

12-46 Richard Diamond v. Terry Vickery

BAP Appeal No. 12-46 Docket No. 18-2 Filed: 07/20/2012 Pa

United States  
Bankruptcy Appellate Panel  
of the Tenth Circuit  
A True Copy  
Blaine F. Bates, Clerk of Court

**General Docket**

Attested by:



**U.S. Bankruptcy Appellate Panel of the Tenth Circuit**

**Bankruptcy Appellate Panel Docket #:** 12-46

Richard Diamond v. Terry Vickery

**Appeal From:** United States Bankruptcy Court for the District of Colorado

**Fee Status:** Fee Paid

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

**Jul 20, 2012**

GREGORY C. LANGHAM, CLERK

**Docketed:** 06/20/2012

**Termed:** 07/20/2012

**Case Type Information:**

- 1) Bankruptcy Appeal
- 2) Chapter 7 Non-Business-Adv
- 3) Final Order

**Originating Court Information:**

**District:** 1082-1 : 10-41118

**Trial Judge:** A. Bruce Campbell, U.S. Bankruptcy Judge

**Date Filed:** 12/14/2010

**Date Order/Judgment:**

06/05/2012

**Date NOA Filed:**

06/19/2012

**Date Rec'd BAP:**

06/19/2012

**Adversary Proceeding:** 11-01164

**Prior Cases:**

None

**Current Cases:**

	<b>Lead</b>	<b>Member</b>	<b>Start</b>	<b>End</b>
Cross-appeal	12-46	<u>12-51</u>	07/06/2012	

**Panel Assignment:** Not available

RICHARD K. DIAMOND, as Chapter 7 Trustee for IVDS  
Interactive Acquisition Partners, A Florida General  
Partnership

Plaintiff – Appellee

Ruba M. Forno, Attorney  
Direct: 303-399-3000  
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Fax: 303-399-2650  
[COR LD NTC Retained]  
Silver & DeBoskey, P.C.  
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1801 York St.  
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Steven William Kelly, Esq., Attorney  
Direct: 303-399-3000  
Email: skelly@s-d.com  
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[COR LD NTC Retained]  
Silver & DeBoskey, P.C.  
Firm: 303-399-3000  
1801 York St.  
Denver, CO 80206

v.

TERRY KENNETH VICKERY, officer, director,  
shareholder TKV Consulting, member Johnstown-Milliken  
LLC, member 820 Welch St. LLC, member 3040 Zuni LLC,  
member West 29th St. LLC, member 3051-3063 Zuni LLC  
Defendant – Appellant

John G. Nelson, Attorney  
Direct: 720-359-1615  
Email: nelsonlawoffice@aol.com  
Fax: 303-260-6401  
[COR LD NTC Retained]  
Law Offices Of John G. Nelson  
600 17th St., Ste. 2800 S  
Denver, CO 80202

IN RE TERRY KENNETH VICKERY, officer, director,  
shareholder TKV Consulting, member Johnstown-Milliken  
LLC, member 820 Welch St. LLC, member 3040 Zuni  
LLC, member West 29th St. LLC, member 3051-3063 Zuni  
LLC,

BAP No. CO-12-046

Debtor.

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Bankr. No. 10-41118

Adv. No. 11-01164

Chapter 7

RICHARD K. DIAMOND, as Chapter 7 Trustee for IVDS  
Interactive Acquisition Partners, A Florida General  
Partnership,

Plaintiff – Appellee,

v.

TERRY KENNETH VICKERY,

Defendant – Appellant.

- 07/19/2012 17 ELECTION: Appellee's election to have appeal heard in district court filed by Cross-Appellant Richard K. Diamond in 12-51. Election is Untimely. Attached Certificate of Service lists parties as served on 07/19/2012. [72752] [12-51, 12-46] (Kelly, Steven)
- 07/19/2012 16 ELECTION: Appellee's election to have appeal heard in district court filed by Appellee Richard K. Diamond in 12-46. Election is Timely. Attached Certificate of Service lists parties as served on 07/19/2012. [72750] [12-46, 12-51] (Kelly, Steven)
- 07/09/2012 15 ATTORNEY: Attorney Terminated: Attorney Joe L. Silver for Appellee Richard K. Diamond in 12-46 and Cross-Appellant Richard K. Diamond in 12-51 pursuant to Notice [14]. [72617] [12-46, 12-51]
- 07/06/2012 14 NOTICE: Notice re: service of Court documents. Attorney Joe L. Silver for Cross-Appellant Richard K. Diamond in 12-51, Attorney Joe L. Silver for Appellee Richard K. Diamond in 12-46 has been removed from the case for purposes of service for failure to file an entry of appearance. See 10th Cir. BAP ECF - 16. [72616] [12-51, 12-46]
- 07/05/2012 10 APPEARANCE: Entry/Notice of Appearance filed by Attorney Ruba M. Forno for Appellee Richard K. Diamond on behalf of Appellee Richard K. Diamond. Attached Certificate of Service lists parties as served on 07/05/2012. [72598] (Forno, Ruba)
- 07/05/2012 9 DOCUMENT: One Document (Combined Entry of Appearance, Statement of Interested Parties, and Statement Regarding Oral Argument pursuant to 10th Cir. BAP L.R. 8001-4(d)) filed by Appellee Richard K. Diamond. Oral argument is not requested. Attached Certificate of Service lists parties as served on 07/05/2012. [72597] (Kelly, Steven)
- 07/05/2012 8 This entry has been removed from the docket at e-filers request. [72596] (Kelly, Steven)
- 07/03/2012 11 APPEAL: Bankruptcy appeal filed. BAP case number: CO-12-051 (lead appeal CO-12-046). Appeal filed in the Bankruptcy Court on 07/03/2012. Notification of appeal transmitted from the Bankruptcy Court by NEF; record downloaded from the Bankruptcy Court docket. [Entry date: 07/05/2012]. [72600] Statement of Issues due to clerk of bankruptcy court by 07/17/2012 for Cross-Appellant Richard K. Diamond. [12-51, 12-46]
- 07/02/2012 6 MEDIATION: Notice of Mediation Conference filed by the Tenth Circuit Mediation Office. Case is referred for mediation conferencing; conference scheduled for 07/13/2012 at 10:00 am, MDT. Please review the attached Notice for additional information. [72563].
- 07/01/2012 5 DOCUMENT: One Document (Combined Entry of Appearance, Statement of Interested Parties, and Statement Regarding Oral Argument pursuant to 10th Cir. BAP L.R. 8001-4(d)) filed by Appellant Terry Kenneth Vickery. Oral argument is requested. Attached Certificate of Service lists parties as served on 07/01/2012. [72561] (Nelson, John)
- 06/20/2012 2 NOTICE: Notice that appeal has been docketed with appeal caption. Entry of Appearance due 07/05/2012 for Appellee Richard K. Diamond and Appellant Terry Kenneth Vickery. Statement of Interested Parties due 07/05/2012 for Appellee Richard K. Diamond and Appellant Terry Kenneth Vickery. Statement Regarding Oral Argument due 07/05/2012 for Appellee Richard K. Diamond and Appellant Terry Kenneth Vickery. Appellant's brief due 08/06/2012 for Appellant Terry Kenneth Vickery. All parties served 06/20/2012. Entry Date: 06/20/2012. [72478]
- 06/19/2012 1 APPEAL: Bankruptcy appeal filed. BAP case number: CO-12-046. Appeal filed in the Bankruptcy Court on 06/19/2012. Notification of appeal transmitted from the Bankruptcy Court by NEF; record downloaded from the Bankruptcy Court docket. [Entry date: 06/20/2012]. [72477] Designation of Record due to clerk of bankruptcy court by 07/03/2012 for Appellant Terry Kenneth Vickery. Statement of Issues due to clerk of bankruptcy court by 07/03/2012 for Appellant Terry Kenneth Vickery.

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE TENTH CIRCUIT**

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IN RE TERRY KENNETH VICKERY,  
officer, director, shareholder TKV  
Consulting, member Johnstown-Milliken  
LLC, member 820 Welch St. LLC, member  
3040 Zuni LLC, member West 29<sup>th</sup> St.  
LLC, member 3051-3063 Zuni LLC,  
  
Debtor.

BAP No. CO-12-051

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RICHARD K. DIAMOND, as Chapter 7  
Trustee for IVDS Interactive Acquisition  
Partners, A Florida General Partnership,

Bankr. No. 10-41118  
Adv. No. 11-01164  
Chapter 7

Plaintiff - Appellee -  
Cross-Appellant,

v.

TERRY KENNETH VICKERY,

Defendant – Appellant –  
Cross-Appellee.

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**REQUEST FOR LEAVE TO FILE STATEMENT OF ELECTION TO HAVE  
CROSS-APPEAL HEARD BY THE U.S. DISTRICT COURT**

Plaintiff - Appellee - Cross-Appellant Richard K. Diamond, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners (“Plaintiff”), by his attorneys, Silver & DeBoskey, A Professional Corporation, hereby requests leave to file his Statement of Election to Have Cross-Appeal Heard by the U.S. District Court.

1. Plaintiff elects, under 28 U.S.C. § 158(c)(1), to have his cross-appeal from the Findings of Fact, Conclusions, and Ruling and the accompanying Judgment of United States Bankruptcy Judge A. Bruce Campbell holding in favor of Debtor on Plaintiff’s claims under 11 U.S.C. §§ 523(a)(2)(A) and 523(a)(4) entered in the adversary proceeding on June 5, 2012 to be heard by the United States District Court. This separate statement of election is made pursuant to Federal Rules of Bankruptcy Procedure, Rule 8001(e).

2. Plaintiff timely filed his Statement of Election to Have Appeal Heard by the U.S. District Court with the Bankruptcy Appellate Panel.

3. Plaintiff's counsel inadvertently understood that the Statement of Election on the cross-appeal was to be filed at the same time as the Statement of Election on the original appeal.

4. In order that the cross-appeal may be heard together with the appeal, Plaintiff requests leave to file this Statement of Election to Have Cross-Appeal Heard by the U.S. District Court. The issues involved in the appeal and cross-appeal are integrated and arise out of the same facts and proceedings. Judicial economy and efficiency will be best served by permitting the appeal and cross-appeal to be heard together.

WHEREFORE, Plaintiff requests leave to file this Statement of Election in order that the appeal and cross-appeal may both be heard together by the U.S. District Court.

Dated: July 19, 2012

Respectfully submitted,

SILVER & DeBOSKEY,  
A Professional Corporation

By: /s/ Steven W. Kelly  
Steven W. Kelly (#16370)  
1801 York Street  
Denver, Colorado 80206  
Phone: 303-399-3000  
Fax: 303-399-2650  
[skelly@s-d.com](mailto:skelly@s-d.com)

ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of July, 2012, a true and correct copy of the foregoing **REQUEST FOR LEAVE TO FILE STATEMENT OF ELECTION TO HAVE CROSS-APPEAL HEARD BY THE U.S. DISTRICT COURT** was served electronically on the following:

John G. Nelson, Esq.  
Law Office of John G. Nelson  
1624 Market Street, Suite 202  
Denver, Colorado 80202

/s/ Linda Andolsek \_\_\_\_\_

D53310

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE TENTH CIRCUIT**

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IN RE TERRY KENNETH VICKERY,  
Officer, director, shareholder TKV  
Consulting, member Johnstown-Milliken  
LLC, member 820 Welch St. LLC, member  
3040 Zuni LLC, member West 29<sup>th</sup> St.  
LLC, member 3051-3063 Zuni LLC,  
  
Debtor.

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BAP No. CO-12-046  
BAP No. CO-12-051

RICHARD K. DIAMOND, as Chapter 7  
Trustee for IVDS Interactive Acquisition  
Partners, A Florida General Partnership,  
  
Plaintiff - Appellee,

Bankr. No. 10-41118  
Adv. No. 11-01164  
Chapter 7

v.

TERRY KENNETH VICKERY,  
  
Defendant - Appellant.

---

**STATEMENT OF ELECTION TO HAVE APPEAL HEARD  
BY THE U.S. DISTRICT COURT**

Plaintiff Richard K. Diamond, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, by his attorneys, Silver & DeBoskey, A Professional Corporation, hereby elects, under 28 U.S.C. § 158(c)(1), to have Debtor's appeal from the Findings of Fact, Conclusions, and Ruling and the accompanying Judgment of United States Bankruptcy Judge A. Bruce Campbell entered in this adversary proceeding on June 5, 2012 to be heard by the United States District Court. This separate statement of election is made pursuant to Federal Rules of Bankruptcy Procedure, Rule 8001(e).



Dated: July 19, 2012

Respectfully submitted,  
SILVER & DeBOSKEY,  
A Professional Corporation

By: /s/ Steven W. Kelly  
Steven W. Kelly (#16370)  
1801 York Street  
Denver, Colorado 80206  
Phone: 303-399-3000  
Fax: 303-399-2650  
[skelly@s-d.com](mailto:skelly@s-d.com)

ATTORNEYS FOR PLAINTIFF-APPELLEE

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of July, 2012, a true and correct copy of the foregoing **STATEMENT OF ELECTION TO HAVE APPEAL HEARD BY THE U.S. DISTRICT COURT** was served electronically on the following:

John G. Nelson, Esq.  
Law Office of John G. Nelson  
1624 Market Street, Suite 202  
Denver, Colorado 80202

/s/ Linda Andolsek

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE TENTH CIRCUIT**

---

IN RE TERRY KENNETH VICKERY,  
officer, director, shareholder TKV  
Consulting, member Johnstown-Milliken  
LLC, member 820 Welch St. LLC, member  
3040 Zuni LLC, member West 29th St.  
LLC, member 3051-3063 Zuni LLC,

Debtor.

---

RICHARD K. DIAMOND, as Chapter 7  
Trustee for IVDS Interactive Acquisition  
Partners, A Florida General Partnership,

Plaintiff - Appellee - Cross-  
Appellant,

v.

TERRY KENNETH VICKERY, officer,  
director, shareholder TKV Consulting,  
member Johnstown-Milliken LLC, member  
820 Welch St. LLC, member 3040 Zuni  
LLC, member West 29th St. LLC, member  
3051-3063 Zuni LLC,

Defendant - Appellant - Cross-  
Appellee.

BAP No. CO-12-051  
BAP No. CO-12-046

Bankr. No. 10-41118  
Adv. No. 11-01164  
Chapter 7

NOTICE OF REMOVAL

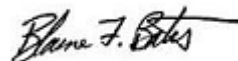
July 6, 2012

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Joe L. Silver, counsel for Richard Diamond, has been removed from the case for purposes of service by the Court for failure to file an entry of appearance. 10th Cir. BAP L.R.

8001-4(a); 10th Cir. BAP ECF - 16. Accordingly, the Court will no longer serve Mr. Silver with any case related documents.

For the Panel:



Blaine F. Bates  
Clerk of Court

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE TENTH CIRCUIT**

<p>IN RE TERRY KENNETH VICKERY, Officer, director, shareholder TKV Consulting, member Johnstown-Milliken LLC, member 820 Welch St. LLC, member 3040 Zuni LLC, member West 29<sup>th</sup> St. LLC, member 3051-3063 Zuni LLC,</p> <p style="text-align: center;">Debtor.</p>	<p style="text-align: right;">BAP No. CO-12-046</p>
<p>RICHARD K. DIAMOND, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, A Florida General Partnership,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>TERRY KENNETH VICKERY,</p> <p style="text-align: center;">Defendant - Appellant.</p>	<p style="text-align: right;">Bankr. No. 10-41118 Adv. No. 11-01164 Chapter 7</p>

**ENTRY OF APPEARANCE**

Pursuant to 10th Circuit BAP L.R. 8001-4(a), Ruba M. Forno hereby appears as counsel for Richard K. Diamond, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, A Florida General Partnership, Plaintiff-Appellee in the subject case.

Dated this 5<sup>th</sup> day of July, 2012.

SILVER & DEBOSKEY,  
A Professional corporation

By           /s/ Ruba M. Forno            
Ruba M. Forno (#38335)  
1801 York Street  
Denver, Colorado 80206  
Telephone: 303-399-3000  
Facsimile: 303-399-2650  
[fornor@s-d.com](mailto:fornor@s-d.com)

### CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2012, a copy of the above and foregoing Entry of Appearance was served electronically on:

John G. Nelson, Esq.  
Law Office of John G. Nelson  
1624 Market Street, Ste. 202  
Denver, CO 80202

/s/ Linda Andolsek

D41101

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE TENTH CIRCUIT**

<p>IN RE TERRY KENNETH VICKERY, Officer, director, shareholder TKV Consulting, member Johnstown-Milliken LLC, member 820 Welch St. LLC, member 3040 Zuni LLC, member West 29<sup>th</sup> St. LLC, member 3051-3063 Zuni LLC,  Debtor.</p>	<p>BAP No. CO-12-046</p>
<p>RICHARD K. DIAMOND, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, A Florida General Partnership,  Plaintiff - Appellee,  v.  TERRY KENNETH VICKERY,  Defendant - Appellant.</p>	<p>Bankr. No. 10-41118 Adv. No. 11-01164 Chapter 7</p>

**ENTRY OF APPEARANCE, STATEMENT OF INTERESTED PARTIES  
AND STATEMENT REGARDING ORAL ARGUMENT  
PURSUANT TO 10<sup>TH</sup> CIR. BAP L.R. 8001-4(d)**

**Entry of Appearance**

Pursuant to 10th Circuit BAP L.R. 8001-4(a), Steven W. Kelly hereby appears as counsel for Richard K. Diamond, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, A Florida General Partnership, Plaintiff-Appellee in the subject case.

**Statement of Interested Parties**

Pursuant to 10th Cir. BAP L.R. 8001-4(b), Plaintiff-Appellee hereby submits the following:

1. Names of interested parties who are not listed on the notice of appeal (8001-4(b)(1)):

\_\_\_\_\_

There are no such parties.

2. Name of parent corporation and any publicly held corporation that owns, directly or indirectly, 10% or more of the equity interest in a party that is a corporation (8001-4(b)(2)):

\_\_\_\_\_

There are no such parent or publicly held corporations.

3. Names of prior attorneys who have not yet entered an appearance in this Court (8001-4(b)(3)):

\_\_\_\_\_

There are no such prior attorneys.

**Statement Regarding Oral Argument**

Pursuant to 10th Cir. BAP L.R. 8001-4(c), Plaintiff-Appellee hereby submits the following statement regarding oral argument:

Oral Argument is REQUESTED.

Oral argument is NOT REQUESTED.

Dated this 3<sup>rd</sup> day of July, 2012.

SILVER & DEBOSKEY,  
A Professional corporation

By /s/ Steven W. Kelly  
Steven W. Kelly (#16370)  
1801 York Street  
Denver, Colorado 80206  
Telephone: 303-399-3000  
Facsimile: 303-399-2650  
[skelly@s-d.com](mailto:skelly@s-d.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on July 5, 2012, a copy of the above and foregoing Entry of Appearance, Statement of Interested Parties and Statement Regarding Oral Argument Pursuant to 10<sup>th</sup> Cir. BAP L.R. 8001-4(d) was served electronically on:

John G. Nelson, Esq.  
Law Office of John G. Nelson  
1624 Market Street, Ste. 202  
Denver, CO 80202

/s/ Linda Andolsek

D39328



**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**

In Re:	)	
	)	
	)	Case No. 10-41118-ABC
	)	Chapter 7
TERRY KENNETH VICKERY	)	
SSN: xxx-xx-5421	)	
	)	
Debtor	)	
_____	)	Adv. Pro. No. 11-01164-ABC
	)	
RICHARD K. DIAMOND, as Chapter 7	)	
Trustee for IVDS Interactive Acquisition	)	BAP No. CO-12-046
Partners, a Florida general partnership,	)	
Plaintiff,	)	
	)	
v.	)	
	)	
TERRY KENNETH VICKERY, Debtor,	)	
Defendant.	)	
	)	
	)	

**NOTICE OF CROSS-APPEAL**

Richard K. Diamond, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, the Plaintiff (“Plaintiff”), by his attorneys, Silver & DeBoskey, A Professional Corporation, hereby cross-appeals from the bankruptcy judge’s Findings of Fact, Conclusions of Law, and Ruling holding in favor of Debtor on Plaintiff’s claims under 11 U.S.C. §§ 523(a)(2)(A) and 523(a)(4) entered in this adversary proceeding on the 5th day of June, 2012.

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Richard K. Diamond, Plaintiff

Represented by:

Joe L. Silver, Esq.

Steven W. Kelly, Esq.

Ruba M. Forno, Esq.

Silver & DeBoskey, P.C.

1801 York Street

Denver, CO 80206

(303) 399-3000

Terry Kenneth Vickery, Defendant

Represented by:

John G. Nelson, Esq.

Law Office of John G. Nelson

1624 Market Street, Suite 202

Denver, CO 80202

(303) 376-6227

Dated: July 3, 2012.

Respectfully submitted,

SILVER & DeBOSKEY,  
A Professional Corporation

By: /s/ Steven W. Kelly  
Steven W. Kelly (#16370)  
1801 York Street  
Denver, Colorado 80206  
Phone: (303) 399-3000

ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of July, 2012, a true and correct copy of the foregoing **NOTICE OF CROSS-APPEAL** was served electronically on the following:

John G. Nelson, Esq.  
Law Office of John G. Nelson  
1624 Market Street, Suite 202  
Denver, Colorado 80202

/s/ Linda Andolsek\_\_\_\_\_

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO  
The Honorable A. Bruce Campbell**

In re:	)	
	)	
TERRY KENNETH VICKERY,	)	Case No. 10-41118 ABC
	)	Chapter 7
Debtor.	)	
_____	)	
	)	
RICHARD K. DIAMOND, as Chapter 7	)	
Trustee for IVDS Interactive Acquisition	)	
Partners, a Florida general partnership,	)	
Plaintiff	)	
	)	
v.	)	Adversary No. 11-01164 ABC
	)	
TERRY KENNETH VICKERY	)	
Defendant.	)	

**JUDGMENT**

Pursuant to and in accordance with the Findings of Fact, Conclusions of Law and Ruling, entered by the Honorable A. Bruce Campbell, United States Bankruptcy Judge, on June 5, 2012,

**IT IS ORDERED AND ADJUDGED** that judgment is entered in favor of Defendant Terry Kenneth Vickery on Plaintiff's First and Second Claims for Relief under 11 U.S.C. §§ 523(a)(2)(A) and (a)(4). It is


**FURTHER ORDERED** that judgment is entered in favor of Plaintiff, Richard K. Diamond, as Chapter 7 Trustee for IVDS Interactive Partnership, a Florida general partnership, and against Defendant Terry Kenneth Vickery, declaring that the debt represented by Plaintiff's judgment in the total amount of \$ \$5,465,272.48, is non-dischargeable pursuant to 11 U.S.C. § 523(a)(6).

DATED: June 5, 2012

FOR THE COURT:  
BRADFORD L. BOLTON, CLERK

  
Deputy Clerk

APPROVED AS TO FORM:

  
A. Bruce Campbell, Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO  
**Honorable A. Bruce Campbell**

In re:	)	
	)	
TERRY KENNETH VICKERY,	)	Case No. 10-41118 ABC
	)	Chapter 7
Debtor.	)	
_____	)	
	)	
RICHARD K. DIAMOND, as Chapter 7	)	
Trustee for IVDS Interactive Acquisition	)	
Partners, a Florida general partnership,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adversary No. 11-01164 ABC
	)	
TERRY KENNETH VICKERY	)	
	)	
Defendant.	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RULING**

This matter came on for trial on March 19-21, 2012. After the trial, several hundred pages of trial and deposition testimony from prior proceedings that had been admitted in evidence were submitted to the Court. The Court reconvened for counsel’s closing arguments on April 30, 2012, and thereafter took the matter under advisement. The Court now makes the following findings of fact, conclusions of law, and ruling.

