

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
)  
JAMES EDWARD LUEDTKE, ) CASE NO. 08-21611 JPK  
) Chapter 13  
) Debtor. )  
\*\*\*\*\*  
FALK PLI ENGINEERING AND )  
SURVEY, INC., )  
) Plaintiff, )  
)  
v. ) ADVERSARY NO. 08-2099  
)  
JAMES EDWARD LUEDTKE, )  
)  
) Defendant. )

ORDER REGARDING FURTHER PROCEEDINGS

A preliminary pre-trial conference was held in this adversary proceeding on January 7, 2009. The plaintiff appears by counsel Carina M. de la Torre; the defendant appears by counsel David Dabertin.

The parties address with the court the manner in which the plaintiff's assertions as to collateral estoppel may be presented to the court. The plaintiff's assertions are somewhat novel, in that the defendant apparently did not actively participate in actions of his spouse which caused the loss to the plaintiff, but rather, in the context of state law, the defendant was determined by a state jury verdict to have intentionally and knowingly received stolen property resulting from his spouse's actions. Whether or not the elements of the defendant's liability established by the state court jury verdict establish the "actual fraud" elements of 11 U.S.C. § 523(a)(2)(A) or the "larceny" prong of 11 U.S.C. § 523(a)(4) will be the focus of the issues concerning collateral estoppel. It may be feasible to address the collateral estoppel issues based solely upon the state court record materials already placed upon the record by the plaintiff, rather than by in addition obtaining transcripts of the entire jury trial – it may not be

feasible to do so. That determination will be made at the next conference. If feasible, a briefing schedule will then be established.

In advance of the next scheduled conference, the parties will seek to determine their respective contentions concerning the amount of the remaining liability of the defendant to the plaintiff under the state court judgment which liquidated that liability.

IT IS ORDERED that a telephonic preliminary pre-trial conference will be held on **February 11, 2009, at 2:00 P.M.** to address the course of further proceedings in this case.

Dated at Hammond, Indiana on January 15, 2009.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Attorneys of Record