

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In Re:

Samuel Akpan Inyang,
Debtor.

BKY 02-32791

Samuel Akpan Inyang,
Plaintiff,

ADV

vs.

ADVERSARY COMPLAINT

U.S. Department of Education and Educational
Credit Management Corporation,
Defendants.

SAMUEL AKPAN INYANG, for his Complaint against the Defendants named above, states and alleges as follows:

1. This is an action to determine whether the claims held by the Defendants are dischargeable under 11 U.S.C. §523(a)(8).
2. Debtor filed his Chapter 7 case on August 6, 2002.
3. Each of the Defendants named in the above caption claim to be holders of student loans owed by Plaintiff, which loans were in existence before August 6, 2002.
4. This Court has jurisdiction over this proceeding under 28 U.S.C. §1334(a) and 28 U.S.C. §157(a). This is a core proceeding.
5. This case is properly venued in this Court under 28 U.S.C. §§1408-1409.
6. Debtor filed his Chapter 7 case on August 6, 2002.

7. Debtor is a 55 year old man, having been born November 11, 1948 in Nigeria. He has lived in the United States since 1984.

8. On August 6, 2002, Debtor was employed as a Home Aide for Clay Enterprises, Inc. His gross monthly income, including overtime, was \$1,860.00. He has been unemployed since August 15, 2003, due to his worsening medical condition. He has now been awarded \$790.00 per month SSDI and approximately \$130.00 per month in food stamps. The social security award letter is attached. Debtor has no other income and no savings.

9. The claim of THE U.S. DEPARTMENT OF EDUCATION is for the balance due on seven student loans:

| <u>DATE</u> | <u>ORIGINAL BALANCE</u> |
|----------------|-------------------------|
| February, 1988 | \$5,506.00 |
| February, 1989 | \$5,475.00 |
| April, 1989 | \$1,733.00 |
| November, 1989 | \$7,500.00 |
| May, 1990 | \$2,000.00 |
| October, 1990 | \$3,020.00 |
| October, 1990 | \$1,932.00 |

10. The claim of EDUCATIONAL CREDIT MANAGEMENT CORPORATION is for the balance due on five student loans:

| <u>DATE</u> | <u>ORIGINAL BALANCE</u> |
|----------------|-------------------------|
| February, 1992 | \$3,623.00 |
| August, 1992 | \$7,500.00 |
| October, 1993 | \$7,500.00 |
| October, 1994 | \$8,500.00 |
| October, 1995 | \$8,500.00 |

PAYMENTS ON DEFENDANTS' LOANS WOULD BE UNCONSCIONABLE

11. Requiring Debtor to repay \$62,789.00 plus additional interest in the amount of \$63,000 would be unconscionable because of the following facts:

- a) Debtor contracted for the student loans owed to Defendants while pursuing a degree as a business student in Baltimore, Maryland;
- b) In 1987, Debtor suffered two gunshot wounds to his head and was hospitalized with severe injuries;
- c) After Debtor was wounded, he was not able to walk appropriately, could not coordinate his thoughts and was left aphasic and totally non-functional;
- d) As a result to his gunshot wounds, Debtor suffered permanent loss of mobility and aphasia and is only marginally functional and his verbal fluency has been severely limited;
- e) In the years from 1987 through 1992, Debtor developed severe hypertensive cardiomyopathy;
- f) As a result of his wounds and severe cardiac disorder, Debtor is, and has been for more than a decade, unable to pursue a career and his physical condition, inability to concentrate and lack of endurance all severely limit Debtor's earning capacity;
- g) Debtor's disability has been recognized by the Social Security Administration by an award of \$790.00 per month SSDI. He also receives approximately \$130.00 per month in food stamps.

h) Debtor cannot afford to repay any part of these loans in that Debtor's present necessary expenditures equal or exceed his income;

WHEREFORE, Debtor/Plaintiff requests that the Court grant him the following relief:

A. Declare that payment of any part of the claims of the Defendants would impose an undue hardship on Debtor within the meaning of 11 U.S.C. §523(a)(8);

B. Determine that Debtor's loans owed to the Defendants and each of them are dischargeable;

C. Award Debtor his costs and disbursements against the Defendants and each of them;

D. Award Debtor such other and further relief as may be just and equitable.

Dated:

JAMES WHELPLEY & ASSOC., CHTD.

/e/ James C. Whelpley
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Social Security Administration Retirement, Survivors and Disability Insurance

Notice of Award

Mid-America Program Service Center
601 East Twelfth Street
Kansas City, Missouri 64106-2859
Date: July 5, 2004
Claim Number: 464-55-4273HA

BETTY HARMON FOR
SAMUEL AKPAN INYANG
P O BOX 28262
OAKDALE, MN 55128

SAMUEL A INYANG is entitled to monthly disability benefits beginning February 2004.

We have chosen you to be his representative payee. Therefore, you will receive his checks and use the money for his needs.

The Date You Became Disabled

We found that SAMUEL A INYANG became disabled under our rules on August 15, 2003.

However, he has to be disabled for 5 full calendar months in a row before he can be entitled to benefits. For these reasons, his first month of entitlement to benefits is February 2004.

What We Will Pay And When

- You will receive \$790.00 for July 2004 around August 25, 2004.
- After that you will receive \$790.00 on or about the fourth Wednesday of each month.
- Later in this letter, we will show you how we figured these amounts.

The day we make payments on this record is based on SAMUEL A INYANG's date of birth.

Enclosure(s):
Pub 05-10076
Pub 05-10153
Pub 05-10058

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