Plaintiff Richard K. Diamond (“Plaintiff”) appears in this action in a representative capacity as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, a Florida general partnership (“IIAP”). Defendant Terry Kenneth Vickery (“Vickery” or “Debtor”) is an individual who filed a Chapter 7 petition in this Court on December 14, 2010. IIAP filed bankruptcy in the United States Bankruptcy Court for the Central District of California in 1995. Long before Vickery filed his bankruptcy, Plaintiff sued Vickery in an adversary proceeding related to IIAP’s bankruptcy (“IIAP Adversary Proceeding”) to avoid certain transfers from IIAP to Vickery and others, and to recover the value of the property transferred. The IIAP Adversary Proceeding culminated in a May, 2007 judgment in favor of Plaintiff and against Vickery and others. Plaintiff’s judgment against Vickery is in the amount of \$3.6 million in actual damages and \$1 million in punitive damages (“IIAP Judgment”). Plaintiff brought this adversary proceeding for a determination that this judgment debt owed by Vickery to Plaintiff as Trustee of the IIAP bankruptcy estate is nondischargeable under 11 U.S.C. § 523(a)(2), (4), and/or (6).

The Court has jurisdiction of this adversary proceeding pursuant to 28 U.S.C. §§ 1334(a) and (b) and 28 U.S.C. §§ 157(a) and (b)(1). Adjudication of the claims in this adversary proceeding are core proceedings under 28 U.S.C. § 157(b)(2)(I).

### CLAIMS AND DEFENSES

Plaintiff asserted three claims for relief: first, that the IIAP Judgment should be excepted from Vickery's discharge as a debt for funds obtained "under false pretenses, false representations or actual fraud;" second, as a debt for "fraud and defalcation, while acting in a fiduciary capacity to [IIAP];" and third, as a debt for "willful and malicious injury to [IIAP] and its property." Complaint, ¶¶ 50, 56, and 61.

Vickery generally denied the allegations of Plaintiff's Complaint.

### FINDINGS OF FACT

The undisputed basic facts concerning the formation and operation of IIAP and the proceedings leading to the IIAP Judgment were set forth in detail in this Court's October 17, 2011 Order Denying Plaintiff's Motion for Summary Judgment [Docket # 20] and are incorporated herein. They are summarized below only to the extent necessary to provide background for this ruling.

IIAP was formed, in April, 1994, for the purpose of acquiring licenses to be issued by the Federal Communications Commission ("FCC") which would entitle the license holder to operate an interactive television system within a particular geographic market. IIAP hired a company known as Digital Interactive Associates, Inc. ("DIA") to raise \$6 million for IIAP. DIA hired Market Dynamics Group ("MDG") and Market Logistics Group ("MLG") as consultants.

Over the course of eight months from April through December, 1994, \$6 million dollars was raised for IIAP from approximately 640 investors who were required to invest a minimum of \$6,000. Of this amount, nearly \$3.6 million dollars (60%) was paid by IIAP for "expenses" of raising the \$6 million. In July, 1994, IIAP purchased three interactive television licenses from the FCC for a total of \$6 million dollars with a down payment of \$1.2 million and the \$4.8 million balance to be paid over five years. A year and a half later, in December, 1995, IIAP filed its Chapter 11 bankruptcy which was subsequently converted to Chapter 7.

Plaintiff brought the IIAP Adversary Proceeding against Vickery and others involved with IIAP, DIA, MDG and MLG. There Plaintiff alleged that \$3.6 million had been transferred by IIAP to the defendants and that the transfers were avoidable under Florida law. Plaintiff, as a bankruptcy trustee, was subrogated to IIAP's creditors' avoidance rights by the Bankruptcy Code "strong arm" provisions of 11 U.S.C. § 544.<sup>1</sup> Plaintiff recovered the \$3.6 million judgment jointly and severally

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<sup>1</sup> Plaintiff alleged that the transfers were both actually fraudulent (i.e., that they were made with the intent to hinder, delay, or defraud, creditors of IIAP) and constructively fraudulent

against Vickery and the other defendants, having claimed that they were part of a conspiracy to cause IIAP to transfer the funds.

At the conclusion of a two-week trial, the jury returned a verdict in favor of Plaintiff and against Vickery and other defendants. The jury found that \$3.6 million was fraudulently transferred by IIAP. Of the \$3.6 million in total transfers, the jury found that \$1,440,000 was transferred by IIAP with the intent to hinder, delay, or defraud IIAP's creditors; \$1,080,000 was transferred by IIAP without receiving equivalent value in exchange for the transfers when IIAP was engaged in business for which its remaining assets were unreasonably small; and \$1,080,000 was transferred by IIAP without receiving equivalent value in exchange while IIAP was unable to pay its debts.

The jury found that Vickery was part of a conspiracy to cause IIAP to make fraudulent transfers. The jury assessed \$1,000,000 in actual damages and \$1,000,000 in punitive damages against Vickery individually. An additional \$2.6 million in actual damages was awarded against defendants other than Vickery. The United States District Court entered judgment against Vickery in the amount of \$3.6 million in actual damages, "pursuant to the applicable legal principles of joint and several liability" as a "co-conspirator," plus the \$1 million in punitive damages.

The following additional facts regarding the formation and operation of IIAP were established by the evidence presented at the trial of the instant adversary proceeding. IIAP was formed by Carlo Anneke ("Anneke") and David Dambro ("Dambro"). Anneke had experience in the television industry and was known to Dambro to be interested in becoming involved in any projects that Dambro put together regarding interactive television. Anneke acted as the original general partner of IIAP. Although Dambro took no formal ownership interest or managing title with IIAP, Dambro was the catalyst in bringing together all the parties with the expertise needed to raise the funds for IIAP, and he was the person in charge of the venture. Dambro hired attorney Perry West ("West") to draft the legal documents necessary to form the partnership and to give an opinion on whether the sale of the partnership interests would be subject to securities laws and regulations. Doug Mallach ("Mallach") was brought on board by Dambro, nominally as a "consultant" to DIA, but in reality to be in charge of all aspects of DIA's day-to-day operations.

In an April 11, 2004 fax from Dambro to West and Lee Payne [Plaintiff's Exhibit 28], there is a summary of items discussed at an April 10, 2004 meeting concerning the formation of IIAP. The summary includes the total \$6 million goal for fund-raising, with the proceeds to be distributed as follows: 40% (\$2.4 million) to be put in "escrow" with West for the benefit of IIAP; 20% (\$1.2 million) for sales commissions to be paid to sales people and sales managers; 15% (\$900,000) to DIA for marketing, and 25% (\$1.5 million) for DIA's "G & A" expenses. Dambro, Anneke, and West were involved in formulating the \$6 million goal, the \$2.4 million "escrow," and the distribution of the balance of funds raised. Six million dollars was the upper limit for IIAP fund-raising because that was the maximum amount a company could have and still qualify, according to FCC regulations, as a small business entitled to special "credits" in the license purchase process. Anneke thought the

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(i.e., that they were made for inadequate consideration while IIAP was insolvent).

\$2.4 million was a reasonable sum for IIAP to acquire some “good” FCC licenses and for some nominal initial operating costs. This funding plan described in the April 11, 2004 fax was approved at the initial partnership meeting where Anneke acted as the initial general partner of IIAP. Dambro and West also attended the initial meeting.

Vickery knew Dambro and Mallach from prior business ventures, and they asked him to become involved with IIAP and DIA. Vickery became president and sole shareholder of DIA at the request of Dambro and/or Mallach. Vickery used money lent to him by Dambro to purchase DIA shares. Dambro and/or Mallach retained the option to acquire Vickery’s ownership interest in DIA at any time. Vickery’s role with DIA was limited to being in charge of sales operations and supervision of the 30-40 “sales associates” who contacted potential investors by telephone. Vickery drafted sales scripts and trained and supervised the sales people. Though nominally Vickery was president and sole owner of DIA, the corporation was in fact controlled by Dambro and Mallach.

MDG was Dambro’s company. He was its president and sole shareholder. During the eight month period in 1994, during which funds were raised for IIAP, Dambro’s full time job was “consulting” with all of the parties involved with IIAP. According to Dambro’s April, 1999 deposition testimony, MDG had a verbal contract with DIA to contribute Dambro’s expertise, consulting, marketing, and support for whatever amount of time was necessary. MDG’s compensation was to be a flat fee of whatever was “left over” after the escrow of \$2.4 million for IIAP and the payment of all the other expenses of raising the funds.

MLG was a company owned by Michael Dambro, David Dambro’s brother. MLG provided DIA with “leads” or lists of investors who could be contacted by DIA’s sales representatives. MLG also produced and distributed the written information about IIAP which was sent to potential investors.

Vickery was aware of the agreement between IIAP and DIA pursuant to which DIA would receive 60% of the funds it raised on behalf of IIAP. These monies were earmarked for sales commissions, operations, and consulting expenses. There was no written agreement concerning the 60% to be paid to DIA. Vickery was also aware that the maximum that DIA was to raise for IIAP was \$6 million.

All of the \$6 million raised for IIAP was initially deposited in DIA’s bank account. In March, 1995, the accounting firm of BDO Seidman prepared a summary showing how the \$6 million was disbursed from IIAP’s inception, in April, 1994, through December 31, 1994 [Plaintiff’s Exhibit 5]. The BDO Seidman accounting shows that \$2.4 million dollars was paid to “Perry West, Trustee.” This reflects the \$2.4 million “escrow account” that was for the benefit of IIAP. A total of \$3,561,729.94 was disbursed to various categories of IIAP/DIA expenses. Out of this nearly \$3.6 million, MLG received transfers of \$325,941.91, out of a total of \$328,560.18 spent for “advertising and promotion.” DIA received \$882,665.03 and MDG received \$569,319.99 out of a total of \$1,620,981.58 spent for “consulting fees.” Other operating expenses of IIAP and/or DIA, for items like equipment rental, office supplies, postage, rent, telephone, and legal fees, were paid. A small amount, \$38,270.06, was left after the \$2.4 million escrow and nearly \$3.6 million in other



disbursements were subtracted from the \$6 million raised. This \$38,000 was transferred to the IIAP Operating Account.

In July, 1994, IIAP, through Anneke, purchased three interactive television licenses at an FCC auction for the total cost of \$6 million. IIAP paid the \$1.2 million down payment to the FCC from the \$2.4 million “escrow account.” After paying the nearly \$3.6 million in operating expenses, commissions, and consulting fees to and through DIA, and after paying \$1.2 million for the down payment on the licenses, IIAP was left with insufficient funds with which to make the remaining payments to the FCC or to acquire and build out the necessary equipment and infrastructure to operate the interactive television systems authorized by the FCC licenses. In fact, no interactive television system was ever built by IIAP.

## DISCUSSION

### A. The Debt

An important first step in the analysis of Plaintiff’s claims in this adversary proceeding is to clarify just what the debt he seeks to have determined nondischargeable is, and what it is not. The debt is the IIAP Judgment against Vickery and in favor of Plaintiff. Plaintiff, as Trustee for IIAP’s bankruptcy estate, is the creditor whose debt is at issue. Vickery’s liability on the IIAP Judgment arises from Vickery’s participation in the transfer of assets from IIAP to DIA and others. The debt at issue in this adversary proceeding is not a debt based on Vickery’s role in obtaining IIAP funds from the investors who were contacted by DIA’s salespeople. Thus, for example, any securities laws violations that occurred in the marketing of IIAP partnership interests, and any misrepresentations or failures to disclose facts about IIAP to the investors are irrelevant to this case. Plaintiff’s debt is related only to what happened to IIAP’s assets after the funds were obtained from the investors. It has nothing to do with how the funds were raised from the investors in the first place. The Court mentions this point at the start of its analysis because the presentation of this case was unnecessarily complicated and unfocused due to the parties’ tendency to conflate exactly what the alleged non-dischargeable debt at issue is, and to whom the debt is owed.

### B. Preclusion

The implications of the doctrine of issue preclusion (or collateral estoppel) in this case have been extensively discussed by the Court in its prior orders denying Plaintiff’s motion for summary judgment and denying Plaintiff’s request for reconsideration and/or Plaintiff’s renewed motion for summary judgment. The Court found, for reasons stated in those orders, that not all of the elements of Plaintiff’s non-dischargeability claims were necessarily decided in the IIAP Adversary Proceeding.

That does not mean, however, that the judgment from the IIAP Adversary Proceeding has no preclusive effect in this case. Claim preclusion (or *res judicata*) applies to preclude any claim by Vickery which would challenge the extent or validity of the underlying debt he owes Plaintiff. *Clark v. Zwanziger (In re Zwanziger)*, 467 B.R. 475, 481 (10<sup>th</sup> Cir. BAP 2012). Identical issues that were necessarily decided in the IIAP Adversary Proceeding are binding, through the doctrine of issue

preclusion (or collateral estoppel), in this case. The jury's determination that Vickery participated in a conspiracy to cause IIAP to make fraudulent transfers, for example, was necessary to the Court's judgment imposing liability on Vickery for all of the transfers made to the co-conspirators, and is therefore preclusive. Similarly, it was necessarily decided in the IIAP Adversary Proceeding that the total amount of property fraudulently transferred by IIAP was \$3.6 million.

Accordingly, the Court must analyze whether the issues established through the application of preclusion principles, plus the additional evidence presented at trial, establish all of the elements of Plaintiff's claims under 11 U.S.C. §§ 523(a)(2), (4), or (6).

### **C. Plaintiff's § 523(a)(2) Claim**

In its prior rulings in this case, the Court has rejected Plaintiff's claim that the IIAP Judgment for funds transferred "with the intent to hinder, delay, or defraud" creditors of IIAP is a debt for "false representations, or actual fraud," under 11 U.S.C. § 523(a)(2)(A) without proof of the following elements: (1) the debtor made a false representation; (2) with the intent to deceive plaintiff; (3) plaintiff relied on that representation; (4) the reliance was reasonable; and (5) that the misrepresentation caused the creditor to sustain a loss. See, *Fowler Bros v. Young (In re Young)*, 91 F.3d 1367, 1373 (10<sup>th</sup> Cir. 1996). The Court also ruled that a claim for "false pretenses" under this section requires proof that the debtor created and fostered in the creditor a false or misleading understanding of the transaction. *Evans v. Dunston (In re Dunston)*, 117 B.R. 632, 641 (Bankr. D. Colo. 1990), *aff'd in part and rev'd in part on other grounds*, 146 B.R. 269 (D. Colo. 1992).

Plaintiff endeavored to fit the evidence he presented at trial into the *Young* elements by arguing that Vickery misled IIAP by failing to disclose that only \$2.4 million of the \$6 million raised would be available to IIAP for the acquisition of FCC licenses and the build out of the technology necessary to operate an interactive television system. The evidence was to the contrary. The evidence showed that the principals involved in IIAP, including Dambro and Anneke, IIAP's initial general partner, were well aware of, in fact created, the fund-raising and expense parameters. There was nothing in this regard that was concealed from IIAP, and there were no misrepresentations on which IIAP reasonably relied. Accordingly, Plaintiff's § 523(a)(2)(A) claim fails, and the Court will enter judgment in favor of Vickery on this claim.

### **D. Plaintiff's § 523(a)(4) Claim**

Plaintiff's § 523(a)(4) claim, as set out in his Complaint, was solely based on the "fiduciary fraud" prong of § 523(a)(4). A claim for fraud or defalcation while acting in a fiduciary capacity under § 523(a)(4) requires proof that money or property was entrusted to the debtor as trustee of an express or statutory trust, and that the debt at issue resulted from the debtor's fraud or defalcation while acting as the fiduciary of the trust. *Young*, 91 F.3d at 1371-73. Plaintiff failed to establish that the \$3.6 million, the transfer of which formed the basis for the IIAP Judgment, constituted the *res* of an express or statutory trust for the benefit of IIAP. Plaintiff cannot succeed on this claim.

Perhaps recognizing this, Plaintiff asserted at final argument that he pled a claim under the

embezzlement prong of § 523(a)(4) in his Complaint. This is simply not true—the Complaint contains no reference whatsoever to embezzlement. Plaintiff alluded to an “amendment” to the pleadings by virtue of his use of the embezzlement theory in his motion for summary judgment. However, Plaintiff never moved to conform the pleadings to the evidence on this issue. Vickery has never been given fair warning that he must defend a § 523(a)(4) claim on the basis of embezzlement.

### **E. Plaintiff’s § 523(a)(6) Claim**

Under § 523(a)(6), a debtor is denied discharge from liabilities arising out of “willful and malicious injury” by the debtor to another or another’s property. For a debt to become nondischargeable under § 523(a)(6), the debtor “must desire . . . [to cause] the consequences of his act or . . . believe [that] the consequences are substantially certain to result from it.” *Panalis v. Moore (In re Moore)*, 357 F.3d 1125, 1129 (10th Cir. 2004) (quotation omitted). Whether the “willful and malicious injury” exception to dischargeability in § 523(a)(6) applies “turns on the state of mind of the debtor, who must have wished to cause injury or at least believed it was substantially certain to occur.” *Via Christi Reg’l Med. Ctr. v. Englehart (In re Englehart)*, 229 F.3d 1163, 2000 WL 1275614 at \*3 (10th Cir. 2000) (unpublished opinion).

As discussed in the Court’s previous orders on Plaintiff’s motion for summary judgment, the § 523(a)(6) claim requires the Court to focus on Vickery’s personal actions and intentions. In this way, § 523(a)(6) is different from § 523(a)(2) or § 523(a)(4), both of which focus on the nature of the underlying debt, not the nature of the debtor’s conduct. Plaintiff can succeed on his § 523(a)(6) claim by proving that Vickery intended IIAP to suffer an injury as the consequence of his actions, or that he believed that injury to IIAP was substantially certain to occur as a result of his actions.

Based on the evidence at trial, the Court finds that Vickery was a knowledgeable and willing participant in Dambro, Mallach and Anneke’s plan to raise \$6 million for IIAP and to transfer \$3.6 million to Dambro, Mallach, Vickery, Michael Dambro, and their related entities. The evidence also showed that Vickery took intentional actions to further this plan, and that he acted with knowledge that the transfer of \$3.6 million by IIAP to himself and the other defendants in the IIAP Adversary Proceeding was certain to injure IIAP by depriving IIAP of funds to which it was entitled. The Court finds that Vickery knew and intended that the transferees of the \$3.6 million were receiving more than they were entitled to receive based on the services they provided to IIAP. The IIAP Judgment is the result of these intentional actions and injury to IIAP by Vickery and his co-conspirators. The IIAP Judgment is therefore non-dischargeable under 11 U.S.C. § 523(a)(6).

### **CONCLUSION**

Based on the foregoing, it is

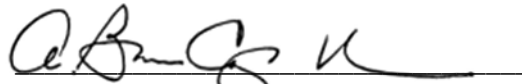
ORDERED that the IIAP Judgment is not a debt for false representations, false pretenses, or actual fraud under 11 U.S.C. § 523(a)(2), and judgment will enter in favor of Vickery on Plaintiff’s First Claim for Relief;

FURTHER ORDERED that the IIAP Judgment is not a debt for fraud or defalcation while acting in a fiduciary capacity under 11 U.S.C. § 523(a)(4), and judgment will enter in favor of Vickery on Plaintiff's Second Claim for Relief; and

FURTHER ORDERED that the IIAP Judgment is a debt for willful and malicious injury by Vickery to IIAP, and judgment will enter in favor of Plaintiff and against Vickery, declaring the IIAP Judgment, in the amount of \$4.6 million in actual and punitive damages, plus pre-petition interest of \$865,272.48, for a total amount of \$5,465,272.48, is non-dischargeable in Vickery's bankruptcy case, pursuant to 11 U.S.C. § 523(a)(6).

DATED: June 5, 2012

BY THE COURT:



A. Bruce Campbell  
United States Bankruptcy Judge

**CONS, LEAD**

**U.S. Bankruptcy Court  
District of Colorado (Denver)  
Bankruptcy Petition #: 10-41118-ABC**

Assigned to: A. Bruce Campbell  
Chapter 7  
Voluntary  
Asset

Date filed: 12/14/2010  
Debtor discharged: 04/08/2011

Debtor disposition: Standard Discharge

**Debtor**

**Terry Kenneth Vickery**  
16175 Sandstone Dr.  
Morrison, CO 80465  
JEFFERSON-CO  
SSN / ITIN: xxx-xx-5421  
**ods TKV Consulting**  
**mem Johnstown-Milliken LLC**  
**mem 820 Welch St. LLC**  
**mem 3040 Zuni LLC**  
**mem West 29th St. LLC**  
**mem 3051-3063 Zuni LLC**

represented by **Kevin M. O'Shaughnessy**

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**Trustee**

**Janice A. Steinle**  
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Ste. 200  
PMB 505  
Highlands Ranch, CO 80129  
( ) 303-794-8034

**U.S. Trustee**

**US Trustee**  
999 18th St.  
Ste. 1551  
Denver, CO 80202  
303-312-7230

Filing Date	#	Docket Text
		Disposition of Adversary Proceeding Number 11-1164 ABC. Final Order or Judgment Has Entered. (re) (Entered: )

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06/05/2012		06/05/2012)
01/24/2012		Adversary Case Number 11-1100 ABC Closed. (pt) (Entered: 01/24/2012)
01/06/2012		Zero Clerk's Fees Due. (pt) (Entered: 01/06/2012)
12/28/2011	<a href="#">83</a>	Notice of Change of Address For Beverly L. Edwards Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation. (Edwards, Beverly) <b>Modified on 12/29/2011; Updated attorney's address per COA form. (pt).</b> (Entered: 12/28/2011)
11/02/2011	<a href="#">82</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">81</a> Order on Motion to Withdraw as Attorney). No. of Notices: 17. Service Date 11/02/2011. (Admin.) (Entered: 11/02/2011)
10/31/2011	<a href="#">81</a>	Order Granting Motion For Harvey Sender, Matthew T. Faga and David J. Warner To Withdraw As Counsel For Castle Commercial Mortgage Company (related document(s): <a href="#">75</a> Motion to Withdraw as Attorney). (pt) (Entered: 10/31/2011)
10/28/2011	<a href="#">80</a>	Certificate of Non-Contested Matter Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company (related document(s): <a href="#">75</a> Motion to Withdraw as Attorney). (Faga, Matthew) (Entered: 10/28/2011)
10/08/2011	<a href="#">79</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">76</a> Order Regarding Compliance With Rules). No. of Notices: 1. Service Date 10/08/2011. (Admin.) (Entered: 10/08/2011)
10/06/2011	<a href="#">78</a>	Certificate of Service Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company (related document (s): <a href="#">76</a> Order Regarding Compliance With Rules, <a href="#">77</a> 9013-1.1 Notice). (Attachments: <a href="#">1</a> Index) (Faga, Matthew) (Entered: 10/06/2011)
10/06/2011	<a href="#">77</a>	9013-1.1 Notice Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company (related document(s): <a href="#">75</a> motion Motion to Withdraw as Attorney). 9013 Objections due by 10/27/2011 for <a href="#">75</a> , (Faga, Matthew) (Entered: 10/06/2011)
		Order For Compliance With Local Bankruptcy Rule 9013-1 Or Other Applicable Rules of Procedure Regarding Service And Notice (related document(s) <a href="#">75</a> Motion to Withdraw as Attorney). Rules Compliance due by 10/21/2011. (pt) (Entered: 10/06/2011)

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10/06/2011	<a href="#">76</a>	10/06/2011)
10/04/2011	<a href="#">75</a>	Motion to Withdraw as Attorney of Record Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company. (Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Faga, Matthew) (Entered: 10/04/2011)
09/29/2011	<a href="#">74</a>	Courts Notice and BNC Certificate of Mailing Re: Notice of Possible Dividend (related document(s) <a href="#">73</a> Notice of Possible Dividends). No. of Notices: 44. Service Date 09/29/2011. (Admin.) (Entered: 09/29/2011)
09/26/2011	<a href="#">73</a>	Notice of Possible Dividends. It appearing to the Trustee that a dividend to creditors is possible; Creditors are hereby notified that if they desire to participate in a distribution of assets, they must file a claim with the court no later than the date shown below. Pursuant to Fed.R.B.P. 3002(c)(1) and (5) a proof of claim shall be filed BY A GOVERNMENTAL UNIT not later than 180 days after the date of the order for relief, or the date shown below, whichever is later. All claimants who are seeking an administrative claim must obtain a Court Order pursuant to the Bankruptcy Code Proofs of Claim due by 12/30/2011. (Steinle, Janice) (Entered: 09/26/2011)
07/05/2011	<a href="#">72</a>	Amended Schedules A To add debtor's interest in jointly owned real estate. Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (O'Shaughnessy, Kevin) (Entered: 07/05/2011)
07/05/2011	<a href="#">71</a>	Amended Schedules B To include debtor's portion of jointly owned tax return. Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (O'Shaughnessy, Kevin) (Entered: 07/05/2011)
05/11/2011		Disposition of Adversary Proceeding Number 11-1100 ABC. Final Order or Judgment Has Entered. (pt) (Entered: 05/11/2011)
05/01/2011	<a href="#">70</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">69</a> Order on Motion For Relief From Stay). No. of Notices: 1. Service Date 05/01/2011. (Admin.) (Entered: 05/01/2011)
		Order Granting Motion For Relief From Stay On Timeshare located at 8122 Arrezzo Way, Orlando, FL 32821 and 4001-1.1 Notice Filed by Beverly L. Edwards on behalf of Hilton Resorts

