

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Boyd N. Boland

Civil Action No. 08-cv-00418-BNB-MEH

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROHIT SETHI,  
CHARLES ELROY VANCURA, a/k/a CHUCK VANCURA, and  
JAMES BRYAN VANCURA,

Defendants.

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**ORDER**

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This matter arises on the United States' **Amended Motion for Order Entering Consent Judgments By Plaintiff United States** [Doc. # 72, filed 4/13/2012] (the "Motion"). The Motion [Doc. # 72] is GRANTED with respect to defendants Rohit Sethi and James Bryan VanCura, and the Clerk of the Court is directed to enter Consent Judgments against them. The Motion [Doc. # 72] is DENIED without prejudice as against Charles Elroy VanCura to allow the United States an opportunity to conduct a further investigation.

The United States brought suit against the defendants to collect \$1,310,000 owing on a defaulted loan. A settlement of the action was reached on September 2, 2012. Pursuant to the Stipulated Settlement Agreement [Doc. # 67] filed with the court:

16. Defendant Rohit Sethi, Defendant Charles VanCura, and Defendant James VanCura, jointly and severally, agree to pay the total sum of Five Hundred Twenty-Five Thousand Dollars (\$525,000) ("Settlement Amount") to Plaintiff United States in full and total satisfaction of the full amount due and owing on principal

and interest as alleged in Plaintiff United States' Complaint.

\* \* \*

18. The Settlement Amount shall be paid as follows:

A. The sum of One Hundred Twenty-Five Thousand Dollars (\$125,000) shall be paid on or before September 30, 2012;

B. The sum of Four Hundred Thousand Dollars (\$400,000) shall be paid on or before December 31, 2011. . . .

Stipulated Settlement Agreement [Doc. # 67] at ¶¶16, 18.

It is undisputed that the defendants made the initial payment of \$125,000 on September 30, 2012. Motion [Doc. # 72] at ¶8. It also is undisputed that the defendants did not make the \$400,000 payment due on or before December 31, 2011. Response [Doc. # 73] at ¶2.

The Stipulated Settlement Agreement provides, under these circumstances:

19. If Defendants have timely paid the One Hundred Twenty-Five Thousand Dollars (\$125,000) referred to in paragraph 18A, but are unable or unwilling to timely pay to Plaintiff United States the Four Hundred Thousand Dollars (\$400,000) referred to in paragraph 18B, each Defendant agrees to enter into a payment plan for the purpose of paying to Plaintiff United States the principal due and owing, *i.e.*, One Million Sixty Thousand Dollars (\$1,060,000) less any amount paid by any Defendant pursuant to this Stipulated Settlement Agreement.

20. If Defendants are unable or unwilling to timely pay to Plaintiff United States the Four Hundred Thousand Dollars (\$400,000) referred to in paragraph 18B, each Defendant shall:

A. On or before November 30, 2011, notify Plaintiff United States, in writing, of their inability or unwillingness to pay Plaintiff United States the Four Hundred Thousand Dollars (\$400,000);

B. On or before December 31, 2011, provide Plaintiff United States a full and complete copy of his 2010 personal federal and state tax returns and, if self-employed, federal and state business tax returns;

C. On or before December 31, 2011, provide Plaintiff United States with a full and complete IRS Form 433A reflecting his current financial information;

\* \* \*

24. In the event that an individual Defendant fails to fully and completely comply with the terms and conditions referred to in paragraphs 18 through 23 of this Stipulated Settlement Agreement, Plaintiff United States, at its discretion, shall file and pursue the Consent Judgment against the individual Defendant who failed to comply with the terms and conditions of this Stipulated Settlement Agreement and to execute on the Consent Judgment against said individual Defendant.

Stipulated Settlement Agreement [Doc. # 67] at ¶¶19-20 and 24.

It is not disputed that the defendants failed to comply with the requirements of paragraphs 18 through 23 of the Stipulated Settlement Agreement. Motion [Doc. # 72] at ¶10; Response [Doc. # 73] at ¶2 (indicating that defense counsel “requested additional time in order to provide the appropriate documentation,” without any indication that the request was granted).

The plaintiff is the United States of America, and jurisdiction exists in this court pursuant to 28 U.S.C. § 1345. Consequently, I have jurisdiction to enforce the Stipulated Settlement Agreement. See Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375, 382 (1994)(noting that a federal district court has jurisdiction to enforce a settlement agreement where “there is some independent basis for federal jurisdiction”).

It is undisputed that the defendants have breached the Stipulated Settlement Agreement by failing to make the \$400,000 payment due on or before December 31, 2011, and by failing to follow the notice and payment plan provisions contained in paragraphs 18 through 23. The United States, consequently, is pursuing Consent Judgments against the defendants, as is its right under the terms of the parties’ agreement. Stipulated Settlement Agreement [Doc. # 67] at ¶24.

There is an allegation, essentially on information and belief, that defendant Charles Elroy VanCura has “filed for Chapter 7 bankruptcy in Los Angeles, California. . . .” Response [Doc. # 73] at p. 3. The United States acknowledges that Charles Elroy VanCura may be entitled to the protections of the automatic bankruptcy stay found at 11 U.S.C. § 362. As to him, I will deny the Motion without prejudice to allow the United States an opportunity to investigate the matter and to proceed as may be appropriate after that investigation.

