

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE: CASE NO. 08-11804)	
)	
MARK ALAN LONGENBERGER)	
SHERRI LYNN LONGENBERGER)	
)	
Debtors)	
)	
)	
SUPERIOR AUTO, INC.)	
)	
Plaintiff)	
)	
vs.)	PROC. NO. 08-1162
)	
MARK ALAN LONGENBERGER)	
)	
Defendant)	

DECISION ON MOTION TO DISMISS

At Fort Wayne, Indiana, on November 13, 2008.

By this adversary proceeding, the plaintiff has asked the court to declare that Mark Longenberger's obligation to it is non-dischargeable pursuant to § 523(a)(2) and § 523(a)(4) of the United States Bankruptcy Code. Defendant responded to the complaint by filing a motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. It is that motion which is presently before the court.

The motion argues that the complaint fails to allege the facts needed to give rise to a claim for relief and fails to allege fraud with the particularity required by Rule 9(b) of the Federal Rules of Civil Procedure. The plaintiff has not filed a brief in response to the defendant's motion within the time required. See, N.D. Ind. L.B.R. B-7007-1(a).

The defendant has put forth a well-reasoned and cogent argument for the dismissal of this

case. In the absence of any response from the plaintiff, there is no reason not to accept it. The motion will be granted and the case dismissed. An order doing so will be entered.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court