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04/29/2011	<a href="#">69</a>	Corporation. (related document(s): <a href="#">50</a> Motion for Relief From Stay and 4001-1.1 Notice). (bel) (Entered: 04/29/2011)
04/28/2011	<a href="#">68</a>	Certificate of Non-Contested Matter Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation (related document(s): <a href="#">50</a> Motion for Relief From Stay and 4001-1.1 Notice). (Edwards, Beverly) (Entered: 04/28/2011)
04/14/2011	<a href="#">67</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">66</a> Order on Motion for Examination). No. of Notices: 1. Service Date 04/14/2011. (Admin.) (Entered: 04/14/2011)
04/12/2011	<a href="#">66</a>	Order Granting Motion For Fed.R.Bankr.P. 2004 Examinations (related document(s): <a href="#">47</a> Motion for Examination). (vo) (Entered: 04/12/2011)
04/10/2011	<a href="#">65</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">62</a> Order on Motion For Relief From Stay). No. of Notices: 1. Service Date 04/10/2011. (Admin.) (Entered: 04/10/2011)
04/10/2011	<a href="#">64</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">61</a> Minutes of Proceedings/Minute Order). No. of Notices: 2. Service Date 04/10/2011. (Admin.) (Entered: 04/10/2011)
04/10/2011	<a href="#">63</a>	Courts Notice and BNC Certificate of Mailing Re: Order of Discharge (related document(s) <a href="#">60</a> Order Discharging Debtor). No. of Notices: 46. Service Date 04/10/2011. (Admin.) (Entered: 04/10/2011)
04/08/2011	<a href="#">62</a>	Order Granting Motion For Relief From Stay Filed by Richard K. Diamond and Motion for Relief Filed by Castle Commercial Mortgage Company. (related document(s): <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice, <a href="#">32</a> Motion for Relief From Stay and 4001-1.1 Notice). (pt) (Entered: 04/08/2011)
04/08/2011	<a href="#">60</a>	Order Discharging Debtor . (vxd) (Entered: 04/08/2011)
04/07/2011	<a href="#">61</a>	Minutes of Proceeding: Relief sought in motion granted. Oral findings and conclusions made of record and formal order to enter. The parties have reached a settlement. Counsel for the creditors shall prepare a form of order and circulate to counsel present at today's hearing. (related document(s) <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice, <a href="#">32</a> Motion for Relief From Stay and 4001-1.1 Notice). (pt) (Entered: 04/08/2011)



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04/06/2011	<a href="#">59</a>	Certificate of Service Filed by Steven W. Kelly on behalf of Richard K Diamond (related document(s): <a href="#">44</a> Complaint). (Kelly, Steven) (Entered: 04/06/2011)
04/01/2011	<a href="#">58</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">54</a> Notice of Financial Management and/or Domestic Support Obligation Certificate). No. of Notices: 1. Service Date 04/01/2011. (Admin.) (Entered: 04/01/2011)
04/01/2011	<a href="#">57</a>	Response Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">32</a> Motion for Relief From Stay and 4001-1.1 Notice). (O'Shaughnessy, Kevin) (Entered: 04/01/2011)
03/31/2011	<a href="#">56</a>	Objection Filed by Steven T Mulligan on behalf of Mount Massive Lakes, Inc. (related document(s): <a href="#">32</a> Motion for Relief From Stay and 4001-1.1 Notice). (Mulligan, Steven) (Entered: 03/31/2011)
03/31/2011	<a href="#">55</a>	Financial Management Course Certificate Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery. (O'Shaughnessy, Kevin) (Entered: 03/31/2011)
03/30/2011	<a href="#">54</a>	Notice of Requirement To File A Statement Of Completion Of Course In Personal Financial Management Official Form 23. Financial Management Course Certificate due by 4/29/2011. (vxd) (Entered: 03/30/2011)
03/29/2011	<a href="#">53</a>	Amended 4001-1.1 Notice Re: Motion Regarding Relief From the Automatic Stay Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation (related document(s): <a href="#">50</a> motion Motion for Relief From Stay and 4001-1.1 Notice). Stay Hearing to be held on 4/21/2011 at 09:00 AM Courtroom C for <a href="#">50</a> .. (Edwards, Beverly) <b>Modified on 3/30/2011 (bel)</b> . Added "Amended" to text per PDF. (Entered: 03/29/2011)
03/25/2011	<a href="#">52</a>	Notice of Deficiency, Requirement to Cure, and Recommendation For Dismissal (related document(s) <a href="#">50</a> Motion for Relief From Stay and 4001-1.1 Notice). 4001(a) Compliance Due 3/30/2011. (vo) (Entered: 03/25/2011)
03/22/2011	51	Receipt of Motion for Relief From Stay and 4001-1.1 Notice (10-41118-ABC) [motion,mfrstr] ( 150.00) Filing Fee. Receipt number 13525246. Fee amount 150.00 (U.S. Treasury) (Entered: 03/22/2011)
		Motion for Relief from Stay On Timeshare located at 8122

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03/22/2011	<a href="#">50</a>	Arrezzo Way, Orlando, FL 32821 and 4001-1.1 Notice Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation. Stay Hearing to be held on 4/14/2011 at 09:00 AM at Courtroom C. (Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Edwards, Beverly) (Entered: 03/22/2011)
03/22/2011	<a href="#">49</a>	Notice of Appearance and Request for Notice Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation. (Edwards, Beverly) (Entered: 03/22/2011)
03/22/2011	<a href="#">48</a>	Motion For Summary Judgment Filed by Noel E Guardi on behalf of William Breitfelder, Richard Brooks, Barbara Campbell, Robert Campbell, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek. (Attachments: <a href="#">1</a> Exhibit C-Opinion in In re Jafari <a href="#">2</a> Proposed/Unsigned Order Order Granting Summary Judgment that Debt is Nondischargeable <a href="#">3</a> Exhibit Transcript of Judgment and Amended Order of Judgment Against Defendant Vickery <a href="#">4</a> Proposed/Unsigned Order Order Granting Summary Judgment that Debt is Nondischargeable) (Guardi, Noel) (Entered: 03/22/2011)
03/22/2011	<a href="#">47</a>	Motion for 2004 Examination Of Debtor and Others Filed by Noel E Guardi on behalf of Jan Balazik, Guy Beckett, Frederick Breitfelder, William Breitfelder, Richard Brooks, Barbara Campbell, Robert Campbell, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek. (Attachments: <a href="#">1</a> Exhibit <a href="#">2</a> Exhibit <a href="#">3</a> Exhibit <a href="#">4</a> Exhibit <a href="#">6</a> Exhibit <a href="#">3</a> Exhibit <a href="#">8</a> Exhibit <a href="#">7</a> Exhibit <a href="#">8</a> Proposed/Unsigned Order ORDER GRANTING MOTION FOR FED. R. BANKR. P. 2004 EXAMINATIONS) (Guardi, Noel) (Entered: 03/22/2011)
03/17/2011	<a href="#">46</a>	Notice of Appearance and Request for Notice Filed by Steven T Mulligan on behalf of Mount Massive Lake, Inc.. (Mulligan, Steven) (Entered: 03/17/2011)
03/16/2011	<a href="#">45</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">42</a> Order on Motion For Consolidation). No. of Notices: 45. Service Date 03/16/2011. (Admin.) (Entered: 03/16/2011)
03/15/2011		Corrected Entry. Per EQ, document #43 was docketed in error - incorrect PDF attached. Refer to document #44 (related document(s): <a href="#">43</a> Complaint). (jc) (Entered: 03/15/2011)
		Complaint by Richard K. Diamond against Terry Kenneth

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03/14/2011	<a href="#">44</a>	Vickery . Fee Paid. Filed by Steven W. Kelly on behalf of Richard K. Diamond Adversary Status Deadline 7/12/2011 (Attachments: <a href="#">1</a> Exhibit <a href="#">A2</a> Exhibit <a href="#">B3</a> Exhibit <a href="#">C4</a> Exhibit <a href="#">D5</a> Exhibit E) (jtm) (Entered: 03/15/2011)
03/14/2011	<a href="#">43</a>	<b>This entry was docketed in error. Refer to document #44.</b> Complaint by Richard K. Diamond against Richard K. Diamond . Fee Paid. Filed by Steven W. Kelly on behalf of Richard K. Diamond Adversary Status Deadline 7/12/2011 (Attachments: <a href="#">1</a> Exhibit <a href="#">A2</a> Exhibit <a href="#">B3</a> Exhibit <a href="#">C4</a> Exhibit <a href="#">D5</a> Exhibit <a href="#">E6</a> Exhibit) (jtm) <b>Modified on 3/15/2011 (jc).</b> (Entered: 03/15/2011)
03/14/2011	<a href="#">42</a>	Order Re: Consolidation. The Court being duly advised hereby orders that all proceedings in Case Nos. 10-41118 ABC and 11-10930 ABC be substantively consolidated, shall be administered in the first filed case no. 10-41118, and the file in case no. 11-10930 ABC shall be closed. (related document (s): <a href="#">41</a> Motion to Consolidate). (bel) (Entered: 03/14/2011)
03/14/2011		Corrected Entry. Per CAT, document #39 was docketed in error - incorrect case. See adversary case 11-01164 ABC (related document(s): <a href="#">38</a> Notice of Appearance, <a href="#">39</a> Intervenor Complaint). (jc) (Entered: 03/14/2011)
03/12/2011	<a href="#">40</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">37</a> Minutes of Proceedings/Minute Order). No. of Notices: 1. Service Date 03/12/2011. (Admin.) (Entered: 03/12/2011)
03/11/2011		Adversary case 11-01164. New Adversary Proceeding Opened . (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)) ,(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) ,(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (mjb) (Entered: 03/14/2011)
03/11/2011	<a href="#">39</a>	<b>This transaction docketed in error. Please disregard the entry.</b> Intervenor Complaint against Terry Kenneth Vickery. Filed by Steven W. Kelly on behalf of Richard K Diamond. (Attachments: <a href="#">1</a> Exhibit <a href="#">2</a> Other Summons) (Kelly, Steven) <b>Modified on 3/14/2011 (jc).</b> (Entered: 03/11/2011)
03/11/2011	<a href="#">38</a>	Notice of Appearance and Request for Notice Filed by Harvey L. Kramer on behalf of Jan Balazik, Guy Beckett, Frederick Breitfelder, William Breitfelder, Richard Brooks, Barbara Campbell, Robert Campbell. (Kramer, Harvey) (Entered: 03/11/2011)

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03/10/2011	<a href="#">37</a>	Minutes of Proceedings: Continued to April 7, 2011, 9:00 a.m. in Courtroom C. (related document(s): <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice). Hearing to be held on 4/7/2011 at 09:00 AM Courtroom C . (saj) (Entered: 03/10/2011)
03/08/2011	<a href="#">36</a>	List of Witnesses and Exhibits Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">34</a> Response). (O'Shaughnessy, Kevin) (Entered: 03/08/2011)
03/07/2011	35	Receipt of Motion for Relief From Stay and 4001-1.1 Notice (10-41118-ABC) [motion,mfrstr] ( 150.00) Filing Fee. Receipt number 13410253. Fee amount 150.00 (U.S. Treasury) (Entered: 03/07/2011)
03/04/2011	<a href="#">34</a>	Response Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice). (O'Shaughnessy, Kevin) (Entered: 03/04/2011)
03/03/2011	<a href="#">33</a>	Objection Filed by Steven W. Kelly on behalf of Richard K Diamond (related document(s): <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice). (Attachments: <a href="#">1</a> Certificate of Service) (Kelly, Steven) (Entered: 03/03/2011)
03/03/2011	<a href="#">32</a>	Motion for Relief from Stay On Assets Subject of State Court Order and 4001-1.1 Notice Filed by Steven W. Kelly on behalf of Richard K Diamond. Stay Hearing to be held on 4/7/2011 at 09:00 AM at Courtroom C. (Attachments: <a href="#">1</a> Exhibit 1 - 8 to Motion for Relief from Stay <a href="#">2</a> Proposed/Unsigned Order Granting Motion for Relief from Stay <a href="#">3</a> Certificate of Service) (Kelly, Steven) (Entered: 03/03/2011)
02/17/2011	31	Receipt of Motion for Relief From Stay and 4001-1.1 Notice (10-41118-ABC) [motion,mfrstr] ( 150.00) Filing Fee. Receipt number 13308408. Fee amount 150.00 (U.S. Treasury) (Entered: 02/17/2011)
02/17/2011	<a href="#">30</a>	Motion for Relief from Stay On Membership Interest in Mt. Massive and Pertinent Personal Property and 4001-1.1 Notice Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company. Stay Hearing to be held on 3/10/2011 at 09:00 AM at Courtroom C. (Attachments: <a href="#">1</a> Affidavit of Matthew T. Faga <a href="#">2</a> Exhibit <a href="#">3</a> Exhibit <a href="#">24</a> Exhibit <a href="#">35</a> Exhibit <a href="#">46</a> Proposed/Unsigned Order <a href="#">7</a> Certificate of Service) (Faga, Matthew) (Entered: 02/17/2011)

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02/10/2011	<a href="#">29</a>	Notice of Appearance and Request for Notice Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company. (Faga, Matthew) (Entered: 02/10/2011)
02/10/2011		Corrected Entry. Doc. #27 was entered in error in the incorrect case per attorney request. Disregard transaction. (related document(s): 27 Summons Issued (auto)). (sd) (Entered: 02/10/2011)
02/09/2011	<a href="#">28</a>	Adversary case 11-01100. Complaint by Jan Balazik, Guy Beckett, Frederick Breitfelder, William Breitfelder, Richard Brooks, Robert Campbell, Barbara Campbell, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek against Terry Kenneth Vickery. Fee Paid.. Adversary Status Deadline 06/9/2011 (65 (Dischargeability - other)) (Guardi, Noel) (Entered: 02/09/2011)
02/09/2011	27	<b>This transaction is entered in the incorrect case. Disregard following transaction. <a href="#">Summons Issued</a> on Terry Kenneth Vickery Answer Due 03/11/2011 Government Agencies Are Allowed 35 Days From Service Of The Summons To Answer This Complaint (Guardi, Noel) <b>Modified on 2/10/2011 (sd)</b>.</b> (Entered: 02/09/2011)
02/03/2011	<a href="#">26</a>	Notice of Appearance and Request for Notice Filed by David Warner on behalf of Castle Commercial Mortgage Company. (Warner, David) (Entered: 02/03/2011)
02/01/2011	<a href="#">25</a>	Notice of Appearance and Request for Notice Filed by Harvey Sender on behalf of Castle Commercial Mortgage Company. (Sender, Harvey) (Entered: 02/01/2011)
01/27/2011	<a href="#">24</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">20</a> No action taken on Order Approving Chapter 7 Trustee's Stipulation for Turnover). No. of Notices: 1. Service Date 01/27/2011. (Admin.) (Entered: 01/27/2011)
01/26/2011	<a href="#">23</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">18</a> Notification Entry). No. of Notices: 1. Service Date 01/26/2011. (Admin.) (Entered: 01/26/2011)
01/26/2011		Corrected Entry. Doc. #14 was entered in error with an incorrect PDF attached per QA case review. Refer to Doc. #19. Corrected party filers and text for Doc. #19 per attorney request. (related document(s): <a href="#">14</a> Notice of Appearance, <a href="#">19</a> Notice of Appearance). (sd) (Entered: 01/26/2011)

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01/26/2011	<a href="#">22</a>	Certificate of Service Filed by Noel E Guardi on behalf of Frederick Breitfelder, William Breitfelder, Barbara Campbell, Robert Campbell (related document(s): <a href="#">21</a> Notice of Appearance). (Guardi, Noel) (Entered: 01/26/2011)
01/26/2011	<a href="#">21</a>	Notice of Appearance and Request for Notice Filed by Noel E Guardi on behalf of William Breitfelder, Frederick Breitfelder, Barbara Campbell, Robert Campbell. (Guardi, Noel) (Entered: 01/26/2011)
01/25/2011	<a href="#">20</a>	ORDERED that the Chapter 7 Trustee's Stipulation for Turnover Of Property in Debtor's Possession as described in Stipulation filed 1/24/2011 is hereby APPROVED (related document(s) <a href="#">17</a> Granting Stipulation for Turnover). (vo) (Entered: 01/25/2011)
01/24/2011	<a href="#">19</a>	Notice of Appearance and Request for Notice Filed by Noel E Guardi on behalf of Jan Balazik, Guy Beckett, Richard Brooks, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek. (Guardi, Noel) <b>Modified on 1/26/2011 (sd)</b> . Corrected Party filers and removed "Corrected" from text. (Entered: 01/24/2011)
01/24/2011	<a href="#">18</a>	Public Notice of Deficient Filing, Error or Defect and Application of L.B.R. 5005-4(1). The Electronic Filer of Document Number 14 is hereby notified the errors noted below shall be corrected by the close of the third court day following transmittal of this Notice, failing which the electronic document will be deemed stricken and, absent order of the court, no further action will be taken on the document. Error to be corrected: Wrong Case number cited in Caption, and incorrect spelling of Richard Brooks, creditor. E-Filer is to Re-docket pleading with correct case number and correct spelling of creditor, Richard Brooks (related document(s) <a href="#">14</a> Notice of Appearance). (pt) (Entered: 01/24/2011)
		Stipulation For Turnover Of W-2's for wife for 2007, 2008, 2009; Copy of Timeshare conveyance documents and most recent maintenance fee notice; Merrill Lynch statement for TNT Consulting for all 2010; Copy of TNT Connections LP Trust Documents and itemization of assets titled in Trust as of 12/14/10; 2009 Tax Return for TKV Consulting; 2009 Tax Return for Johnstown-Milliken LLC; 2009 Tax Returns for West 29th St; 2009 Tax Returns for 3051-3063 Zuni LLC; 2009 Tax Return for Welch St, LLC; 2009 Tax Return for 3040 Zuni LLC by January 31, 2011 Between Janice A. Steinle and Debtor Filed by Janice A. Steinle on behalf of Janice A. Steinle.

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01/24/2011	<a href="#">17</a>	(Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Steinle, Janice) (Entered: 01/24/2011)
01/23/2011	<a href="#">16</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">13</a> No action taken on Order Approving Chapter 7 Trustee's Stipulation for Turnover). No. of Notices: 1. Service Date 01/23/2011. (Admin.) (Entered: 01/23/2011)
01/21/2011	<a href="#">41</a>	Motion to Consolidate Lead Case 11-10930 ABC with 10-41118 ABC Filed by Noel E Guardi on behalf of Jan Balazik , Guy Beckett , Richard Brooks , Ramona Chapman , Dennis Fitzpatrick , Alma Salky , Barry Salky , Troy Taylor , Gordon Toland , Mark Zintek . (bel) (Entered: 03/14/2011)
01/21/2011	<a href="#">15</a>	Certificate of Service Filed by Noel E Guardi on behalf of Jan Balazik, Guy Beckett, Richard Brooks, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek (related document(s): <a href="#">14</a> Notice of Appearance). (Guardi, Noel) (Entered: 01/21/2011)
01/21/2011	<a href="#">14</a>	<b>Docketed in error. Refer to Document #19.</b> Notice of Appearance and Request for Notice Filed by Noel E Guardi on behalf of Ben Morrow, Donald Meyer, Alma Salky, Barry Salky, Gordon Toland, Troy Taylor, Guy Beckett, Mark Zintek, Dennis Fitzpatrick, Ramona Chapman, Richard Brooks, Jan Balazik. (Guardi, Noel) <b>Modified on 1/26/2011 (sd).</b> (Entered: 01/21/2011)
01/21/2011	<a href="#">13</a>	ORDERED that the Chapter 7 Trustee's Stipulation for Turnover Of Property in Debtor's Possession as described in Stipulation filed 1/19/2011 is hereby APPROVED (related document(s) <a href="#">12</a> Granting Stipulation for Turnover). (vo) (Entered: 01/21/2011)
01/19/2011	<a href="#">12</a>	Stipulation For Turnover Of 2007, 2008, 2009 & 2010 Federal and State Tax Returns with all Schedules, W-2's & 1099's; 2007, 2008, 2009 & 2010 Federal and State Tax Refunds by April 15, 2011. Between Janice A. Steinle and Debtor Filed by Janice A. Steinle on behalf of Janice A. Steinle. (Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Steinle, Janice) (Entered: 01/19/2011)
12/29/2010	<a href="#">11</a>	Notice of Appearance and Request for Notice Filed by Steven W. Kelly on behalf of Richard K Diamond. (Kelly, Steven) (Entered: 12/29/2010)
		Statement Concerning No Employee Income Record Filed by

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12/20/2010	<a href="#">10</a>	Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery. (O'Shaughnessy, Kevin) (Entered: 12/20/2010)
12/17/2010	<a href="#">9</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">6</a> Notice of Deficiency). No. of Notices: 1. Service Date 12/17/2010. (Admin.) (Entered: 12/17/2010)
12/17/2010	<a href="#">8</a>	Courts Notice and BNC Certificate of Mailing Re: Meeting of Creditors (related document(s) <a href="#">7</a> Meeting of Creditors-Chapter 7). No. of Notices: 32. Service Date 12/17/2010. (Admin.) (Entered: 12/17/2010)
12/15/2010	<a href="#">6</a>	Notice of Deficiency For Omission of Information (related document(s) <a href="#">1</a> Voluntary Petition-Chapter 7). Employee Income Record due by 12/28/2010. (as) (Entered: 12/15/2010)
12/15/2010		Corrected Entry. Corrected Atty's Suite # Per EQ/Voluntary Petition (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (jc) (Entered: 12/15/2010)
12/15/2010		Corrected Entry. Corrected Nature of Business to reflect 'other' per the Voluntary Petition. (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (bsc) (Entered: 12/15/2010)
12/14/2010	<a href="#">7</a>	Meeting of Creditors & Notice of Appointment of Interim Trustee Janice A. Steinle with 341(a) meeting to be held on 01/13/2011 at 08:00 AM at Room 125 Objections to Discharge due by 03/14/2011 (Entered: 12/14/2010)
12/14/2010	5	Receipt of Voluntary Petition-Chapter 7(10-41118) [misc,volp7a] ( 299.00) Filing Fee. Receipt number 12861504. Fee amount 299.00 (U.S. Treasury) (Entered: 12/14/2010)
12/14/2010	<a href="#">4</a>	Statement of Social Security Number Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (O'Shaughnessy, Kevin) (Entered: 12/14/2010)
12/14/2010	<a href="#">3</a>	Disclosure of Compensation In the Amount of \$ 1,200.00 Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery. (O'Shaughnessy, Kevin) (Entered: 12/14/2010)
12/14/2010	<a href="#">2</a>	Statement of Intent. Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery. (O'Shaughnessy, Kevin) (Entered: 12/14/2010)
		Chapter 7 Voluntary Petition. Total Number of Creditors



12/14/2010	<a href="#">1</a>	Uploaded: 32.. Section 521 Incomplete Filings due by 01/28/2011. (O'Shaughnessy, Kevin) (Entered: 12/14/2010)
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<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
07/05/2012 09:30:11			
<b>PACER Login:</b>	ap0000	<b>Client Code:</b>	10_818
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	10-41118-ABC Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html
<b>Billable Pages:</b>	8	<b>Cost:</b>	0.80

APPEAL

**U.S. Bankruptcy Court  
District of Colorado (Denver)  
Adversary Proceeding #: 11-01164-ABC**

Assigned to: A. Bruce Campbell  
Lead BK Case: [10-41118](#)  
Lead BK Title: Terry Kenneth Vickery  
Lead BK Chapter: 7  
Demand:

Date Filed: 03/11/11

Nature[s] of Suit: 62 Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud  
67 Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny  
68 Dischargeability - 523(a)(6), willful and malicious injury

**Plaintiff**

-----  
**Richard K. Diamond, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, a Florida general partnership** represented by **Ruba M. Forno**  
1801 York St.  
Denver, CO 80206  
303.953.3765  
Fax : 303.399.2650  
Email: [fornor@s-d.com](mailto:fornor@s-d.com)

**Steven W. Kelly**  
1801 York Street  
Denver, CO 80206  
303-399-3000  
Fax : 303-399-2650  
Email: [skelly@s-d.com](mailto:skelly@s-d.com)  
**LEAD ATTORNEY**

V.