IT IS ORDERED:

(1) The Motion [Doc. # 72] is GRANTED IN PART and DENIED WITHOUT PREJUDICE IN PART as follows:

- GRANTED with respect to defendants Rohit Sethi and James Bryan VanCura;
- DENIED without prejudice with respect to defendant Charles Elroy VanCura.

(2) The Consent Judgment in the form of Exhibit 1 attached hereto shall be entered against Rohit Sethi.

(3) The Consent Judgment in the form of Exhibit 3 attached hereto shall be entered against James Bryan VanCura.

(4) The Clerk of the Court is directed to enter judgment accordingly.

Dated May 4, 2012.

BY THE COURT:

  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00418-BNB-MEH

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROHIT SETHI,  
CHARLES ELROY VANCURA,  
JAMES BRYAN VANCURA,

Defendants.

---

**EXHIBIT 1**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00418-BNB-MEH

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROHIT SETHI,  
CHARLES ELROY VANCURA,  
JAMES BRYAN VANCURA,

Defendants.

---

**CONSENT JUDGMENT**

---

Pursuant to the Complaint filed by Plaintiff against Defendant Rohit Sethi, Defendant Charles Elroy VanCura, and Defendant James Bryan VanCura, and pursuant to the Stipulated Settlement Agreement entered in this civil action,

**IT IS HEREBY ORDERED THAT:**

**AS TO COUNT 1** of the Complaint, Defendant Rohit Sethi is indebted to Plaintiff United States of America in the sum of One Million Three Hundred Ten Thousand Dollars (\$1,310,000). **JUDGMENT IS ENTERED HEREIN AS TO COUNT 1** in favor of Plaintiff United States and against Defendant Rohit Sethi in the total amount of One Million Three Hundred Ten Thousand Dollars for all of which Plaintiff may have its execution.

**IT IS FURTHER ORDERED** that post-judgment interest shall accrue at the current legal rate per annum, which rate was in effect on the date of entry of Judgment

herein, and will be compounded annually until paid in full pursuant to 28 U.S.C. Section 1961(b), as amended.

IT IS FURTHER ORDERED that the promissory note(s) on which the Complaint in this action was based, having been tendered to the Court, be merged into this Judgment, and so noted hereon; and

DONE AT DENVER, COLORADO, this 28<sup>th</sup> day of Sept., 2010.

BY THE COURT:

*Boyd Boland* 5/4/2012  
~~UNITED STATES DISTRICT JUDGE~~

BOYD N. BOLAND  
United States Magistrate Judge

APPROVED AND ACCEPTED:

*Robert Sethi*  
ROHIT SETHI

Dated:

DAVID M. GAUETTE  
United States Attorney

*[Signature]*

By: STEPHEN D. TAYLOR  
Assistant United States Attorney  
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Denver, Colorado 80202

Telephone: (303) 454-0100  
Fax: (303) 454-0408  
E-mail: \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00418-BNB-MEH

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROHIT SETHI,  
CHARLES ELROY VANCURA,  
JAMES BRYAN VANCURA,

Defendants.

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**EXHIBIT 3**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00418-BNB-MEH

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROHIT SETHI,  
CHARLES ELROY VANCURA,  
JAMES BRYAN VANCURA,

Defendants.

---

**CONSENT JUDGMENT**

---

Pursuant to the Complaint filed by Plaintiff against Defendant Rohit Sethi, Defendant Charles Elroy VanCura, and Defendant James Bryan VanCura, and pursuant to the Stipulated Settlement Agreement entered in this civil action,

**IT IS HEREBY ORDERED THAT:**

**AS TO COUNT 3** of the Complaint, Defendant James Bryan VanCura is indebted to Plaintiff United States of America in the sum of One Million Three Hundred Ten Thousand Dollars (\$1,310,000). **JUDGMENT IS ENTERED HEREIN AS TO COUNT 1** in favor of Plaintiff United States and against Defendant James Bryan VanCura in the total amount of One Million Three Hundred Ten Thousand Dollars for all of which Plaintiff may have its execution.

**IT IS FURTHER ORDERED** that post-judgment interest shall accrue at the current legal rate per annum, which rate was in effect on the date of entry of Judgment

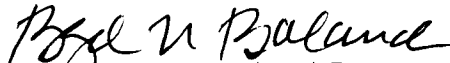
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herein, and will be compounded annually until paid in full pursuant to 28 U.S.C. Section 1961(b), as amended.

IT IS FURTHER ORDERED that the promissory note(s) on which the Complaint in this action was based, having been tendered to the Court, be merged into this Judgment, and so noted hereon; and

DONE AT DENVER, COLORADO, this 4<sup>th</sup> day of May, 2017.

BY THE COURT:

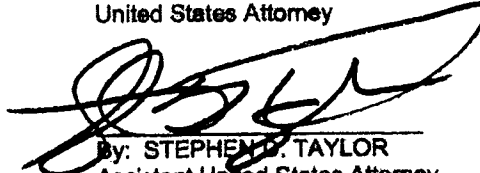
  
~~UNITED STATES DISTRICT JUDGE~~  
**BOYD N. BOLAND**  
United States Magistrate Judge

APPROVED AND ACCEPTED:

  
JAMES BRYAN VANCURA

Dated: 10/7/2010

DAVID M. GAOUCETTE  
United States Attorney

  
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