

SANDRA K. KENSY

A handwritten signature in black ink, reading "Sandra K. Kensy", written over a horizontal line.

Sandra K. Kensy, # 225198
Attorney for David G. Gohl
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