**Defendant**

-----  
**Terry Kenneth Vickery**  
SSN / ITIN: xxx-xx-5421

represented by **John G. Nelson**  
1624 Market St.  
Ste. 202  
Denver, CO 80202  
303-376-6227  
Fax : 303-376-6228  
Email: [nelsonlawoffice@aol.com](mailto:nelsonlawoffice@aol.com)

**Kevin M. O'Shaughnessy**  
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Denver, CO 80203  
303-860-7333  
Email: [kevin@totalspeed.com](mailto:kevin@totalspeed.com)

Filing Date	#	Docket Text
07/03/2012	79	Receipt of Cross Appeal(11-01164-ABC) [appeal,crssapla] ( 298.00) Filing Fee. Receipt number 16376713. Fee amount 298.00 (U.S. Treasury) (Entered: 07/03/2012)
07/03/2012	<a href="#">78</a>	Cross-Appellant Designation of Record and Statement of Issues On Appeal Filed by Steven W. Kelly on behalf of Richard K. Diamond. Transmission of Record on Appeal Due by 08/2/2012. (Kelly, Steven) (Entered: 07/03/2012)
07/03/2012	<a href="#">77</a>	Cross Appeal Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s) <a href="#">73</a> Notice of Appeal). Cross-Appellant Designation due by 07/17/2012. (Kelly, Steven) (Entered: 07/03/2012)
07/01/2012	<a href="#">75</a>	Appellant Designation of Record and Statement of Issues On Appeal Civil Case # CO-12-046 Filed by John G. Nelson on behalf of Terry Kenneth Vickery. Transmission of Record on Appeal Due by 07/31/2012. (Nelson, John) (Entered: 07/01/2012)
06/20/2012		Notice from BAP: APPEAL: Bankruptcy appeal filed. BAP case number: CO-12-046. Appeal filed in the Bankruptcy Court on 06/19/2012. Notification of appeal transmitted from the Bankruptcy Court by NEF; record downloaded from the Bankruptcy Court docket. Designation of Record due to clerk of bankruptcy court by 07/03/2012 for Appellant Terry Kenneth Vickery. Statement of Issues due to clerk of bankruptcy court by 07/03/2012 for Appellant Terry Kenneth Vickery.(related document(s): <a href="#">73</a> Notice of Appeal). (mjp) (Entered: 06/20/2012)
06/19/2012	74	Receipt of Notice of Appeal(11-01164-ABC) [appeal,ntcapla] ( 298.00) Filing Fee. Receipt number 16280803. Fee amount 298.00 (U.S. Treasury) (Entered: 06/19/2012)
		Notice of Appeal Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s) <a href="#">69</a> Findings of Fact, <a href="#">70</a> Judgment for AP Case, <a href="#">72</a> Written Opinion). Appellant Designation due by 07/3/2012. Appellee designation due by 07/17/2012.

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06/19/2012	<a href="#">73</a>	(Nelson, John) (Entered: 06/19/2012)
06/05/2012	<a href="#">72</a>	Written Opinion (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint, <a href="#">69</a> Findings of Fact). (re) (Entered: 06/05/2012)
06/05/2012		Disposition of Adversary Proceeding Number 11-1164 ABC. Final Order or Judgment Has Entered. (re) (Entered: 06/05/2012)
06/05/2012	<a href="#">71</a>	Notice of Entry on Docket of Judgment or Order. Date Mailed: 6/5/12 (related document(s) <a href="#">69</a> Findings of Fact, <a href="#">70</a> Judgment for AP Case). (re) (Entered: 06/05/2012)
06/05/2012	<a href="#">70</a>	Judgment For Plaintiff, Richard K. Diamond, As Trustee Against Defendant, Terry Kenneth Vickery (related document(s) <a href="#">69</a> Findings of Fact). (re) (Entered: 06/05/2012)
06/05/2012	<a href="#">69</a>	Findings of Fact and Conclusions of Law and Ruling (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint). Further Ordered that the IIAP Judgment is a debt for willful and malicious injury by Vickery to IIAP, and judgment will enter in favor of Plaintiff and against Vickery, declaring the IIAP Judgment, in the amount of \$4.6 million in actual and punitive damages, plus pre-petition interest of \$865,272.48, for a total amount of \$5,465,272.48, is non-dischargeable in Vickery's bankruptcy case, pursuant to 11 USC Section 523(a)(6). (re) (Entered: 06/05/2012)
04/30/2012	<a href="#">76</a>	Minutes of Proceeding re: Summation on Complaint to Determine Dischargeability of Debt (related document(s) New Adversary Proceeding Opened, <a href="#">6</a> Answer to Complaint, <a href="#">65</a> Minutes of Proceedings/Minute Order). Plaintiff's counsel shall provide the court copies of depositions of David Dambro and Douglas Mallach by May 2, 2012. Matter taken under advisement. Formal order to enter. (re) <b>Modified on 7/3/2012 to reflect correct spelling of Dischargeability (re)</b> . (Entered: 07/03/2012)
04/16/2012		Corrected Entry. Corrected the filing date from 3/22/12 to 3/20/12 per CM request. (related document(s): <a href="#">65</a> Minutes of Proceedings/Minute Order). (sd) (Entered: 04/16/2012)
04/10/2012	<a href="#">66</a>	Defendant's Statement of Objections to Previous Deposition and Trial Testimony Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s) <a href="#">64</a> Minutes of Proceedings/Minute Order). (Nelson, John) (Entered: 04/10/2012)
03/21/2012	<a href="#">68</a>	Stipulation and Order Regarding Custody of Exhibits (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint, <a href="#">52</a> Subpoena, <a href="#">67</a> Minutes of Proceedings/Minute Order). (re) (Entered: 04/16/2012)
03/21/2012	<a href="#">67</a>	Minutes of Proceeding re: Complaint to Determine Dischargeability of Debt (related document(s) <a href="#">6</a> Answer to Complaint, <a href="#">65</a> Minutes of Proceedings/Minute Order). Continued Hearing to be held on 4/30/2012 at 01:30 PM BRCH Courtroom C205 for summation. (re) (Entered: 04/16/2012)
03/20/2012	<a href="#">65</a>	Minutes of Proceeding re: Complaint to Determine Dischargeability of Debt (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint, <a href="#">64</a> Minutes of Proceedings/Minute Order). Continued Trial to be held on 3/21/2012 at 09:00 AM BRCH Courtroom C205. (re) <b>Modified on 4/16/2012 (sd)</b> . Corrected filing date. (Entered: 03/22/2012)
03/19/2012	<a href="#">64</a>	Minutes of Proceeding Complaint to Determine Dischargeability of Debt (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint). Continued Trial to be held on 3/20/2012 at 09:00 AM BRCH Courtroom C205. Document due by 4/9/2012 for <a href="#">6</a> and for <a href="#">3</a> . For the reasons stated in open court, the Motion to for Reconsideration of Order Denying Defendants Motion to Withdraw Inadvertent Admissions is DENIED. For the reasons stated in open court, the Plaintiffs FRE Rule 804 Motion to Admit Prior Testimony Under Oath at Trial is GRANTED, In Part, and DENIED, In Part.* For the reasons stated in open court, the Plaintiffs FRCP Rule 32 Motion to Admit Deposition Testimony Under Oath at Trial is GRANTED, In Part, and DENIED, In Part.** For the reasons stated in open court, the Motion in Limine to Prohibit Evidence of Alleged Events Taking Place After Establishment of Underlying Debt is DENIED.[*] Defendant shall have until April 9, 2012, to file evidentiary objections (other than hearsay) to the prior trial testimony of contained in the transcripts of Leon Gainen, Carol Stiffler, James Dudek, Marissa Smith, Gene Moir, and Michael Dambro, [**] Defendant shall have until April 9, 2012, to file evidentiary objections (other than hearsay) to the prior deposition testimony of David Dambro and Doug Mallach (re) (Entered: 03/22/2012)
03/16/2012	<a href="#">63</a>	Motion to Reconsider Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">43</a> Other Order). (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion for Reconsideration of Order Denying Defendant's Motion to Withdraw Inadvertent Admissions) (Nelson, John) (Entered: 03/16/2012)
03/16/2012	<a href="#">62</a>	Response Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">45</a> Other Motion). (Nelson, John) (Entered: 03/16/2012)
03/13/2012	<a href="#">61</a>	Motion In Limine Re: to Prohibit Evidence of Alleged Events Taking Place After Establishment of Underlying Debt Filed by John G. Nelson on behalf of Terry Kenneth Vickery. (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion in Limine to Prohibit Evidence of Alleged Events Taking Place After Establishment of Underlying Debt) (Nelson, John) (Entered: 03/13/2012)
03/12/2012	<a href="#">60</a>	Order Denying Plaintiff's Motion to Permit Telephone or Video Conference Trial Testimony (related document(s): <a href="#">56</a> Other Motion). (re) (Entered: 03/12/2012)
03/12/2012		Corrected Entry. Doc. #58 docketed in error: Incorrect filer on PDF. Refer to doc. #59 per CM's request. (related document(s): <a href="#">58</a> Response). (bsc) (Entered: 03/12/2012)
03/09/2012	<a href="#">59</a>	Plaintiff's Statement in Response to Court's Order on Defendant's Objections to Plaintiff's Proposed Exhibits Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s) <a href="#">57</a> Generic Order). (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">58</a>	<b>This entry docketed in error. Disregard the following transaction.</b> Response Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s): <a href="#">57</a> Generic Order). (Forno, Ruba) <b>Modified on 3/12/2012 (bsc)</b> . (Entered: 03/09/2012)
		Order On Defendant's Objections to Plaintiff's Proposed Exhibits. (related document(s) <a href="#">37</a> Witness List and Exhibits, <a href="#">48</a> Document). Ordered that on or before noon on Tuesday, March 13, 2012, Plaintiff shall provide Defendant with a notebook

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03/09/2012	<a href="#">57</a>	containing copies of his proposed trial exhibits, pre-marked to correspond with the numbers contained on Plaintiff's Trial Exhibit List filed on February 21, 2012. (re) (Entered: 03/09/2012)
03/09/2012	<a href="#">56</a>	Motion For To Permit Telephone and or Video Conference Trial Testimony Filed by Ruba M. Forno on behalf of Richard K. Diamond. (Attachments: # <a href="#">1</a> Exhibit 1 - Plaintiff's Expert Disclosures# <a href="#">2</a> Proposed/Unsigned Order) (Forno, Ruba) (Entered: 03/09/2012)
03/09/2012	<a href="#">55</a>	Subpoena To Be Served On: Tari Vickery - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">54</a>	Subpoena To Be Served On: Tim Bradley, CPA - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">53</a>	Subpoena To Be Served On: Sarah L. Hostetter - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">52</a>	Subpoena To Be Served On: Larry King - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">51</a>	Subpoena To Be Served On: Barry S. Engel, Esq. - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/06/2012	<a href="#">50</a>	Order Granting Defendant's Motion for Extension of Time to File Rule 26(a)(3) Responses (related document(s): <a href="#">47</a> Motion to Extend Time). Document due by 3/6/2012 for <a href="#">47</a> . (re) (Entered: 03/07/2012)
03/06/2012	<a href="#">49</a>	Order Denying Plaintiff's Motion To Vacate Trial (related document(s): <a href="#">44</a> Motion to Vacate). (re) (Entered: 03/06/2012)
03/06/2012	<a href="#">48</a>	Defendant's Objections to Plaintiff's Proposed Exhibits Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s) <a href="#">37</a> Witness List and Exhibits). (Nelson, John) (Entered: 03/06/2012)
03/05/2012	<a href="#">47</a>	Motion to Extend Time Due To Other Reasons To to File Rule 26(a)(3) Responses Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">11</a> Scheduling Order). (Nelson, John) (Entered: 03/05/2012)
03/05/2012	<a href="#">46</a>	Certificate of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s): <a href="#">45</a> Other Motion). (Kelly, Steven) (Entered: 03/05/2012)
03/05/2012	<a href="#">45</a>	Motion For to Admit Prior Testimony Under Oath at Trial Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Attachments: # <a href="#">1</a> Exhibit # <a href="#">2</a> Exhibit # <a href="#">3</a> Exhibit) (Kelly, Steven) (Entered: 03/05/2012)
03/02/2012	<a href="#">44</a>	Motion to Vacate Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s): <a href="#">10</a> Minutes of Proceedings/Minute Order). (Attachments: # <a href="#">1</a> Exhibit A - Defendant's Response to Plaintiff's Interrogatories# <a href="#">2</a> Exhibit B - Defendant's Response to Plaintiff's Request for Production of Documents# <a href="#">3</a> Exhibit C - E-mail from Steve Kelly to John Nelson dated 2-28-12) (Kelly, Steven) (Entered: 03/02/2012)
03/02/2012	<a href="#">43</a>	Order Denying Defendant's Motion to Withdraw Alleged Admissions (related document(s): <a href="#">32</a> Other Motion). (re) (Entered: 03/02/2012)
02/24/2012	<a href="#">42</a>	Order Denying Plaintiff's Motion For Reconsideration and Denying Renewed Motion for Summary Judgment (related document (s): <a href="#">25</a> Motion to Reconsider). (re) (Entered: 02/24/2012)
02/24/2012	<a href="#">41</a>	Response Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s): <a href="#">32</a> Other Motion). (Attachments: # <a href="#">1</a> Exhibit Exhibit A to Response in Opposition to Defendant's Motion to Withdraw Alleged Admissions# <a href="#">2</a> Exhibit Exhibit B to Response in Opposition to Defendant's Motion to Withdraw Alleged Admissions) (Kelly, Steven) (Entered: 02/24/2012)
02/23/2012	<a href="#">40</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">36</a> Notification Entry). No. of Notices: 1. Notice Date 02/23/2012. (Admin.) (Entered: 02/23/2012)
02/22/2012	<a href="#">39</a>	List of Witnesses and Exhibits Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s) <a href="#">38</a> Order on Motion to Extend Time-Adversary). (Attachments: # <a href="#">1</a> Other Exhibit List) (Nelson, John) (Entered: 02/22/2012)
02/22/2012	<a href="#">38</a>	Order Granting Defendant's Unopposed Motion to Extend Deadline for Disclosing Trial Witnesses and Exhibits (related document (s): <a href="#">35</a> Motion to Extend Time). Document due by 2/22/2012 for <a href="#">35</a> . (re) (Entered: 02/22/2012)
02/22/2012		Corrected Entry. Per CAT, document #33-34 was docketed in error - incorrect event. Refer to document #37 (related document (s): <a href="#">33</a> Notice, <a href="#">34</a> Notice). (jc) (Entered: 02/22/2012)
02/21/2012	<a href="#">37</a>	List of Witnesses and Exhibits Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s) <a href="#">11</a> Scheduling Order). (Forno, Ruba) (Entered: 02/21/2012)
02/21/2012	<a href="#">36</a>	Public Notice of Deficient Filing, Error or Defect and Application of L.B.R. 5005-4(l). The Electronic Filer of Document Number 33,34 is hereby notified the errors noted below shall be corrected by the close of the third court day following transmittal of this Notice, failing which the electronic document will be deemed stricken and, absent order of the court, no further action will be taken on the document. Error to be corrected: incorrect court events. E-Filer is to redocket pleading using "Adversary", "Miscellaneous", "Witness List & Exhibits" (related document(s) <a href="#">33</a> Notice, <a href="#">34</a> Notice). (re) (Entered: 02/21/2012)
		Unopposed Motion to Extend Time Due To Other Reasons To to make pretrial disclosures Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">11</a> Scheduling Order). (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting

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02/17/2012	<a href="#">35</a>	Defendant's Motion to Extend Time) (Nelson, John) (Entered: 02/17/2012)
02/17/2012	<a href="#">34</a>	<b>This entry was docketed in error. Refer to document #37.</b> Notice Re: Plaintiff's Trial Exhibit List. Filed by Ruba M. Forno on behalf of Richard K. Diamond. (Forno, Ruba) <b>Modified on 2/22/2012 (jc).</b> (Entered: 02/17/2012)
02/17/2012	<a href="#">33</a>	<b>This entry was docketed in error. Refer to document #37.</b> Notice Re: Plaintiff's Trial Witness List. Filed by Ruba M. Forno on behalf of Richard K. Diamond. (Forno, Ruba) <b>Modified on 2/22/2012 (jc).</b> (Entered: 02/17/2012)
02/13/2012	<a href="#">32</a>	Motion For Withdraw Admissions Filed by John G. Nelson on behalf of Terry Kenneth Vickery. (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion to Withdraw Admissions) (Nelson, John) (Entered: 02/13/2012)
02/03/2012	<a href="#">31</a>	Response Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">25</a> Motion to Reconsider). (Nelson, John) (Entered: 02/03/2012)
02/01/2012	<a href="#">30</a>	Order Granting Motion to Extend Time (related document(s): <a href="#">25</a> Motion to Reconsider, <a href="#">28</a> Order on Motion to Extend Time-Adversary, <a href="#">29</a> Motion to Extend Time). Document due by 2/3/2012 for <a href="#">29</a> . (re) (Entered: 02/01/2012)
01/30/2012	<a href="#">29</a>	Motion to Extend Time Due To Other Reasons To to Respond to Plaintiff's Motion for Reconsideration Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">25</a> Motion to Reconsider, <a href="#">27</a> Motion to Extend Time). (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Unopposed Motion for Further Extension of Time to Respond to Plaintiff's Motion for Reconsideration) (Nelson, John) (Entered: 01/30/2012)
01/25/2012	<a href="#">28</a>	Order Granting Defendant's Motion for Extension Time To Respond to Plaintiff's Motion for Reconsideration or, in the Alternative, Renewed Motion for Summary Judgment (related document(s): <a href="#">27</a> Motion to Extend Time). Document due by 1/30/2012. (re) (Entered: 01/25/2012)
01/23/2012	<a href="#">27</a>	Motion to Extend Time Due To Other Reasons To to Respond to Plaintiff's Motion for Reconsideration or, in the Alternative, for Summary Judgment Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">25</a> Motion to Reconsider). (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion for Extension of Time) (Nelson, John) (Entered: 01/23/2012)
01/23/2012	<a href="#">26</a>	Notice of Appearance and Request for Notice Filed by John G. Nelson on behalf of Terry Kenneth Vickery. (Nelson, John) (Entered: 01/23/2012)
01/06/2012	<a href="#">25</a>	Motion to Reconsider Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s): <a href="#">20</a> Order on Motion For Summary Judgment). (Attachments: <a href="#">1</a> Other Memorandum in Support of Motion for Reconsideration <a href="#">2</a> Exhibit T <a href="#">3</a> Exhibit U <a href="#">4</a> Exhibit U <a href="#">5</a> Exhibit U <a href="#">6</a> Exhibit U <a href="#">7</a> Exhibit U <a href="#">8</a> Exhibit U <a href="#">9</a> Exhibit U <a href="#">7</a> ) (Forno, Ruba) (Entered: 01/06/2012)
01/06/2012	<a href="#">24</a>	Notice of Appearance and Request for Notice Filed by Ruba M. Forno on behalf of Richard K. Diamond. (Forno, Ruba) (Entered: 01/06/2012)
01/04/2012	<a href="#">23</a>	Order Granting Unopposed Motion to Modify Order Pursuant to Scheduling Conference Held May 25, 2011. The deadline to complete fact discovery for the limited purpose of taking the deposition of Defendant is extended to January 27, 2012 (related document(s): <a href="#">22</a> Motion). (re) (Entered: 01/04/2012)
12/29/2011	<a href="#">22</a>	Unopposed Motion For Modify Order Pursuant to Scheduling Conference Held May 25, 2011 Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Attachments: <a href="#">1</a> Proposed/Unsigned Order Order Granting Unopposed Motion to Modify Order Pursuant to Scheduling Conference Held May 25, 2011) (Kelly, Steven) (Entered: 12/29/2011)
10/17/2011	<a href="#">21</a>	Written Opinion (related document(s): <a href="#">14</a> Motion for Summary Judgment). (re) (Entered: 10/19/2011)
10/17/2011	<a href="#">20</a>	Order Denying Motion For Summary Judgment Against Plaintiff(related document(s): <a href="#">14</a> Motion for Summary Judgment). (re) (Entered: 10/17/2011)
08/22/2011	<a href="#">19</a>	Order Granting Plaintiff's Motion For Extension of Time, nunc pro tunc August 9, 2011. (related document(s): <a href="#">16</a> Motion to Extend Time). (re) (Entered: 08/22/2011)
08/19/2011	<a href="#">18</a>	Reply Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s): <a href="#">14</a> Motion for Summary Judgment). (Attachments: <a href="#">1</a> Certificate of Service <a href="#">2</a> Exhibit N - T to Reply In Support of Motion for Summary Judgment) (Forno, Ruba) (Entered: 08/19/2011)
08/19/2011	<a href="#">17</a>	Reply Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s): <a href="#">14</a> Motion for Summary Judgment). (Forno, Ruba) (Entered: 08/19/2011)
08/09/2011	<a href="#">16</a>	Motion to Extend Time Due To Other Reasons Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document (s): <a href="#">14</a> Motion for Summary Judgment). (Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Kelly, Steven) (Entered: 08/09/2011)
08/02/2011	<a href="#">15</a>	Response Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">14</a> Motion for Summary Judgment). (O'Shaughnessy, Kevin) (Entered: 08/02/2011)
07/15/2011	<a href="#">14</a>	Motion For Summary Judgment Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Attachments: <a href="#">1</a> Memorandum in Support of Motion for Summary Judgment <a href="#">2</a> Exhibit A <a href="#">3</a> Exhibit B <a href="#">4</a> Exhibit C <a href="#">5</a> Exhibit D <a href="#">6</a> Exhibit E. <a href="#">17</a> Exhibit E. <a href="#">28</a> Exhibit E. <a href="#">39</a> Exhibit E. <a href="#">4</a> <a href="#">10</a> Exhibit E. <a href="#">5</a> <a href="#">11</a> Exhibit E. <a href="#">6</a> <a href="#">12</a> Exhibit E. <a href="#">7</a> <a href="#">13</a> Exhibit E. <a href="#">8</a> <a href="#">14</a> Exhibit E. <a href="#">9</a> <a href="#">15</a> Exhibit E. <a href="#">10</a> <a href="#">16</a> Exhibit E. <a href="#">11</a> <a href="#">17</a> Exhibit E. <a href="#">12</a> <a href="#">18</a> Exhibit E. <a href="#">13</a> <a href="#">19</a> Exhibit E. <a href="#">14</a> <a href="#">20</a> Exhibit F <a href="#">21</a> Exhibit G <a href="#">22</a> Exhibit H <a href="#">23</a> Exhibit I <a href="#">24</a> Exhibit J <a href="#">25</a> Exhibit K <a href="#">26</a> Exhibit L <a href="#">27</a> Exhibit M) (Kelly, Steven) (Entered: 07/15/2011)
		Courts Notice or Order and BNC Certificate of Mailing (related document(s): <a href="#">11</a> Scheduling Order). No. of Notices: 2. Service Date

05/28/2011	<a href="#">13</a>	05/28/2011. (Admin.) (Entered: 05/28/2011)
05/28/2011	<a href="#">12</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">10</a> Minutes of Proceedings/Minute Order). No. of Notices: 2. Service Date 05/28/2011. (Admin.) (Entered: 05/28/2011)
05/26/2011	<a href="#">11</a>	Order Pursuant to Scheduling Conference Held May 25, 2011: (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint). Trial to be held on 3/19/2012 at 09:00 AM BRCH Courtroom C205. Discovery due by 12/30/2011. Dispositive Motions relating to the preclusive effect of prior judicial determinations in litigations between the parties are due 7/15/2011, Other dispositive motions are due by 1/6/2012. (pt) (Entered: 05/26/2011)
05/25/2011	<a href="#">10</a>	Minutes of Proceeding: Continued to March 19, 2012, at 9:00 a.m. in Courtroom C-205, for a five (5) day trial. Pretrial deadlines and trial date scheduled on the record. A formal Scheduling Order to be sent to counsel of record in this case. (related document(s) Complaint in Adversary Proceeding, <a href="#">6</a> Answer to Complaint). Hearing to be held on 3/19/2012 at 09:00 AM BRCH Courtroom C205. (pt) (Entered: 05/26/2011)
05/18/2011	<a href="#">9</a>	Joint F.R.C.P. 26 (a) Disclosure Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s) <a href="#">7</a> Scheduling Order). (Kelly, Steven) (Entered: 05/18/2011)
04/17/2011	<a href="#">8</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">7</a> Scheduling Order). No. of Notices: 1. Service Date 04/17/2011. (Admin.) (Entered: 04/17/2011)
04/15/2011	<a href="#">7</a>	NOTICE OF Fed.R.Civ.P. 16(b) STATUS/SCHEDULING CONFERENCE ON LAW AND MOTION CALENDAR (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint). Status/Scheduling Conference to be held on 5/25/2011 at 10:00 AM BRCH Courtroom C205 . (bel) (Entered: 04/15/2011)
04/11/2011	<a href="#">6</a>	Answer to Complaint Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s) <a href="#">3</a> Complaint). (O'Shaughnessy, Kevin) (Entered: 04/11/2011)
04/06/2011	<a href="#">5</a>	Summons Service Executed On: Terry Kenneth Vickery 3/15/11 Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 04/06/2011)
03/15/2011		Corrected Entry. Per EQ, document #2 was docketed in error - incorrect PDF attached. Refer to document #3 (related document (s): <a href="#">2</a> Complaint). (jc) (Entered: 03/15/2011)
03/14/2011	<a href="#">4</a>	Summons Issued on Terry Kenneth Vickery Answer Due 4/13/2011. (jtm) (Entered: 03/15/2011)
03/14/2011	<a href="#">3</a>	Complaint by Richard K. Diamond against Terry Kenneth Vickery . Fee Paid. Filed by Steven W. Kelly on behalf of Richard K. Diamond Adversary Status Deadline 7/12/2011 (Attachments: <a href="#">1</a> Exhibit <a href="#">2</a> Exhibit <a href="#">3</a> Exhibit <a href="#">4</a> Exhibit <a href="#">5</a> Exhibit <a href="#">E</a> ) (jtm) (Entered: 03/15/2011)
03/14/2011	<a href="#">2</a>	<b>This entry was docketed in error. Refer to document #3.</b> Complaint by Richard K. Diamond against Richard K. Diamond . Fee Paid. Filed by Steven W. Kelly on behalf of Richard K. Diamond Adversary Status Deadline 7/12/2011 (Attachments: <a href="#">1</a> Exhibit <a href="#">2</a> Exhibit <a href="#">3</a> Exhibit <a href="#">4</a> Exhibit <a href="#">5</a> Exhibit <a href="#">6</a> Exhibit) (jtm) <b>Modified on 3/15/2011 (jc)</b> . (Entered: 03/15/2011)
03/14/2011	1	Receipt of Adversary Proceeding Filing Fee - \$250.00 by MB. Receipt Number 00239289. (admin) (Entered: 03/15/2011)
03/11/2011		Adversary case 11-01164. New Adversary Proceeding Opened . (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)) ,(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) ,(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (mjb) (Entered: 03/14/2011)

PACER Service Center			
Transaction Receipt			
07/05/2012 09:26:10			
PACER Login:	ap0000	Client Code:	10_818
Description:	Docket Report	Search Criteria:	11-01164-ABC Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html
Billable Pages:	9	Cost:	0.90

**UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT**

BYRON WHITE UNITED STATES COURTHOUSE  
1823 STOUT STREET  
DENVER, COLORADO 80257

**DAVID W. AEMMER**  
CHIEF CIRCUIT MEDIATOR

TELEPHONE 303 844-6017  
FACSIMILE 303 844-6437

**LANCE OLWELL**  
**KYLE ANN SCHULTZ**  
CIRCUIT MEDIATORS

July 2, 2012

Joe L. Silver, Esq.  
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600 17th St., Ste. 2800 S  
Denver, CO 80202

RE: BAP No. CO-12-46 - In re Terry Kenneth Vickery; Richard K. Diamond v. Vickery

**MEDIATION CONFERENCE NOTICE**

Dear Counsel:

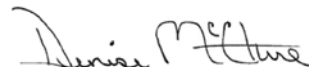
Pursuant to 10<sup>th</sup> Cir. BAP General Order No. 8, a mediation conference has been scheduled in this case. This office will initiate a **TELEPHONE CONFERENCE CALL** on Friday, July 13, 2012 at 10:00 a.m., MOUNTAIN DAYLIGHT TIME. Please allow at least two hours for the conference.

The purpose of the conference is to explore any possibilities for settlement. Counsel are expected to have consulted with their clients prior to the conference and to have as much authority as feasible regarding settlement and case management matters.

Counsel addressed above are understood to be the lawyers with primary responsibility for this case. Please contact this office **BY TELEPHONE IMMEDIATELY** if we need to notify different or additional lawyers or if you need to have the conference rescheduled because of an unavoidable conflict.

Participation in the conference by cell phone is not permitted.

Sincerely,



Denise McClure  
Conference Administrator

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE TENTH CIRCUIT**

<p>IN RE TERRY KENNETH VICKERY, officer, director, shareholder TKV Consulting, member Johnstown-Milliken LLC, member 3040 Zuni LLC, member West 29<sup>th</sup> Street LLC, member 3051-3063 Zuni LLC</p> <p>Debtor.</p>	<p>BAP No. CO-12-046</p>
<p>RICHARD K. DIAMOND, as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, a Florida General Partnership,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>TERRY KENNETH VICKERY,</p> <p>Defendant – Appellant.</p>	<p>Bankr. No. 10-41118 Adv. No. 11-01164 Chapter 7</p>
<p><b>DEFENDANT/APPELLANT TERRY K. VICKERY’S COMBINED ENTRY OF APPEARANCE, STATEMENT OF INTERESTED PARTIES, AND STATEMENT REGARDING ORAL ARGUMENT</b></p>	

**Entry of Appearance**

The undersigned attorney hereby enters his appearance as counsel for Defendant/Appellant, Terry Kenneth Vickery (“Mr. Vickery”), in this appeal.



### Statement of Interested Parties

1. Names of interested parties who are not listed on the notice of appeal (8001-4(b)(1)):  
 \_\_\_\_\_  
 There are no such parties.
  
2. Name of parent corporation and any publicly held corporation that owns, directly or indirectly, 10% or more of the equity interest in a party that is a corporation \*\* (8001-4(b)(2)):  
 \_\_\_\_\_  
 There are no such parent or publicly held corporations.
  
3. Names of prior attorneys who have not yet entered an appearance in this Court (8001-4(b)(3)):  
 Mr. Vickery initially was represented by the following attorney in the Bankruptcy Court: Kevin M. O’Shaughnessy, Esq., 1177 Grant Street #300, Denver, Colorado 80203.  
 There are no such prior attorneys.

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\*\* See 11 U.S.C. § 101(9) for the definition of “corporation.”

### Statement Regarding Oral Argument

Mr. Vickery hereby submits the following statement regarding oral argument pursuant to 10th Cir. BAP L.R. 8001-4(c):

- Oral Argument is REQUESTED.
- Oral argument is NOT REQUESTED.

Respectfully submitted this 30<sup>th</sup> day of June, 2012.

LAW OFFICE OF JOHN G. NELSON

*/s/ John G. Nelson*

By: \_\_\_\_\_

John G. Nelson  
1624 Market Street, Ste. 202  
Denver, CO 80202  
(303) 376-6227 – Telephone  
(303) 376-6228 – Telefax  
nelsonlawoffice@aol.com – E-mail

ATTORNEYS FOR APPELLANT

CERTIFICATE OF SERVICE

I certify that the foregoing document was served this 30<sup>th</sup> day of June, 2012 by placing a true and accurate copy of the same in the United States Mail, first class postage prepaid and addressed as follows:

Joe L. Silver, Esq.  
Steven W. Kelly, Esq.  
Ruba M. Forno, Esq.  
Silver & DeBoskey, P.C.  
1801 York Street  
Denver, CO 80206

*/s/ John G. Nelson*

---

UNITED STATES BANKRUPTCY APPELLATE PANEL

OF THE TENTH CIRCUIT  
OFFICE OF THE CLERK

Blaine F. Bates  
Clerk of Court

Byron White U.S. Courthouse  
1823 Stout St., Denver, CO 80257  
(303) 335-2900

June 20, 2012

TO: All Parties  
RE: Richard Diamond v. Terry Vickery  
BAP No.: CO-12-046  
Bk. No.: 10-41118  
Adv. No.: 11-01164

**Notice:** This appeal was entered on the docket on June 20, 2012 by the Bankruptcy Appellate Panel (“BAP”) and assigned the above BAP number. Provided no timely election is filed, this appeal will proceed before the BAP. A copy of the appeal caption is attached for your review.

**Scheduling Information:**

- **Within 14 days after the date of this letter**, all parties must file an entry of appearance containing the filer’s name, address, telephone and facsimile numbers, and ECF e-mail address. 10th Cir. BAP L.R. 8001-4(a). An appellant’s failure to enter an appearance may result in dismissal of the case. An appellee who fails to enter an appearance may be removed from the case for purposes of service by the Court without further notice. See 10th Cir. BAP ECF - 16. Although attorneys who authorize their names to appear on filed papers are deemed to have entered an appearance, and may not withdraw without the Court’s permission, the Court requires a separate appearance from all attorneys. 10th Cir. BAP L.R. 8001-4(a).
- **Within 14 days after the date of this letter**, all parties, other than governmental parties, must file a statement disclosing any interested party who is not listed in the notice of appeal. 10th Cir. BAP L.R. 8001-4(b). An appellant’s failure to file this statement may result in dismissal of the case. An appellee’s failure to file this statement may result in any papers filed by the appellee being stricken from the record.
- **Within 14 days after the date of this letter**, all parties must file a statement regarding oral argument indicating whether oral argument is requested. 10th Cir. BAP L.R. 8001-4(c). An appellant’s failure to file this statement may result in dismissal of the case. An appellee’s failure to file this statement may result in any papers filed by the appellee being stricken from the record.
- The Entry of Appearance, Statement of Interested Parties, and Statement Regarding Oral Argument may be combined into one document. 10th Cir. BAP L.R. 8001-4(d).
- **Within 45 days after the date of this letter**, the Appellant’s opening brief and appendix must be filed. An appellant’s failure to file a brief and appendix may result in dismissal of the case. The Appellee’s opening brief is due 14 days after the Appellant’s brief is served, and the Appellant’s reply brief is due 14 days after the Appellee’s brief is served. Fed. R. Bankr. P. 8009 to 8010; 10th Cir. BAP L.R. 8009-1 to 8010-1.

- **Within 14 days after the filing of the notice of appeal**, the appellant shall file with the clerk of the bankruptcy court a designation of the items to be included in the record on appeal and a statement of the issues to be presented. An appellant's failure to file a designation and statement may result in dismissal of the case. Fed. R. Bankr. P. 8006; 10th Cir. BAP L.R. 8018-4(c).
- **Please note:** This Court has adopted a mandatory electronic case filing system ("ECF"). 10th Cir. BAP L.R. 8008-1(a). Persons exempt from mandatory ECF shall file an original and three copies of all papers. Fed. R. Bankr. P. 8008(a). All appeals filed after October 1, 2010, other than those filed by pro se parties, shall be referred to the Tenth Circuit Mediation Office. General Order No. 6 (Sept. 30, 2010). All papers presented for filing shall contain proof of service. Fed. R. Bankr. P. 8008(d). Any motion, other than a procedural motion or motion for stay that does not contain a statement regarding opposition may be denied. 10th Cir. BAP L.R. 8011-1(a).

Appeals before the BAP are governed by Part VIII of the Federal Rules of Bankruptcy Procedure, the BAP's local rules, and the ECF Filing Procedures and Guidance. The rules, ECF Filing Procedures, "Guide to BAP Appeals," and samples of papers filed in a typical BAP appeal are available on the BAP's website, [www.bap10.uscourts.gov](http://www.bap10.uscourts.gov), or upon request from the BAP Clerk's Office. Please contact the BAP Clerk's Office with any questions.

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE TENTH CIRCUIT**

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IN RE TERRY KENNETH VICKERY,  
officer, director, shareholder TKV  
Consulting, member Johnstown-Milliken  
LLC, member 820 Welch St. LLC, member  
3040 Zuni LLC, member West 29th St.  
LLC, member 3051-3063 Zuni LLC,

Debtor.

---

RICHARD K. DIAMOND, as Chapter 7  
Trustee for IVDS Interactive Acquisition  
Partners, A Florida General Partnership,

Plaintiff - Appellee,

v.

TERRY KENNETH VICKERY,

Defendant - Appellant.

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BAP No. CO-12-046

Bankr. No. 10-41118  
Adv. No. 11-01164  
Chapter 7

## CHECKLIST FOR BAP BRIEF

### Fed. R. Bankr. P. 8010; 10th Cir. BAP L.R. 8010-1

The Appellant's Brief must be printed on only one side of the page with 1" margins using text no smaller than 12-point font and contain the following information:

- Cover page with the following information:
  - Case caption
  - Title "Brief"
  - Filing party's name
  - Counsel or pro se party's name, address, phone number, fax number, and ECF e-mail address
- Table of contents with page references (references to documents in an appendix must be to pages of the appendix (e.g., Appellant App. at 27))
- Alphabetical table of authorities with page references
- Statement of the basis of appellate jurisdiction
- Statement of the issues presented and applicable standard of review
- Statement of the case
- Statement of facts
- Summary of argument (optional)
- Argument
- Conclusion
- Statement of related cases, if any (must be on the last page of the brief)
- Any addenda (e.g., text of relevant statutes)
- Also note the following page limits:
  - Principal Briefs: 50 pages
  - Reply Briefs: 25 pages
  - Page limits exclude any statement of related cases and addenda.

Be advised that this Court has adopted a mandatory electronic case filing system. *See* 10th Cir. BAP L.R. 8008-1(a). An electronically filed document is considered the original; therefore, no additional paper copies are required. *See* 10th Cir. BAP L.R. 8008-1(b) and ECF - 2(c). The file size for a single electronically filed document is limited to ten megabytes (10MB). ECF - 12(b). Documents that exceed 10MB must be divided into subparts and attached as additional documents within the same electronic filing transaction. *Id.* The description of each attached part must identify the page numbers within the document (e.g., Appellant's Appendix, pp. 51 - 100). *Id.*

## CHECKLIST FOR BAP APPENDIX

### Fed. R. Bankr. P. 8009(b); 10th Cir. BAP L.R. 8009-3

The Appellant's Appendix must be separate from the brief, printed on only one side of the page, and contain the following items:

- Cover page with the following information:
  - Case caption
  - Title "Appendix"
  - Filing party's name
  - Counsel or pro se party's name, address, phone number, fax number, and ECF e-mail address
- Table of Contents containing the following information for each document:
  - Full name of each document
  - Bankruptcy court docket number for each document
  - Page number of each document (each page in the appendix must have its own, consecutive page number)
- Bankruptcy court docket sheet, which includes the entry of the notice of appeal
- Complaint and answer, or other equivalent pleadings (i.e., motion filed)
- Any pretrial orders
- Any transcript or relevant portions of transcript (a full transcript is required to challenge finding of fact)
- Judgment or order from which the appeal is taken
- Bankruptcy court's opinion, findings of fact, or conclusions of law
- Any other orders relevant to the appeal
- Any motion and response on which the bankruptcy court ruled
- Notice of appeal

Be advised that this Court has adopted a mandatory electronic case filing system. *See* 10th Cir. BAP L.R. 8008-1(a). An electronically filed document is considered the original; therefore, no additional paper copies are required. *See* 10th Cir. BAP L.R. 8008-1(b) and ECF - 2(c). The file size for a single electronically filed document is limited to ten megabytes (10MB). ECF - 12(b). Documents that exceed 10MB must be divided into subparts and attached as additional documents within the same electronic filing transaction. *Id.* The description of each attached part must identify the page numbers within the document (e.g., Appellant's Appendix, pp. 51 - 100). *Id.*



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

In re:	)	
	)	
TERRY KENNETH VICKERY	)	Case No. 10-41118-ABC
SSN: xxx-xx-5421	)	Chapter 7
	)	
Debtor.	)	
_____	)	
	)	Adv. Proc. No. 11-01164-ABC
RICHARD K. DIAMOND,	)	
As Chapter 7 Trustee for IVDS	)	
Interactive Acquisition Partners,	)	
A Florida General Partnership,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
TERRY KENNETH VICKERY,	)	
	)	
Defendant.	)	
_____	)	

**NOTICE OF APPEAL**

Defendant, Terry K. Vickery (“Mr. Vickery”), through undersigned counsel, hereby appeals under 28 U.S.C. § 158(a) or (b) from the Findings of Fact, Conclusions, and Ruling and the accompanying Judgment entered in this adversary proceeding on June 5, 2012.

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Richard K. Diamond, Plaintiff

Represented by:

Joe L. Silver, Esq.

Steven W. Kelly, Esq.

Ruba M. Forno, Esq.

Silver & DeBoskey, P.C.

1801 York Street

Denver, CO 80206

(303) 399-3000

Terry Kenneth Vickery, Defendant

Represented by:

John G. Nelson, Esq.

Law Office of John G. Nelson

1624 Market Street, Ste. 202

Denver, CO 80202

(303) 376-6227

Respectfully submitted this 19<sup>th</sup> day of June, 2012.

LAW OFFICE OF JOHN G. NELSON

*/s/ John G. Nelson*

By:

\_\_\_\_\_  
John G. Nelson

1624 Market Street, Ste. 202

Denver, CO 80202

(303) 376-6227 – Telephone

(303) 376-6228 – Telefax

nelsonlawoffice@aol.com – E-mail

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that the foregoing document was served this 19<sup>th</sup> day of June, 2012 by placing a true and accurate copy of the same in the United States Mail, first class postage prepaid and addressed as follows:

Silver & DeBoskey, P.C.  
1801 York Street  
Denver, CO 80206

Office of the United States Trustee  
999 18<sup>th</sup> Street, Ste. 1551  
Denver, CO 80202

*/s/ John G. Nelson*

---

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO  
The Honorable A. Bruce Campbell

In re:	)	
	)	
TERRY KENNETH VICKERY,	)	Case No. 10-41118 ABC
	)	Chapter 7
Debtor.	)	
_____	)	
	)	
RICHARD K. DIAMOND, as Chapter 7	)	
Trustee for IVDS Interactive Acquisition	)	
Partners, a Florida general partnership,	)	
Plaintiff	)	
	)	
v.	)	Adversary No. 11-01164 ABC
	)	
TERRY KENNETH VICKERY	)	
Defendant.	)	

JUDGMENT

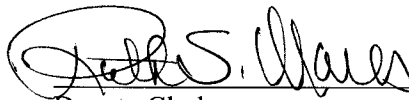
Pursuant to and in accordance with the Findings of Fact, Conclusions of Law and Ruling, entered by the Honorable A. Bruce Campbell, United States Bankruptcy Judge, on June 5, 2012,

**IT IS ORDERED AND ADJUDGED** that judgment is entered in favor of Defendant Terry Kenneth Vickery on Plaintiff's First and Second Claims for Relief under 11 U.S.C. §§ 523(a)(2)(A) and (a)(4). It is

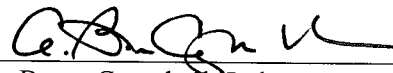
**FURTHER ORDERED** that judgment is entered in favor of Plaintiff, Richard K. Diamond, as Chapter 7 Trustee for IVDS Interactive Partnership, a Florida general partnership, and against Defendant Terry Kenneth Vickery, declaring that the debt represented by Plaintiff's judgment in the total amount of \$ \$5,465,272.48, is non-dischargeable pursuant to 11 U.S.C. § 523(a)(6).

DATED: June 5, 2012

FOR THE COURT:  
BRADFORD L. BOLTON, CLERK

  
Deputy Clerk

APPROVED AS TO FORM:

  
A. Bruce Campbell, Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO  
**Honorable A. Bruce Campbell**

In re:	)	
	)	
TERRY KENNETH VICKERY,	)	Case No. 10-41118 ABC
	)	Chapter 7
Debtor.	)	
_____	)	
	)	
RICHARD K. DIAMOND, as Chapter 7	)	
Trustee for IVDS Interactive Acquisition	)	
Partners, a Florida general partnership,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adversary No. 11-01164 ABC
	)	
TERRY KENNETH VICKERY	)	
	)	
Defendant.	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RULING**

This matter came on for trial on March 19-21, 2012. After the trial, several hundred pages of trial and deposition testimony from prior proceedings that had been admitted in evidence were submitted to the Court. The Court reconvened for counsel’s closing arguments on April 30, 2012, and thereafter took the matter under advisement. The Court now makes the following findings of fact, conclusions of law, and ruling.

Plaintiff Richard K. Diamond (“Plaintiff”) appears in this action in a representative capacity as Chapter 7 Trustee for IVDS Interactive Acquisition Partners, a Florida general partnership (“IIAP”). Defendant Terry Kenneth Vickery (“Vickery” or “Debtor”) is an individual who filed a Chapter 7 petition in this Court on December 14, 2010. IIAP filed bankruptcy in the United States Bankruptcy Court for the Central District of California in 1995. Long before Vickery filed his bankruptcy, Plaintiff sued Vickery in an adversary proceeding related to IIAP’s bankruptcy (“IIAP Adversary Proceeding”) to avoid certain transfers from IIAP to Vickery and others, and to recover the value of the property transferred. The IIAP Adversary Proceeding culminated in a May, 2007 judgment in favor of Plaintiff and against Vickery and others. Plaintiff’s judgment against Vickery is in the amount of \$3.6 million in actual damages and \$1 million in punitive damages (“IIAP Judgment”). Plaintiff brought this adversary proceeding for a determination that this judgment debt owed by Vickery to Plaintiff as Trustee of the IIAP bankruptcy estate is nondischargeable under 11 U.S.C. § 523(a)(2), (4), and/or (6).

The Court has jurisdiction of this adversary proceeding pursuant to 28 U.S.C. §§ 1334(a) and (b) and 28 U.S.C. §§ 157(a) and (b)(1). Adjudication of the claims in this adversary proceeding are core proceedings under 28 U.S.C. § 157(b)(2)(I).

### CLAIMS AND DEFENSES

Plaintiff asserted three claims for relief: first, that the IIAP Judgment should be excepted from Vickery’s discharge as a debt for funds obtained “under false pretenses, false representations or actual fraud;” second, as a debt for “fraud and defalcation, while acting in a fiduciary capacity to [IIAP];” and third, as a debt for “willful and malicious injury to [IIAP] and its property.” Complaint, ¶¶ 50, 56, and 61.

Vickery generally denied the allegations of Plaintiff’s Complaint.

### FINDINGS OF FACT

The undisputed basic facts concerning the formation and operation of IIAP and the proceedings leading to the IIAP Judgment were set forth in detail in this Court’s October 17, 2011 Order Denying Plaintiff’s Motion for Summary Judgment [Docket # 20] and are incorporated herein. They are summarized below only to the extent necessary to provide background for this ruling.

IIAP was formed, in April, 1994, for the purpose of acquiring licenses to be issued by the Federal Communications Commission (“FCC”) which would entitle the license holder to operate an interactive television system within a particular geographic market. IIAP hired a company known as Digital Interactive Associates, Inc. (“DIA”) to raise \$6 million for IIAP. DIA hired Market Dynamics Group (“MDG”) and Market Logistics Group (“MLG”) as consultants.

Over the course of eight months from April through December, 1994, \$6 million dollars was raised for IIAP from approximately 640 investors who were required to invest a minimum of \$6,000. Of this amount, nearly \$3.6 million dollars (60%) was paid by IIAP for “expenses” of raising the \$6 million. In July, 1994, IIAP purchased three interactive television licenses from the FCC for a total of \$6 million dollars with a down payment of \$1.2 million and the \$4.8 million balance to be paid over five years. A year and a half later, in December, 1995, IIAP filed its Chapter 11 bankruptcy which was subsequently converted to Chapter 7.

Plaintiff brought the IIAP Adversary Proceeding against Vickery and others involved with IIAP, DIA, MDG and MLG. There Plaintiff alleged that \$3.6 million had been transferred by IIAP to the defendants and that the transfers were avoidable under Florida law. Plaintiff, as a bankruptcy trustee, was subrogated to IIAP’s creditors’ avoidance rights by the Bankruptcy Code “strong arm” provisions of 11 U.S.C. § 544.<sup>1</sup> Plaintiff recovered the \$3.6 million judgment jointly and severally

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<sup>1</sup> Plaintiff alleged that the transfers were both actually fraudulent (i.e., that they were made with the intent to hinder, delay, or defraud, creditors of IIAP) and constructively fraudulent

against Vickery and the other defendants, having claimed that they were part of a conspiracy to cause IIAP to transfer the funds.

At the conclusion of a two-week trial, the jury returned a verdict in favor of Plaintiff and against Vickery and other defendants. The jury found that \$3.6 million was fraudulently transferred by IIAP. Of the \$3.6 million in total transfers, the jury found that \$1,440,000 was transferred by IIAP with the intent to hinder, delay, or defraud IIAP's creditors; \$1,080,000 was transferred by IIAP without receiving equivalent value in exchange for the transfers when IIAP was engaged in business for which its remaining assets were unreasonably small; and \$1,080,000 was transferred by IIAP without receiving equivalent value in exchange while IIAP was unable to pay its debts.

The jury found that Vickery was part of a conspiracy to cause IIAP to make fraudulent transfers. The jury assessed \$1,000,000 in actual damages and \$1,000,000 in punitive damages against Vickery individually. An additional \$2.6 million in actual damages was awarded against defendants other than Vickery. The United States District Court entered judgment against Vickery in the amount of \$3.6 million in actual damages, "pursuant to the applicable legal principles of joint and several liability" as a "co-conspirator," plus the \$1 million in punitive damages.

The following additional facts regarding the formation and operation of IIAP were established by the evidence presented at the trial of the instant adversary proceeding. IIAP was formed by Carlo Anneke ("Anneke") and David Dambro ("Dambro"). Anneke had experience in the television industry and was known to Dambro to be interested in becoming involved in any projects that Dambro put together regarding interactive television. Anneke acted as the original general partner of IIAP. Although Dambro took no formal ownership interest or managing title with IIAP, Dambro was the catalyst in bringing together all the parties with the expertise needed to raise the funds for IIAP, and he was the person in charge of the venture. Dambro hired attorney Perry West ("West") to draft the legal documents necessary to form the partnership and to give an opinion on whether the sale of the partnership interests would be subject to securities laws and regulations. Doug Mallach ("Mallach") was brought on board by Dambro, nominally as a "consultant" to DIA, but in reality to be in charge of all aspects of DIA's day-to-day operations.

In an April 11, 2004 fax from Dambro to West and Lee Payne [Plaintiff's Exhibit 28], there is a summary of items discussed at an April 10, 2004 meeting concerning the formation of IIAP. The summary includes the total \$6 million goal for fund-raising, with the proceeds to be distributed as follows: 40% (\$2.4 million) to be put in "escrow" with West for the benefit of IIAP; 20% (\$1.2 million) for sales commissions to be paid to sales people and sales managers; 15% (\$900,000) to DIA for marketing, and 25% (\$1.5 million) for DIA's "G & A" expenses. Dambro, Anneke, and West were involved in formulating the \$6 million goal, the \$2.4 million "escrow," and the distribution of the balance of funds raised. Six million dollars was the upper limit for IIAP fund-raising because that was the maximum amount a company could have and still qualify, according to FCC regulations, as a small business entitled to special "credits" in the license purchase process. Anneke thought the

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(i.e., that they were made for inadequate consideration while IIAP was insolvent).

\$2.4 million was a reasonable sum for IIAP to acquire some “good” FCC licenses and for some nominal initial operating costs. This funding plan described in the April 11, 2004 fax was approved at the initial partnership meeting where Anneke acted as the initial general partner of IIAP. Dambro and West also attended the initial meeting.

Vickery knew Dambro and Mallach from prior business ventures, and they asked him to become involved with IIAP and DIA. Vickery became president and sole shareholder of DIA at the request of Dambro and/or Mallach. Vickery used money lent to him by Dambro to purchase DIA shares. Dambro and/or Mallach retained the option to acquire Vickery’s ownership interest in DIA at any time. Vickery’s role with DIA was limited to being in charge of sales operations and supervision of the 30-40 “sales associates” who contacted potential investors by telephone. Vickery drafted sales scripts and trained and supervised the sales people. Though nominally Vickery was president and sole owner of DIA, the corporation was in fact controlled by Dambro and Mallach.

MDG was Dambro’s company. He was its president and sole shareholder. During the eight month period in 1994, during which funds were raised for IIAP, Dambro’s full time job was “consulting” with all of the parties involved with IIAP. According to Dambro’s April, 1999 deposition testimony, MDG had a verbal contract with DIA to contribute Dambro’s expertise, consulting, marketing, and support for whatever amount of time was necessary. MDG’s compensation was to be a flat fee of whatever was “left over” after the escrow of \$2.4 million for IIAP and the payment of all the other expenses of raising the funds.

MLG was a company owned by Michael Dambro, David Dambro’s brother. MLG provided DIA with “leads” or lists of investors who could be contacted by DIA’s sales representatives. MLG also produced and distributed the written information about IIAP which was sent to potential investors.

Vickery was aware of the agreement between IIAP and DIA pursuant to which DIA would receive 60% of the funds it raised on behalf of IIAP. These monies were earmarked for sales commissions, operations, and consulting expenses. There was no written agreement concerning the 60% to be paid to DIA. Vickery was also aware that the maximum that DIA was to raise for IIAP was \$6 million.

All of the \$6 million raised for IIAP was initially deposited in DIA’s bank account. In March, 1995, the accounting firm of BDO Seidman prepared a summary showing how the \$6 million was disbursed from IIAP’s inception, in April, 1994, through December 31, 1994 [Plaintiff’s Exhibit 5]. The BDO Seidman accounting shows that \$2.4 million dollars was paid to “Perry West, Trustee.” This reflects the \$2.4 million “escrow account” that was for the benefit of IIAP. A total of \$3,561,729.94 was disbursed to various categories of IIAP/DIA expenses. Out of this nearly \$3.6 million, MLG received transfers of \$325,941.91, out of a total of \$328,560.18 spent for “advertising and promotion.” DIA received \$882,665.03 and MDG received \$569,319.99 out of a total of \$1,620,981.58 spent for “consulting fees.” Other operating expenses of IIAP and/or DIA, for items like equipment rental, office supplies, postage, rent, telephone, and legal fees, were paid. A small amount, \$38,270.06, was left after the \$2.4 million escrow and nearly \$3.6 million in other



disbursements were subtracted from the \$6 million raised. This \$38,000 was transferred to the IIAP Operating Account.

In July, 1994, IIAP, through Anneke, purchased three interactive television licenses at an FCC auction for the total cost of \$6 million. IIAP paid the \$1.2 million down payment to the FCC from the \$2.4 million “escrow account.” After paying the nearly \$3.6 million in operating expenses, commissions, and consulting fees to and through DIA, and after paying \$1.2 million for the down payment on the licenses, IIAP was left with insufficient funds with which to make the remaining payments to the FCC or to acquire and build out the necessary equipment and infrastructure to operate the interactive television systems authorized by the FCC licenses. In fact, no interactive television system was ever built by IIAP.

## DISCUSSION

### A. The Debt

An important first step in the analysis of Plaintiff’s claims in this adversary proceeding is to clarify just what the debt he seeks to have determined nondischargeable is, and what it is not. The debt is the IIAP Judgment against Vickery and in favor of Plaintiff. Plaintiff, as Trustee for IIAP’s bankruptcy estate, is the creditor whose debt is at issue. Vickery’s liability on the IIAP Judgment arises from Vickery’s participation in the transfer of assets from IIAP to DIA and others. The debt at issue in this adversary proceeding is not a debt based on Vickery’s role in obtaining IIAP funds from the investors who were contacted by DIA’s salespeople. Thus, for example, any securities laws violations that occurred in the marketing of IIAP partnership interests, and any misrepresentations or failures to disclose facts about IIAP to the investors are irrelevant to this case. Plaintiff’s debt is related only to what happened to IIAP’s assets after the funds were obtained from the investors. It has nothing to do with how the funds were raised from the investors in the first place. The Court mentions this point at the start of its analysis because the presentation of this case was unnecessarily complicated and unfocused due to the parties’ tendency to conflate exactly what the alleged non-dischargeable debt at issue is, and to whom the debt is owed.

### B. Preclusion

The implications of the doctrine of issue preclusion (or collateral estoppel) in this case have been extensively discussed by the Court in its prior orders denying Plaintiff’s motion for summary judgment and denying Plaintiff’s request for reconsideration and/or Plaintiff’s renewed motion for summary judgment. The Court found, for reasons stated in those orders, that not all of the elements of Plaintiff’s non-dischargeability claims were necessarily decided in the IIAP Adversary Proceeding.

That does not mean, however, that the judgment from the IIAP Adversary Proceeding has no preclusive effect in this case. Claim preclusion (or *res judicata*) applies to preclude any claim by Vickery which would challenge the extent or validity of the underlying debt he owes Plaintiff. *Clark v. Zwanziger (In re Zwanziger)*, 467 B.R. 475, 481 (10<sup>th</sup> Cir. BAP 2012). Identical issues that were necessarily decided in the IIAP Adversary Proceeding are binding, through the doctrine of issue

preclusion (or collateral estoppel), in this case. The jury's determination that Vickery participated in a conspiracy to cause IIAP to make fraudulent transfers, for example, was necessary to the Court's judgment imposing liability on Vickery for all of the transfers made to the co-conspirators, and is therefore preclusive. Similarly, it was necessarily decided in the IIAP Adversary Proceeding that the total amount of property fraudulently transferred by IIAP was \$3.6 million.

Accordingly, the Court must analyze whether the issues established through the application of preclusion principles, plus the additional evidence presented at trial, establish all of the elements of Plaintiff's claims under 11 U.S.C. §§ 523(a)(2), (4), or (6).

### **C. Plaintiff's § 523(a)(2) Claim**

In its prior rulings in this case, the Court has rejected Plaintiff's claim that the IIAP Judgment for funds transferred "with the intent to hinder, delay, or defraud" creditors of IIAP is a debt for "false representations, or actual fraud," under 11 U.S.C. § 523(a)(2)(A) without proof of the following elements: (1) the debtor made a false representation; (2) with the intent to deceive plaintiff; (3) plaintiff relied on that representation; (4) the reliance was reasonable; and (5) that the misrepresentation caused the creditor to sustain a loss. See, *Fowler Bros v. Young (In re Young)*, 91 F.3d 1367, 1373 (10<sup>th</sup> Cir. 1996). The Court also ruled that a claim for "false pretenses" under this section requires proof that the debtor created and fostered in the creditor a false or misleading understanding of the transaction. *Evans v. Dunston (In re Dunston)*, 117 B.R. 632, 641 (Bankr. D. Colo. 1990), *aff'd in part and rev'd in part on other grounds*, 146 B.R. 269 (D. Colo. 1992).

Plaintiff endeavored to fit the evidence he presented at trial into the *Young* elements by arguing that Vickery misled IIAP by failing to disclose that only \$2.4 million of the \$6 million raised would be available to IIAP for the acquisition of FCC licenses and the build out of the technology necessary to operate an interactive television system. The evidence was to the contrary. The evidence showed that the principals involved in IIAP, including Dambro and Anneke, IIAP's initial general partner, were well aware of, in fact created, the fund-raising and expense parameters. There was nothing in this regard that was concealed from IIAP, and there were no misrepresentations on which IIAP reasonably relied. Accordingly, Plaintiff's § 523(a)(2)(A) claim fails, and the Court will enter judgment in favor of Vickery on this claim.

### **D. Plaintiff's § 523(a)(4) Claim**

Plaintiff's § 523(a)(4) claim, as set out in his Complaint, was solely based on the "fiduciary fraud" prong of § 523(a)(4). A claim for fraud or defalcation while acting in a fiduciary capacity under § 523(a)(4) requires proof that money or property was entrusted to the debtor as trustee of an express or statutory trust, and that the debt at issue resulted from the debtor's fraud or defalcation while acting as the fiduciary of the trust. *Young*, 91 F.3d at 1371-73. Plaintiff failed to establish that the \$3.6 million, the transfer of which formed the basis for the IIAP Judgment, constituted the *res* of an express or statutory trust for the benefit of IIAP. Plaintiff cannot succeed on this claim.

Perhaps recognizing this, Plaintiff asserted at final argument that he pled a claim under the

embezzlement prong of § 523(a)(4) in his Complaint. This is simply not true—the Complaint contains no reference whatsoever to embezzlement. Plaintiff alluded to an “amendment” to the pleadings by virtue of his use of the embezzlement theory in his motion for summary judgment. However, Plaintiff never moved to conform the pleadings to the evidence on this issue. Vickery has never been given fair warning that he must defend a § 523(a)(4) claim on the basis of embezzlement.

### **E. Plaintiff’s § 523(a)(6) Claim**

Under § 523(a)(6), a debtor is denied discharge from liabilities arising out of “willful and malicious injury” by the debtor to another or another’s property. For a debt to become nondischargeable under § 523(a)(6), the debtor “must desire . . . [to cause] the consequences of his act or . . . believe [that] the consequences are substantially certain to result from it.” *Panalis v. Moore (In re Moore)*, 357 F.3d 1125, 1129 (10th Cir. 2004) (quotation omitted). Whether the “willful and malicious injury” exception to dischargeability in § 523(a)(6) applies “turns on the state of mind of the debtor, who must have wished to cause injury or at least believed it was substantially certain to occur.” *Via Christi Reg’l Med. Ctr. v. Englehart (In re Englehart)*, 229 F.3d 1163, 2000 WL 1275614 at \*3 (10th Cir. 2000) (unpublished opinion).

As discussed in the Court’s previous orders on Plaintiff’s motion for summary judgment, the § 523(a)(6) claim requires the Court to focus on Vickery’s personal actions and intentions. In this way, § 523(a)(6) is different from § 523(a)(2) or § 523(a)(4), both of which focus on the nature of the underlying debt, not the nature of the debtor’s conduct. Plaintiff can succeed on his § 523(a)(6) claim by proving that Vickery intended IIAP to suffer an injury as the consequence of his actions, or that he believed that injury to IIAP was substantially certain to occur as a result of his actions.

Based on the evidence at trial, the Court finds that Vickery was a knowledgeable and willing participant in Dambro, Mallach and Anneke’s plan to raise \$6 million for IIAP and to transfer \$3.6 million to Dambro, Mallach, Vickery, Michael Dambro, and their related entities. The evidence also showed that Vickery took intentional actions to further this plan, and that he acted with knowledge that the transfer of \$3.6 million by IIAP to himself and the other defendants in the IIAP Adversary Proceeding was certain to injure IIAP by depriving IIAP of funds to which it was entitled. The Court finds that Vickery knew and intended that the transferees of the \$3.6 million were receiving more than they were entitled to receive based on the services they provided to IIAP. The IIAP Judgment is the result of these intentional actions and injury to IIAP by Vickery and his co-conspirators. The IIAP Judgment is therefore non-dischargeable under 11 U.S.C. § 523(a)(6).

### **CONCLUSION**

Based on the foregoing, it is

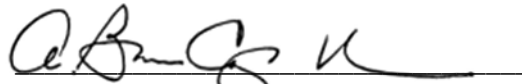
ORDERED that the IIAP Judgment is not a debt for false representations, false pretenses, or actual fraud under 11 U.S.C. § 523(a)(2), and judgment will enter in favor of Vickery on Plaintiff’s First Claim for Relief;

FURTHER ORDERED that the IIAP Judgment is not a debt for fraud or defalcation while acting in a fiduciary capacity under 11 U.S.C. § 523(a)(4), and judgment will enter in favor of Vickery on Plaintiff's Second Claim for Relief; and

FURTHER ORDERED that the IIAP Judgment is a debt for willful and malicious injury by Vickery to IIAP, and judgment will enter in favor of Plaintiff and against Vickery, declaring the IIAP Judgment, in the amount of \$4.6 million in actual and punitive damages, plus pre-petition interest of \$865,272.48, for a total amount of \$5,465,272.48, is non-dischargeable in Vickery's bankruptcy case, pursuant to 11 U.S.C. § 523(a)(6).

DATED: June 5, 2012

BY THE COURT:



A. Bruce Campbell  
United States Bankruptcy Judge

APPEAL

**U.S. Bankruptcy Court  
District of Colorado (Denver)  
Adversary Proceeding #: 11-01164-ABC**

Assigned to: A. Bruce Campbell  
Lead BK Case: [10-41118](#)  
Lead BK Title: Terry Kenneth Vickery  
Lead BK Chapter: 7  
Demand:

Date Filed: 03/11/11

Nature[s] of Suit: 62 Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud  
67 Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny  
68 Dischargeability - 523(a)(6), willful and malicious injury

**Plaintiff**

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**LEAD ATTORNEY**

V.

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Filing Date	#	Docket Text
06/19/2012	74	Receipt of Notice of Appeal(11-01164-ABC) [appeal,ntcapla] ( 298.00) Filing Fee. Receipt number 16280803. Fee amount 298.00 (U.S. Treasury) (Entered: 06/19/2012)
06/19/2012	<a href="#">73</a>	Notice of Appeal Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s) <a href="#">69</a> Findings of Fact, <a href="#">70</a> Judgment for AP Case, <a href="#">72</a> Written Opinion). Appellant Designation due by 07/3/2012. Appellee designation due by 07/17/2012. (Nelson, John) (Entered: 06/19/2012)
06/05/2012	<a href="#">72</a>	Written Opinion (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint, <a href="#">69</a> Findings of Fact). (re) (Entered: 06/05/2012)
06/05/2012		Disposition of Adversary Proceeding Number 11-1164 ABC. Final Order or Judgment Has Entered. (re) (Entered: 06/05/2012)
06/05/2012	<a href="#">71</a>	Notice of Entry on Docket of Judgment or Order. Date Mailed: 6/5/12 (related document(s) <a href="#">69</a> Findings of Fact, <a href="#">70</a> Judgment for AP Case). (re) (Entered: 06/05/2012)
06/05/2012	<a href="#">70</a>	Judgment For Plaintiff, Richard K. Diamond, As Trustee Against Defendant, Terry Kenneth Vickery (related document(s) <a href="#">69</a> Findings of Fact). (re) (Entered: 06/05/2012)
06/05/2012	<a href="#">69</a>	Findings of Fact and Conclusions of Law and Ruling (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint). Further Ordered that the IIAP Judgment is a debt for willful and malicious injury by Vickery to IIAP, and judgment will enter in favor of Plaintiff and against Vickery, declaring the IIAP Judgment, in the amount of \$4.6 million in actual and punitive damages, plus pre-petition interest of \$865,272.48, for a total amount of \$5,465,272.48, is non-dischargeable in Vickery's bankruptcy case, pursuant to 11 USC Section 523(a)(6). (re) (Entered: 06/05/2012)

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04/16/2012		Corrected Entry. Corrected the filing date from 3/22/12 to 3/20/12 per CM request. (related document(s): <a href="#">65</a> Minutes of Proceedings/Minute Order). (sd) (Entered: 04/16/2012)
04/10/2012	<a href="#">66</a>	Defendant's Statement of Objections to Previous Deposition and Trial Testimony Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">64</a> Minutes of Proceedings/Minute Order). (Nelson, John) (Entered: 04/10/2012)
03/21/2012	<a href="#">68</a>	Stipulation and Order Regarding Custody of Exhibits (related document(s): <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint, <a href="#">52</a> Subpoena, <a href="#">67</a> Minutes of Proceedings/Minute Order). (re) (Entered: 04/16/2012)
03/21/2012	<a href="#">67</a>	Minutes of Proceeding re: Complaint to Determine Dischargeability of Debt (related document(s): <a href="#">6</a> Answer to Complaint, <a href="#">65</a> Minutes of Proceedings/Minute Order). Continued Hearing to be held on 4/30/2012 at 01:30 PM BRCH Courtroom C205 for summation. (re) (Entered: 04/16/2012)
03/20/2012	<a href="#">65</a>	Minutes of Proceeding re: Complaint to Determine Dischargeability of Debt (related document(s): <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint, <a href="#">64</a> Minutes of Proceedings/Minute Order). Continued Trial to be held on 3/21/2012 at 09:00 AM BRCH Courtroom C205. (re) <b>Modified on 4/16/2012 (sd)</b> . Corrected filing date. (Entered: 03/22/2012)
03/19/2012	<a href="#">64</a>	Minutes of Proceeding Complaint to Determine Dischargeability of Debt (related document(s): <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint). Continued Trial to be held on 3/20/2012 at 09:00 AM BRCH Courtroom C205. Document due by 4/9/2012 for <a href="#">6</a> and for <a href="#">3</a> . For the reasons stated in open court, the Motion to for Reconsideration of Order Denying Defendants Motion to Withdraw Inadvertent Admissions is DENIED. For the reasons stated in open court, the Plaintiffs FRE Rule 804 Motion to Admit Prior Testimony Under Oath at Trial is GRANTED, In Part, and DENIED, In Part.* For the reasons stated in open court, the Plaintiffs FRCP Rule 32 Motion to Admit Deposition Testimony Under Oath at Trial is GRANTED, In Part, and DENIED, In Part.** For the reasons stated in open court, the Motion in Limine to Prohibit Evidence of Alleged Events Taking Place After Establishment of Underlying Debt is DENIED.[*] Defendant shall have until April 9, 2012, to file evidentiary objections (other than hearsay) to the prior trial testimony of contained in the transcripts of Leon Gainen, Carol Stiffler, James Dudek, Marissa Smith, Gene Moir, and Michael Dambro. [**] Defendant shall have until April 9, 2012, to file evidentiary objections (other than hearsay) to the prior deposition testimony of David Dambro and Doug Mallach (re) (Entered: 03/22/2012)
03/16/2012	<a href="#">63</a>	Motion to Reconsider Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">43</a> Other Order). (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion for Reconsideration of Order Denying Defendant's Motion to Withdraw Inadvertent Admissions) (Nelson, John) (Entered: 03/16/2012)
03/16/2012	<a href="#">62</a>	Response Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">45</a> Other Motion). (Nelson, John) (Entered: 03/16/2012)
03/13/2012	<a href="#">61</a>	Motion In Limine Re: to Prohibit Evidence of Alleged Events Taking Place After Establishment of Underlying Debt Filed by John G. Nelson on behalf of Terry Kenneth Vickery. (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion in Limine to Prohibit Evidence of Alleged Events Taking Place After Establishment of Underlying Debt) (Nelson, John) (Entered: 03/13/2012)
03/12/2012	<a href="#">60</a>	Order Denying Plaintiff's Motion to Permit Telephone or Video Conference Trial Testimony (related document(s): <a href="#">56</a> Other Motion). (re) (Entered: 03/12/2012)
03/12/2012		Corrected Entry. Doc. #58 docketed in error: Incorrect filer on PDF. Refer to doc. #59 per CM's request. (related document(s): <a href="#">58</a> Response). (bsc) (Entered: 03/12/2012)
03/09/2012	<a href="#">59</a>	Plaintiff's Statement in Response to Court's Order on Defendant's Objections to Plaintiff's Proposed Exhibits Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s): <a href="#">57</a> Generic Order). (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">58</a>	<b>This entry docketed in error. Disregard the following transaction.</b> Response Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s): <a href="#">57</a> Generic Order). (Forno, Ruba) <b>Modified on 3/12/2012 (bsc)</b> . (Entered: 03/09/2012)
03/09/2012	<a href="#">57</a>	Order On Defendant's Objections to Plaintiff's Proposed Exhibits. (related document(s): <a href="#">37</a> Witness List and Exhibits, <a href="#">48</a> Document). Ordered that on or before noon on Tuesday, March 13, 2012, Plaintiff shall provide Defendant with a notebook containing copies of his proposed trial exhibits, pre-marked to correspond with the numbers contained on Plaintiff's Trial Exhibit List filed on February 21, 2012. (re) (Entered: 03/09/2012)
03/09/2012	<a href="#">56</a>	Motion For To Permit Telephone and or Video Conference Trial Testimony Filed by Ruba M. Forno on behalf of Richard K. Diamond. (Attachments: # <a href="#">1</a> Exhibit 1 - Plaintiff's Expert Disclosures# <a href="#">2</a> Proposed/Unsigned Order) (Forno, Ruba) (Entered: 03/09/2012)
03/09/2012	<a href="#">55</a>	Subpoena To Be Served On: Tari Vickery - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">54</a>	Subpoena To Be Served On: Tim Bradley, CPA - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">53</a>	Subpoena To Be Served On: Sarah L. Hostetter - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">52</a>	Subpoena To Be Served On: Larry King - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
03/09/2012	<a href="#">51</a>	Subpoena To Be Served On: Barry S. Engel, Esq. - with Proof of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 03/09/2012)
		Order Granting Defendant's Motion for Extension of Time to File Rule 26(a)(3) Responses (related document(s): <a href="#">47</a> Motion to

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03/06/2012	<a href="#">50</a>	Extend Time). Document due by 3/6/2012 for <a href="#">47</a> , (re) (Entered: 03/07/2012)
03/06/2012	<a href="#">49</a>	Order Denying Plaintiff's Motion To Vacate Trial (related document(s): <a href="#">44</a> Motion to Vacate). (re) (Entered: 03/06/2012)
03/06/2012	<a href="#">48</a>	Defendant's Objections to Plaintiff's Proposed Exhibits Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s) <a href="#">37</a> Witness List and Exhibits). (Nelson, John) (Entered: 03/06/2012)
03/05/2012	<a href="#">47</a>	Motion to Extend Time Due To Other Reasons To to File Rule 26(a)(3) Responses Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">11</a> Scheduling Order). (Nelson, John) (Entered: 03/05/2012)
03/05/2012	<a href="#">46</a>	Certificate of Service Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s): <a href="#">45</a> Other Motion). (Kelly, Steven) (Entered: 03/05/2012)
03/05/2012	<a href="#">45</a>	Motion For to Admit Prior Testimony Under Oath at Trial Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Attachments: # <a href="#">1</a> Exhibit # <a href="#">2</a> Exhibit # <a href="#">3</a> Exhibit) (Kelly, Steven) (Entered: 03/05/2012)
03/02/2012	<a href="#">44</a>	Motion to Vacate Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s): <a href="#">10</a> Minutes of Proceedings/Minute Order). (Attachments: # <a href="#">1</a> Exhibit A - Defendant's Response to Plaintiff's Interrogatories# <a href="#">2</a> Exhibit B - Defendant's Response to Plaintiff's Request for Production of Documents# <a href="#">3</a> Exhibit C - E-mail from Steve Kelly to John Nelson dated 2-28-12) (Kelly, Steven) (Entered: 03/02/2012)
03/02/2012	<a href="#">43</a>	Order Denying Defendant's Motion to Withdraw Alleged Admissions (related document(s): <a href="#">32</a> Other Motion). (re) (Entered: 03/02/2012)
02/24/2012	<a href="#">42</a>	Order Denying Plaintiff's Motion For Reconsideration and Denying Renewed Motion for Summary Judgment (related document (s): <a href="#">25</a> Motion to Reconsider). (re) (Entered: 02/24/2012)
02/24/2012	<a href="#">41</a>	Response Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s): <a href="#">32</a> Other Motion). (Attachments: # <a href="#">1</a> Exhibit Exhibit A to Response in Opposition to Defendant's Motion to Withdraw Alleged Admissions# <a href="#">2</a> Exhibit Exhibit B to Response in Opposition to Defendant's Motion to Withdraw Alleged Admissions) (Kelly, Steven) (Entered: 02/24/2012)
02/23/2012	<a href="#">40</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">36</a> Notification Entry). No. of Notices: 1. Notice Date 02/23/2012. (Admin.) (Entered: 02/23/2012)
02/22/2012	<a href="#">39</a>	List of Witnesses and Exhibits Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s) <a href="#">38</a> Order on Motion to Extend Time-Adversary). (Attachments: # <a href="#">1</a> Other Exhibit List) (Nelson, John) (Entered: 02/22/2012)
02/22/2012	<a href="#">38</a>	Order Granting Defendant's Unopposed Motion to Extend Deadline for Disclosing Trial Witnesses and Exhibits (related document (s): <a href="#">35</a> Motion to Extend Time). Document due by 2/22/2012 for <a href="#">35</a> , (re) (Entered: 02/22/2012)
02/22/2012		Corrected Entry. Per CAT, document #33-34 was docketed in error - incorrect event. Refer to document #37 (related document (s): <a href="#">33</a> Notice, <a href="#">34</a> Notice). (jc) (Entered: 02/22/2012)
02/21/2012	<a href="#">37</a>	List of Witnesses and Exhibits Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s) <a href="#">11</a> Scheduling Order). (Forno, Ruba) (Entered: 02/21/2012)
02/21/2012	<a href="#">36</a>	Public Notice of Deficient Filing, Error or Defect and Application of L.B.R. 5005-4(l). The Electronic Filer of Document Number 33,34 is hereby notified the errors noted below shall be corrected by the close of the third court day following transmittal of this Notice, failing which the electronic document will be deemed stricken and, absent order of the court, no further action will be taken on the document. Error to be corrected: incorrect court events. E-Filer is to redocket pleading using "Adversary", "Miscellaneous", "Witness List & Exhibits" (related document(s) <a href="#">33</a> Notice, <a href="#">34</a> Notice). (re) (Entered: 02/21/2012)
02/17/2012	<a href="#">35</a>	Unopposed Motion to Extend Time Due To Other Reasons To to make pretrial disclosures Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">11</a> Scheduling Order). (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion to Extend Time) (Nelson, John) (Entered: 02/17/2012)
02/17/2012	<a href="#">34</a>	<b>This entry was docketed in error. Refer to document #37.</b> Notice Re: Plaintiff's Trial Exhibit List. Filed by Ruba M. Forno on behalf of Richard K. Diamond. (Forno, Ruba) <b>Modified on 2/22/2012 (jc)</b> . (Entered: 02/17/2012)
02/17/2012	<a href="#">33</a>	<b>This entry was docketed in error. Refer to document #37.</b> Notice Re: Plaintiff's Trial Witness List. Filed by Ruba M. Forno on behalf of Richard K. Diamond. (Forno, Ruba) <b>Modified on 2/22/2012 (jc)</b> . (Entered: 02/17/2012)
02/13/2012	<a href="#">32</a>	Motion For Withdraw Admissions Filed by John G. Nelson on behalf of Terry Kenneth Vickery. (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion to Withdraw Admissions) (Nelson, John) (Entered: 02/13/2012)
02/03/2012	<a href="#">31</a>	Response Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">25</a> Motion to Reconsider). (Nelson, John) (Entered: 02/03/2012)
02/01/2012	<a href="#">30</a>	Order Granting Motion to Extend Time (related document(s): <a href="#">25</a> Motion to Reconsider, <a href="#">28</a> Order on Motion to Extend Time-Adversary, <a href="#">29</a> Motion to Extend Time). Document due by 2/3/2012 for <a href="#">29</a> , (re) (Entered: 02/01/2012)
01/30/2012	<a href="#">29</a>	Motion to Extend Time Due To Other Reasons To to Respond to Plaintiff's Motion for Reconsideration Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">25</a> Motion to Reconsider, <a href="#">27</a> Motion to Extend Time). (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Unopposed Motion for Further Extension of Time to Respond to Plaintiff's Motion for Reconsideration) (Nelson, John) (Entered: 01/30/2012)
		Order Granting Defendant's Motion for Extension Time To Respond to Plaintiff's Motion for Reconsideration or, in the

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01/25/2012	<a href="#">28</a>	Alternative, Renewed Motion for Summary Judgment (related document(s): <a href="#">27</a> Motion to Extend Time). Document due by 1/30/2012. (re) (Entered: 01/25/2012)
01/23/2012	<a href="#">27</a>	Motion to Extend Time Due To Other Reasons To to Respond to Plaintiff's Motion for Reconsideration or, in the Alternative, for Summary Judgment Filed by John G. Nelson on behalf of Terry Kenneth Vickery (related document(s): <a href="#">25</a> Motion to Reconsider). (Attachments: # <a href="#">1</a> Proposed/Unsigned Order Granting Defendant's Motion for Extension of Time) (Nelson, John) (Entered: 01/23/2012)
01/23/2012	<a href="#">26</a>	Notice of Appearance and Request for Notice Filed by John G. Nelson on behalf of Terry Kenneth Vickery. (Nelson, John) (Entered: 01/23/2012)
01/06/2012	<a href="#">25</a>	Motion to Reconsider Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s): <a href="#">20</a> Order on Motion For Summary Judgment). (Attachments: <a href="#">1</a> Other Memorandum in Support of Motion for Reconsideration <a href="#">2</a> Exhibit T <a href="#">3</a> Exhibit U <a href="#">4</a> Exhibit U <a href="#">5</a> Exhibit U <a href="#">6</a> Exhibit U <a href="#">7</a> Exhibit U <a href="#">8</a> Exhibit U <a href="#">9</a> Exhibit U <a href="#">7</a> ) (Forno, Ruba) (Entered: 01/06/2012)
01/06/2012	<a href="#">24</a>	Notice of Appearance and Request for Notice Filed by Ruba M. Forno on behalf of Richard K. Diamond. (Forno, Ruba) (Entered: 01/06/2012)
01/04/2012	<a href="#">23</a>	Order Granting Unopposed Motion to Modify Order Pursuant to Scheduling Conference Held May 25, 2011. The deadline to complete fact discovery for the limited purpose of taking the deposition of Defendant is extended to January 27, 2012 (related document(s): <a href="#">22</a> Motion). (re) (Entered: 01/04/2012)
12/29/2011	<a href="#">22</a>	Unopposed Motion For Modify Order Pursuant to Scheduling Conference Held May 25, 2011 Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Attachments: <a href="#">1</a> Proposed/Unsigned Order Granting Unopposed Motion to Modify Order Pursuant to Scheduling Conference Held May 25, 2011) (Kelly, Steven) (Entered: 12/29/2011)
10/17/2011	<a href="#">21</a>	Written Opinion (related document(s) <a href="#">14</a> Motion for Summary Judgment). (re) (Entered: 10/19/2011)
10/17/2011	<a href="#">20</a>	Order Denying Motion For Summary Judgment Against Plaintiff(related document(s): <a href="#">14</a> Motion for Summary Judgment). (re) (Entered: 10/17/2011)
08/22/2011	<a href="#">19</a>	Order Granting Plaintiff's Motion For Extension of Time, nunc pro tunc August 9, 2011. (related document(s): <a href="#">16</a> Motion to Extend Time). (re) (Entered: 08/22/2011)
08/19/2011	<a href="#">18</a>	Reply Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s): <a href="#">14</a> Motion for Summary Judgment). (Attachments: <a href="#">1</a> Certificate of Service <a href="#">2</a> Exhibit N - T to Reply In Support of Motion for Summary Judgment) (Forno, Ruba) (Entered: 08/19/2011)
08/19/2011	<a href="#">17</a>	Reply Filed by Ruba M. Forno on behalf of Richard K. Diamond (related document(s): <a href="#">14</a> Motion for Summary Judgment). (Forno, Ruba) (Entered: 08/19/2011)
08/09/2011	<a href="#">16</a>	Motion to Extend Time Due To Other Reasons Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document (s): <a href="#">14</a> Motion for Summary Judgment). (Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Kelly, Steven) (Entered: 08/09/2011)
08/02/2011	<a href="#">15</a>	Response Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">14</a> Motion for Summary Judgment). (O'Shaughnessy, Kevin) (Entered: 08/02/2011)
07/15/2011	<a href="#">14</a>	Motion For Summary Judgment Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Attachments: <a href="#">1</a> Memorandum in Support of Motion for Summary Judgment <a href="#">2</a> Exhibit A <a href="#">3</a> Exhibit B <a href="#">4</a> Exhibit C <a href="#">5</a> Exhibit D <a href="#">6</a> Exhibit E. <a href="#">17</a> Exhibit E. <a href="#">28</a> Exhibit E. <a href="#">39</a> Exhibit E. <a href="#">410</a> Exhibit E. <a href="#">511</a> Exhibit E. <a href="#">612</a> Exhibit E. <a href="#">713</a> Exhibit E. <a href="#">814</a> Exhibit E. <a href="#">915</a> Exhibit E. <a href="#">1016</a> Exhibit E. <a href="#">1117</a> Exhibit E. <a href="#">1218</a> Exhibit E. <a href="#">1319</a> Exhibit E. <a href="#">1420</a> Exhibit F <a href="#">21</a> Exhibit G <a href="#">22</a> Exhibit H <a href="#">23</a> Exhibit I <a href="#">24</a> Exhibit J <a href="#">25</a> Exhibit K <a href="#">26</a> Exhibit L <a href="#">27</a> Exhibit M) (Kelly, Steven) (Entered: 07/15/2011)
05/28/2011	<a href="#">13</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">11</a> Scheduling Order). No. of Notices: 2. Service Date 05/28/2011. (Admin.) (Entered: 05/28/2011)
05/28/2011	<a href="#">12</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">10</a> Minutes of Proceedings/Minute Order). No. of Notices: 2. Service Date 05/28/2011. (Admin.) (Entered: 05/28/2011)
05/26/2011	<a href="#">11</a>	Order Pursuant to Scheduling Conference Held May 25, 2011: (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint). Trial to be held on 3/19/2012 at 09:00 AM BRCH Courtroom C205. Discovery due by 12/30/2011, Dispositive Motions relating to the preclusive effect of prior judicial determinations in litigations between the parties are due 7/15/2011, Other dispositive motions are due by 1/6/2012. (pt) (Entered: 05/26/2011)
05/25/2011	<a href="#">10</a>	Minutes of Proceeding: Continued to March 19, 2012, at 9:00 a.m. in Courtroom C-205, for a five (5) day trial. Pretrial deadlines and trial date scheduled on the record. A formal Scheduling Order to be sent to counsel of record in this case. (related document(s) Complaint in Adversary Proceeding, <a href="#">6</a> Answer to Complaint). Hearing to be held on 3/19/2012 at 09:00 AM BRCH Courtroom C205. (pt) (Entered: 05/26/2011)
05/18/2011	<a href="#">9</a>	Joint F.R.C.P. 26 (a) Disclosure Filed by Steven W. Kelly on behalf of Richard K. Diamond (related document(s) <a href="#">7</a> Scheduling Order). (Kelly, Steven) (Entered: 05/18/2011)
04/17/2011	<a href="#">8</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">7</a> Scheduling Order). No. of Notices: 1. Service Date 04/17/2011. (Admin.) (Entered: 04/17/2011)
		NOTICE OF Fed.R.Civ.P. 16(b) STATUS/SCHEDULING CONFERENCE ON LAW AND MOTION CALENDAR (related document(s) <a href="#">3</a> Complaint, <a href="#">6</a> Answer to Complaint). Status/Scheduling Conference to be held on 5/25/2011 at 10:00 AM BRCH



04/15/2011	<a href="#">7</a>	Courtroom C205 . (bel) (Entered: 04/15/2011)
04/11/2011	<a href="#">6</a>	Answer to Complaint Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s) <a href="#">3</a> Complaint). (O'Shaughnessy, Kevin) (Entered: 04/11/2011)
04/06/2011	<a href="#">5</a>	Summons Service Executed On: Terry Kenneth Vickery 3/15/11 Filed by Steven W. Kelly on behalf of Richard K. Diamond. (Kelly, Steven) (Entered: 04/06/2011)
03/15/2011		Corrected Entry. Per EQ, document #2 was docketed in error - incorrect PDF attached. Refer to document #3 (related document (s): <a href="#">2</a> Complaint). (jc) (Entered: 03/15/2011)
03/14/2011	<a href="#">4</a>	Summons Issued on Terry Kenneth Vickery Answer Due 4/13/2011. (jtm) (Entered: 03/15/2011)
03/14/2011	<a href="#">3</a>	Complaint by Richard K. Diamond against Terry Kenneth Vickery . Fee Paid. Filed by Steven W. Kelly on behalf of Richard K. Diamond Adversary Status Deadline 7/12/2011 (Attachments: <a href="#">1</a> Exhibit <a href="#">A2</a> Exhibit <a href="#">B3</a> Exhibit <a href="#">C4</a> Exhibit <a href="#">D5</a> Exhibit <a href="#">E</a> ) (jtm) (Entered: 03/15/2011)
03/14/2011	<a href="#">2</a>	<b>This entry was docketed in error. Refer to document #3.</b> Complaint by Richard K. Diamond against Richard K. Diamond . Fee Paid. Filed by Steven W. Kelly on behalf of Richard K. Diamond Adversary Status Deadline 7/12/2011 (Attachments: <a href="#">1</a> Exhibit <a href="#">A2</a> Exhibit <a href="#">B3</a> Exhibit <a href="#">C4</a> Exhibit <a href="#">D5</a> Exhibit <a href="#">E6</a> Exhibit) (jtm) <b>Modified on 3/15/2011 (jc).</b> (Entered: 03/15/2011)
03/14/2011	1	Receipt of Adversary Proceeding Filing Fee - \$250.00 by MB. Receipt Number 00239289. (admin) (Entered: 03/15/2011)
03/11/2011		Adversary case 11-01164. New Adversary Proceeding Opened . (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)) ,(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) ,(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (mjb) (Entered: 03/14/2011)

PACER Service Center			
Transaction Receipt			
06/20/2012 09:47:42			
PACER Login:	ap0000	Client Code:	10_818
Description:	Docket Report	Search Criteria:	11-01164-ABC Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html
Billable Pages:	8	Cost:	0.80

**CONS, LEAD**

**U.S. Bankruptcy Court  
 District of Colorado (Denver)  
 Bankruptcy Petition #: 10-41118-ABC**

Assigned to: A. Bruce Campbell  
 Chapter 7  
 Voluntary  
 Asset

Date filed: 12/14/2010  
 Debtor discharged: 04/08/2011

Debtor disposition: Standard Discharge

**Debtor**

**Terry Kenneth Vickery**  
 16175 Sandstone Dr.  
 Morrison, CO 80465  
 JEFFERSON-CO  
 SSN / ITIN: xxx-xx-5421  
**ods TKV Consulting**  
**mem Johnstown-Milliken LLC**  
**mem 820 Welch St. LLC**  
**mem 3040 Zuni LLC**  
**mem West 29th St. LLC**  
**mem 3051-3063 Zuni LLC**

represented by **Kevin M. O'Shaughnessy**  
 1177 Grant St.  
 Ste. 300  
 Denver, CO 80203  
 303-860-7333  
 Email: [kevin@totalspeed.com](mailto:kevin@totalspeed.com)

**Trustee**

**Janice A. Steinle**  
 9249 S. Broadway  
 Ste. 200  
 PMB 505  
 Highlands Ranch, CO 80129  
 ( ) 303-794-8034

**U.S. Trustee**

**US Trustee**  
 999 18th St.  
 Ste. 1551  
 Denver, CO 80202  
 303-312-7230

Filing Date	#	Docket Text
		Disposition of Adversary Proceeding Number 11-1164 ABC. Final Order or Judgment Has Entered. (re) (Entered: )

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06/05/2012		06/05/2012)
01/24/2012		Adversary Case Number 11-1100 ABC Closed. (pt) (Entered: 01/24/2012)
01/06/2012		Zero Clerk's Fees Due. (pt) (Entered: 01/06/2012)
12/28/2011	<a href="#">83</a>	Notice of Change of Address For Beverly L. Edwards Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation. (Edwards, Beverly) <b>Modified on 12/29/2011; Updated attorney's address per COA form. (pt).</b> (Entered: 12/28/2011)
11/02/2011	<a href="#">82</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">81</a> Order on Motion to Withdraw as Attorney). No. of Notices: 17. Service Date 11/02/2011. (Admin.) (Entered: 11/02/2011)
10/31/2011	<a href="#">81</a>	Order Granting Motion For Harvey Sender, Matthew T. Faga and David J. Warner To Withdraw As Counsel For Castle Commercial Mortgage Company (related document(s): <a href="#">75</a> Motion to Withdraw as Attorney). (pt) (Entered: 10/31/2011)
10/28/2011	<a href="#">80</a>	Certificate of Non-Contested Matter Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company (related document(s): <a href="#">75</a> Motion to Withdraw as Attorney). (Faga, Matthew) (Entered: 10/28/2011)
10/08/2011	<a href="#">79</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">76</a> Order Regarding Compliance With Rules). No. of Notices: 1. Service Date 10/08/2011. (Admin.) (Entered: 10/08/2011)
10/06/2011	<a href="#">78</a>	Certificate of Service Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company (related document (s): <a href="#">76</a> Order Regarding Compliance With Rules, <a href="#">77</a> 9013-1.1 Notice). (Attachments: <a href="#">1</a> Index) (Faga, Matthew) (Entered: 10/06/2011)
10/06/2011	<a href="#">77</a>	9013-1.1 Notice Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company (related document(s): <a href="#">75</a> motion Motion to Withdraw as Attorney). 9013 Objections due by 10/27/2011 for <a href="#">75</a> , (Faga, Matthew) (Entered: 10/06/2011)
		Order For Compliance With Local Bankruptcy Rule 9013-1 Or Other Applicable Rules of Procedure Regarding Service And Notice (related document(s) <a href="#">75</a> Motion to Withdraw as Attorney). Rules Compliance due by 10/21/2011. (pt) (Entered: 10/06/2011)

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10/06/2011	<a href="#">76</a>	10/06/2011)
10/04/2011	<a href="#">75</a>	Motion to Withdraw as Attorney of Record Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company. (Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Faga, Matthew) (Entered: 10/04/2011)
09/29/2011	<a href="#">74</a>	Courts Notice and BNC Certificate of Mailing Re: Notice of Possible Dividend (related document(s) <a href="#">73</a> Notice of Possible Dividends). No. of Notices: 44. Service Date 09/29/2011. (Admin.) (Entered: 09/29/2011)
09/26/2011	<a href="#">73</a>	Notice of Possible Dividends. It appearing to the Trustee that a dividend to creditors is possible; Creditors are hereby notified that if they desire to participate in a distribution of assets, they must file a claim with the court no later than the date shown below. Pursuant to Fed.R.B.P. 3002(c)(1) and (5) a proof of claim shall be filed BY A GOVERNMENTAL UNIT not later than 180 days after the date of the order for relief, or the date shown below, whichever is later. All claimants who are seeking an administrative claim must obtain a Court Order pursuant to the Bankruptcy Code Proofs of Claim due by 12/30/2011. (Steinle, Janice) (Entered: 09/26/2011)
07/05/2011	<a href="#">72</a>	Amended Schedules A To add debtor's interest in jointly owned real estate. Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (O'Shaughnessy, Kevin) (Entered: 07/05/2011)
07/05/2011	<a href="#">71</a>	Amended Schedules B To include debtor's portion of jointly owned tax return. Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (O'Shaughnessy, Kevin) (Entered: 07/05/2011)
05/11/2011		Disposition of Adversary Proceeding Number 11-1100 ABC. Final Order or Judgment Has Entered. (pt) (Entered: 05/11/2011)
05/01/2011	<a href="#">70</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">69</a> Order on Motion For Relief From Stay). No. of Notices: 1. Service Date 05/01/2011. (Admin.) (Entered: 05/01/2011)
		Order Granting Motion For Relief From Stay On Timeshare located at 8122 Arrezzo Way, Orlando, FL 32821 and 4001-1.1 Notice Filed by Beverly L. Edwards on behalf of Hilton Resorts

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04/29/2011	<a href="#">69</a>	Corporation. (related document(s): <a href="#">50</a> Motion for Relief From Stay and 4001-1.1 Notice). (bel) (Entered: 04/29/2011)
04/28/2011	<a href="#">68</a>	Certificate of Non-Contested Matter Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation (related document(s): <a href="#">50</a> Motion for Relief From Stay and 4001-1.1 Notice). (Edwards, Beverly) (Entered: 04/28/2011)
04/14/2011	<a href="#">67</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">66</a> Order on Motion for Examination). No. of Notices: 1. Service Date 04/14/2011. (Admin.) (Entered: 04/14/2011)
04/12/2011	<a href="#">66</a>	Order Granting Motion For Fed.R.Bankr.P. 2004 Examinations (related document(s): <a href="#">47</a> Motion for Examination). (vo) (Entered: 04/12/2011)
04/10/2011	<a href="#">65</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">62</a> Order on Motion For Relief From Stay). No. of Notices: 1. Service Date 04/10/2011. (Admin.) (Entered: 04/10/2011)
04/10/2011	<a href="#">64</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">61</a> Minutes of Proceedings/Minute Order). No. of Notices: 2. Service Date 04/10/2011. (Admin.) (Entered: 04/10/2011)
04/10/2011	<a href="#">63</a>	Courts Notice and BNC Certificate of Mailing Re: Order of Discharge (related document(s) <a href="#">60</a> Order Discharging Debtor). No. of Notices: 46. Service Date 04/10/2011. (Admin.) (Entered: 04/10/2011)
04/08/2011	<a href="#">62</a>	Order Granting Motion For Relief From Stay Filed by Richard K. Diamond and Motion for Relief Filed by Castle Commercial Mortgage Company. (related document(s): <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice, <a href="#">32</a> Motion for Relief From Stay and 4001-1.1 Notice). (pt) (Entered: 04/08/2011)
04/08/2011	<a href="#">60</a>	Order Discharging Debtor . (vxd) (Entered: 04/08/2011)
04/07/2011	<a href="#">61</a>	Minutes of Proceeding: Relief sought in motion granted. Oral findings and conclusions made of record and formal order to enter. The parties have reached a settlement. Counsel for the creditors shall prepare a form of order and circulate to counsel present at today's hearing. (related document(s) <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice, <a href="#">32</a> Motion for Relief From Stay and 4001-1.1 Notice). (pt) (Entered: 04/08/2011)

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04/06/2011	<a href="#">59</a>	Certificate of Service Filed by Steven W. Kelly on behalf of Richard K Diamond (related document(s): <a href="#">44</a> Complaint). (Kelly, Steven) (Entered: 04/06/2011)
04/01/2011	<a href="#">58</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">54</a> Notice of Financial Management and/or Domestic Support Obligation Certificate). No. of Notices: 1. Service Date 04/01/2011. (Admin.) (Entered: 04/01/2011)
04/01/2011	<a href="#">57</a>	Response Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">32</a> Motion for Relief From Stay and 4001-1.1 Notice). (O'Shaughnessy, Kevin) (Entered: 04/01/2011)
03/31/2011	<a href="#">56</a>	Objection Filed by Steven T Mulligan on behalf of Mount Massive Lakes, Inc. (related document(s): <a href="#">32</a> Motion for Relief From Stay and 4001-1.1 Notice). (Mulligan, Steven) (Entered: 03/31/2011)
03/31/2011	<a href="#">55</a>	Financial Management Course Certificate Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery. (O'Shaughnessy, Kevin) (Entered: 03/31/2011)
03/30/2011	<a href="#">54</a>	Notice of Requirement To File A Statement Of Completion Of Course In Personal Financial Management Official Form 23. Financial Management Course Certificate due by 4/29/2011. (vxd) (Entered: 03/30/2011)
03/29/2011	<a href="#">53</a>	Amended 4001-1.1 Notice Re: Motion Regarding Relief From the Automatic Stay Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation (related document(s): <a href="#">50</a> motion Motion for Relief From Stay and 4001-1.1 Notice). Stay Hearing to be held on 4/21/2011 at 09:00 AM Courtroom C for <a href="#">50</a> .. (Edwards, Beverly) <b>Modified on 3/30/2011 (bel)</b> . Added "Amended" to text per PDF. (Entered: 03/29/2011)
03/25/2011	<a href="#">52</a>	Notice of Deficiency, Requirement to Cure, and Recommendation For Dismissal (related document(s) <a href="#">50</a> Motion for Relief From Stay and 4001-1.1 Notice). 4001(a) Compliance Due 3/30/2011. (vo) (Entered: 03/25/2011)
03/22/2011	51	Receipt of Motion for Relief From Stay and 4001-1.1 Notice (10-41118-ABC) [motion,mfrstr] ( 150.00) Filing Fee. Receipt number 13525246. Fee amount 150.00 (U.S. Treasury) (Entered: 03/22/2011)
		Motion for Relief from Stay On Timeshare located at 8122

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03/22/2011	<a href="#">50</a>	Arrezzo Way, Orlando, FL 32821 and 4001-1.1 Notice Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation. Stay Hearing to be held on 4/14/2011 at 09:00 AM at Courtroom C. (Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Edwards, Beverly) (Entered: 03/22/2011)
03/22/2011	<a href="#">49</a>	Notice of Appearance and Request for Notice Filed by Beverly L. Edwards on behalf of Hilton Resorts Corporation. (Edwards, Beverly) (Entered: 03/22/2011)
03/22/2011	<a href="#">48</a>	Motion For Summary Judgment Filed by Noel E Guardi on behalf of William Breitfelder, Richard Brooks, Barbara Campbell, Robert Campbell, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek. (Attachments: <a href="#">1</a> Exhibit C-Opinion in In re Jafari <a href="#">2</a> Proposed/Unsigned Order Order Granting Summary Judgment that Debt is Nondischargeable <a href="#">3</a> Exhibit Transcript of Judgment and Amended Order of Judgment Against Defendant Vickery <a href="#">4</a> Proposed/Unsigned Order Order Granting Summary Judgment that Debt is Nondischargeable) (Guardi, Noel) (Entered: 03/22/2011)
03/22/2011	<a href="#">47</a>	Motion for 2004 Examination Of Debtor and Others Filed by Noel E Guardi on behalf of Jan Balazik, Guy Beckett, Frederick Breitfelder, William Breitfelder, Richard Brooks, Barbara Campbell, Robert Campbell, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek. (Attachments: <a href="#">1</a> Exhibit <a href="#">2</a> Exhibit <a href="#">3</a> Exhibit <a href="#">4</a> Exhibit <a href="#">6</a> Exhibit <a href="#">8</a> Exhibit <a href="#">7</a> Exhibit <a href="#">8</a> Proposed/Unsigned Order ORDER GRANTING MOTION FOR FED. R. BANKR. P. 2004 EXAMINATIONS) (Guardi, Noel) (Entered: 03/22/2011)
03/17/2011	<a href="#">46</a>	Notice of Appearance and Request for Notice Filed by Steven T Mulligan on behalf of Mount Massive Lake, Inc.. (Mulligan, Steven) (Entered: 03/17/2011)
03/16/2011	<a href="#">45</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">42</a> Order on Motion For Consolidation). No. of Notices: 45. Service Date 03/16/2011. (Admin.) (Entered: 03/16/2011)
03/15/2011		Corrected Entry. Per EQ, document #43 was docketed in error - incorrect PDF attached. Refer to document #44 (related document(s): <a href="#">43</a> Complaint). (jc) (Entered: 03/15/2011)
		Complaint by Richard K. Diamond against Terry Kenneth

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03/14/2011	<a href="#">44</a>	Vickery . Fee Paid. Filed by Steven W. Kelly on behalf of Richard K. Diamond Adversary Status Deadline 7/12/2011 (Attachments: <a href="#">1</a> Exhibit <a href="#">A</a> <a href="#">2</a> Exhibit <a href="#">B</a> <a href="#">3</a> Exhibit <a href="#">C</a> <a href="#">4</a> Exhibit <a href="#">D</a> <a href="#">5</a> Exhibit <a href="#">E</a> ) (jtm) (Entered: 03/15/2011)
03/14/2011	<a href="#">43</a>	<b>This entry was docketed in error. Refer to document #44.</b> Complaint by Richard K. Diamond against Richard K. Diamond . Fee Paid. Filed by Steven W. Kelly on behalf of Richard K. Diamond Adversary Status Deadline 7/12/2011 (Attachments: <a href="#">1</a> Exhibit <a href="#">A</a> <a href="#">2</a> Exhibit <a href="#">B</a> <a href="#">3</a> Exhibit <a href="#">C</a> <a href="#">4</a> Exhibit <a href="#">D</a> <a href="#">5</a> Exhibit <a href="#">E</a> <a href="#">6</a> Exhibit) (jtm) <b>Modified on 3/15/2011 (jc).</b> (Entered: 03/15/2011)
03/14/2011	<a href="#">42</a>	Order Re: Consolidation. The Court being duly advised hereby orders that all proceedings in Case Nos. 10-41118 ABC and 11-10930 ABC be substantively consolidated, shall be administered in the first filed case no. 10-41118, and the file in case no. 11-10930 ABC shall be closed. (related document (s): <a href="#">41</a> Motion to Consolidate). (bel) (Entered: 03/14/2011)
03/14/2011		Corrected Entry. Per CAT, document #39 was docketed in error - incorrect case. See adversary case 11-01164 ABC (related document(s): <a href="#">38</a> Notice of Appearance, <a href="#">39</a> Intervenor Complaint). (jc) (Entered: 03/14/2011)
03/12/2011	<a href="#">40</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">37</a> Minutes of Proceedings/Minute Order). No. of Notices: 1. Service Date 03/12/2011. (Admin.) (Entered: 03/12/2011)
03/11/2011		Adversary case 11-01164. New Adversary Proceeding Opened . (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)) ,(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) ,(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (mjb) (Entered: 03/14/2011)
03/11/2011	<a href="#">39</a>	<b>This transaction docketed in error. Please disregard the entry.</b> Intervenor Complaint against Terry Kenneth Vickery. Filed by Steven W. Kelly on behalf of Richard K Diamond. (Attachments: <a href="#">1</a> Exhibit <a href="#">2</a> Other Summons) (Kelly, Steven) <b>Modified on 3/14/2011 (jc).</b> (Entered: 03/11/2011)
03/11/2011	<a href="#">38</a>	Notice of Appearance and Request for Notice Filed by Harvey L. Kramer on behalf of Jan Balazik, Guy Beckett, Frederick Breitfelder, William Breitfelder, Richard Brooks, Barbara Campbell, Robert Campbell. (Kramer, Harvey) (Entered: 03/11/2011)



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03/10/2011	<a href="#">37</a>	Minutes of Proceedings: Continued to April 7, 2011, 9:00 a.m. in Courtroom C. (related document(s): <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice). Hearing to be held on 4/7/2011 at 09:00 AM Courtroom C . (saj) (Entered: 03/10/2011)
03/08/2011	<a href="#">36</a>	List of Witnesses and Exhibits Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">34</a> Response). (O'Shaughnessy, Kevin) (Entered: 03/08/2011)
03/07/2011	35	Receipt of Motion for Relief From Stay and 4001-1.1 Notice (10-41118-ABC) [motion,mfrstr] ( 150.00) Filing Fee. Receipt number 13410253. Fee amount 150.00 (U.S. Treasury) (Entered: 03/07/2011)
03/04/2011	<a href="#">34</a>	Response Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice). (O'Shaughnessy, Kevin) (Entered: 03/04/2011)
03/03/2011	<a href="#">33</a>	Objection Filed by Steven W. Kelly on behalf of Richard K Diamond (related document(s): <a href="#">30</a> Motion for Relief From Stay and 4001-1.1 Notice). (Attachments: <a href="#">1</a> Certificate of Service) (Kelly, Steven) (Entered: 03/03/2011)
03/03/2011	<a href="#">32</a>	Motion for Relief from Stay On Assets Subject of State Court Order and 4001-1.1 Notice Filed by Steven W. Kelly on behalf of Richard K Diamond. Stay Hearing to be held on 4/7/2011 at 09:00 AM at Courtroom C. (Attachments: <a href="#">1</a> Exhibit 1 - 8 to Motion for Relief from Stay <a href="#">2</a> Proposed/Unsigned Order Granting Motion for Relief from Stay <a href="#">3</a> Certificate of Service) (Kelly, Steven) (Entered: 03/03/2011)
02/17/2011	31	Receipt of Motion for Relief From Stay and 4001-1.1 Notice (10-41118-ABC) [motion,mfrstr] ( 150.00) Filing Fee. Receipt number 13308408. Fee amount 150.00 (U.S. Treasury) (Entered: 02/17/2011)
02/17/2011	<a href="#">30</a>	Motion for Relief from Stay On Membership Interest in Mt. Massive and Pertinent Personal Property and 4001-1.1 Notice Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company. Stay Hearing to be held on 3/10/2011 at 09:00 AM at Courtroom C. (Attachments: <a href="#">1</a> Affidavit of Matthew T. Faga <a href="#">2</a> Exhibit <a href="#">3</a> Exhibit <a href="#">24</a> Exhibit <a href="#">35</a> Exhibit <a href="#">46</a> Proposed/Unsigned Order <a href="#">7</a> Certificate of Service) (Faga, Matthew) (Entered: 02/17/2011)

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02/10/2011	<a href="#">29</a>	Notice of Appearance and Request for Notice Filed by Matthew T. Faga on behalf of Castle Commercial Mortgage Company. (Faga, Matthew) (Entered: 02/10/2011)
02/10/2011		Corrected Entry. Doc. #27 was entered in error in the incorrect case per attorney request. Disregard transaction. (related document(s): 27 Summons Issued (auto)). (sd) (Entered: 02/10/2011)
02/09/2011	<a href="#">28</a>	Adversary case 11-01100. Complaint by Jan Balazik, Guy Beckett, Frederick Breitfelder, William Breitfelder, Richard Brooks, Robert Campbell, Barbara Campbell, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek against Terry Kenneth Vickery. Fee Paid.. Adversary Status Deadline 06/9/2011 (65 (Dischargeability - other)) (Guardi, Noel) (Entered: 02/09/2011)
02/09/2011	27	<b>This transaction is entered in the incorrect case. Disregard following transaction. <a href="#">Summons Issued</a> on Terry Kenneth Vickery Answer Due 03/11/2011 Government Agencies Are Allowed 35 Days From Service Of The Summons To Answer This Complaint (Guardi, Noel) <b>Modified on 2/10/2011 (sd)</b>.</b> (Entered: 02/09/2011)
02/03/2011	<a href="#">26</a>	Notice of Appearance and Request for Notice Filed by David Warner on behalf of Castle Commercial Mortgage Company. (Warner, David) (Entered: 02/03/2011)
02/01/2011	<a href="#">25</a>	Notice of Appearance and Request for Notice Filed by Harvey Sender on behalf of Castle Commercial Mortgage Company. (Sender, Harvey) (Entered: 02/01/2011)
01/27/2011	<a href="#">24</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">20</a> No action taken on Order Approving Chapter 7 Trustee's Stipulation for Turnover). No. of Notices: 1. Service Date 01/27/2011. (Admin.) (Entered: 01/27/2011)
01/26/2011	<a href="#">23</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">18</a> Notification Entry). No. of Notices: 1. Service Date 01/26/2011. (Admin.) (Entered: 01/26/2011)
01/26/2011		Corrected Entry. Doc. #14 was entered in error with an incorrect PDF attached per QA case review. Refer to Doc. #19. Corrected party filers and text for Doc. #19 per attorney request. (related document(s): <a href="#">14</a> Notice of Appearance, <a href="#">19</a> Notice of Appearance). (sd) (Entered: 01/26/2011)

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01/26/2011	<a href="#">22</a>	Certificate of Service Filed by Noel E Guardi on behalf of Frederick Breitfelder, William Breitfelder, Barbara Campbell, Robert Campbell (related document(s): <a href="#">21</a> Notice of Appearance). (Guardi, Noel) (Entered: 01/26/2011)
01/26/2011	<a href="#">21</a>	Notice of Appearance and Request for Notice Filed by Noel E Guardi on behalf of William Breitfelder, Frederick Breitfelder, Barbara Campbell, Robert Campbell. (Guardi, Noel) (Entered: 01/26/2011)
01/25/2011	<a href="#">20</a>	ORDERED that the Chapter 7 Trustee's Stipulation for Turnover Of Property in Debtor's Possession as described in Stipulation filed 1/24/2011 is hereby APPROVED (related document(s) <a href="#">17</a> Granting Stipulation for Turnover). (vo) (Entered: 01/25/2011)
01/24/2011	<a href="#">19</a>	Notice of Appearance and Request for Notice Filed by Noel E Guardi on behalf of Jan Balazik, Guy Beckett, Richard Brooks, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek. (Guardi, Noel) <b>Modified on 1/26/2011 (sd)</b> . Corrected Party filers and removed "Corrected" from text. (Entered: 01/24/2011)
01/24/2011	<a href="#">18</a>	Public Notice of Deficient Filing, Error or Defect and Application of L.B.R. 5005-4(1). The Electronic Filer of Document Number 14 is hereby notified the errors noted below shall be corrected by the close of the third court day following transmittal of this Notice, failing which the electronic document will be deemed stricken and, absent order of the court, no further action will be taken on the document. Error to be corrected: Wrong Case number cited in Caption, and incorrect spelling of Richard Brooks, creditor. E-Filer is to Re-docket pleading with correct case number and correct spelling of creditor, Richard Brooks (related document(s) <a href="#">14</a> Notice of Appearance). (pt) (Entered: 01/24/2011)
		Stipulation For Turnover Of W-2's for wife for 2007, 2008, 2009; Copy of Timeshare conveyance documents and most recent maintenance fee notice; Merrill Lynch statement for TNT Consulting for all 2010; Copy of TNT Connections LP Trust Documents and itemization of assets titled in Trust as of 12/14/10; 2009 Tax Return for TKV Consulting; 2009 Tax Return for Johnstown-Milliken LLC; 2009 Tax Returns for West 29th St; 2009 Tax Returns for 3051-3063 Zuni LLC; 2009 Tax Return for Welch St, LLC; 2009 Tax Return for 3040 Zuni LLC by January 31, 2011 Between Janice A. Steinle and Debtor Filed by Janice A. Steinle on behalf of Janice A. Steinle.

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01/24/2011	<a href="#">17</a>	(Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Steinle, Janice) (Entered: 01/24/2011)
01/23/2011	<a href="#">16</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">13</a> No action taken on Order Approving Chapter 7 Trustee's Stipulation for Turnover). No. of Notices: 1. Service Date 01/23/2011. (Admin.) (Entered: 01/23/2011)
01/21/2011	<a href="#">41</a>	Motion to Consolidate Lead Case 11-10930 ABC with 10-41118 ABC Filed by Noel E Guardi on behalf of Jan Balazik , Guy Beckett , Richard Brooks , Ramona Chapman , Dennis Fitzpatrick , Alma Salky , Barry Salky , Troy Taylor , Gordon Toland , Mark Zintek . (bel) (Entered: 03/14/2011)
01/21/2011	<a href="#">15</a>	Certificate of Service Filed by Noel E Guardi on behalf of Jan Balazik, Guy Beckett, Richard Brooks, Ramona Chapman, Dennis Fitzpatrick, Donald Meyer, Ben Morrow, Alma Salky, Barry Salky, Troy Taylor, Gordon Toland, Mark Zintek (related document(s): <a href="#">14</a> Notice of Appearance). (Guardi, Noel) (Entered: 01/21/2011)
01/21/2011	<a href="#">14</a>	<b>Docketed in error. Refer to Document #19.</b> Notice of Appearance and Request for Notice Filed by Noel E Guardi on behalf of Ben Morrow, Donald Meyer, Alma Salky, Barry Salky, Gordon Toland, Troy Taylor, Guy Beckett, Mark Zintek, Dennis Fitzpatrick, Ramona Chapman, Richard Brooks, Jan Balazik. (Guardi, Noel) <b>Modified on 1/26/2011 (sd).</b> (Entered: 01/21/2011)
01/21/2011	<a href="#">13</a>	ORDERED that the Chapter 7 Trustee's Stipulation for Turnover Of Property in Debtor's Possession as described in Stipulation filed 1/19/2011 is hereby APPROVED (related document(s) <a href="#">12</a> Granting Stipulation for Turnover). (vo) (Entered: 01/21/2011)
01/19/2011	<a href="#">12</a>	Stipulation For Turnover Of 2007, 2008, 2009 & 2010 Federal and State Tax Returns with all Schedules, W-2's & 1099's; 2007, 2008, 2009 & 2010 Federal and State Tax Refunds by April 15, 2011. Between Janice A. Steinle and Debtor Filed by Janice A. Steinle on behalf of Janice A. Steinle. (Attachments: <a href="#">1</a> Proposed/Unsigned Order) (Steinle, Janice) (Entered: 01/19/2011)
12/29/2010	<a href="#">11</a>	Notice of Appearance and Request for Notice Filed by Steven W. Kelly on behalf of Richard K Diamond. (Kelly, Steven) (Entered: 12/29/2010)
		Statement Concerning No Employee Income Record Filed by

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12/20/2010	<a href="#">10</a>	Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery. (O'Shaughnessy, Kevin) (Entered: 12/20/2010)
12/17/2010	<a href="#">9</a>	Courts Notice or Order and BNC Certificate of Mailing (related document(s) <a href="#">6</a> Notice of Deficiency). No. of Notices: 1. Service Date 12/17/2010. (Admin.) (Entered: 12/17/2010)
12/17/2010	<a href="#">8</a>	Courts Notice and BNC Certificate of Mailing Re: Meeting of Creditors (related document(s) <a href="#">7</a> Meeting of Creditors-Chapter 7). No. of Notices: 32. Service Date 12/17/2010. (Admin.) (Entered: 12/17/2010)
12/15/2010	<a href="#">6</a>	Notice of Deficiency For Omission of Information (related document(s) <a href="#">1</a> Voluntary Petition-Chapter 7). Employee Income Record due by 12/28/2010. (as) (Entered: 12/15/2010)
12/15/2010		Corrected Entry. Corrected Atty's Suite # Per EQ/Voluntary Petition (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (jc) (Entered: 12/15/2010)
12/15/2010		Corrected Entry. Corrected Nature of Business to reflect 'other' per the Voluntary Petition. (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (bsc) (Entered: 12/15/2010)
12/14/2010	<a href="#">7</a>	Meeting of Creditors & Notice of Appointment of Interim Trustee Janice A. Steinle with 341(a) meeting to be held on 01/13/2011 at 08:00 AM at Room 125 Objections to Discharge due by 03/14/2011 (Entered: 12/14/2010)
12/14/2010	5	Receipt of Voluntary Petition-Chapter 7(10-41118) [misc,volp7a] ( 299.00) Filing Fee. Receipt number 12861504. Fee amount 299.00 (U.S. Treasury) (Entered: 12/14/2010)
12/14/2010	<a href="#">4</a>	Statement of Social Security Number Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery (related document(s): <a href="#">1</a> Voluntary Petition-Chapter 7). (O'Shaughnessy, Kevin) (Entered: 12/14/2010)
12/14/2010	<a href="#">3</a>	Disclosure of Compensation In the Amount of \$ 1,200.00 Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery. (O'Shaughnessy, Kevin) (Entered: 12/14/2010)
12/14/2010	<a href="#">2</a>	Statement of Intent. Filed by Kevin M. O'Shaughnessy on behalf of Terry Kenneth Vickery. (O'Shaughnessy, Kevin) (Entered: 12/14/2010)
		Chapter 7 Voluntary Petition. Total Number of Creditors

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12/14/2010	<a href="#">1</a>	Uploaded: 32.. Section 521 Incomplete Filings due by 01/28/2011. (O'Shaughnessy, Kevin) (Entered: 12/14/2010)
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<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
06/20/2012 09:49:06			
<b>PACER Login:</b>	ap0000	<b>Client Code:</b>	10_818
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	10-41118-ABC Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html
<b>Billable Pages:</b>	8	<b>Cost:</b>	0.80