

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
ROBERT JON SCHLYER,) CASE NO. 12-21848 JPK
) Chapter 7
Debtor.)

WILLIAM DIVANE, TERRY ALLEN,)
KENNETH BAUWENS, KEVIN)
CONNOLLY, LARRY CRAWLEY,)
JOHN DALTON, I. STEVEN)
DIAMOND, SAMUEL EVANS,)
KEVIN O'SHEA, and MICHAEL)
WALSDORF,)
)
Plaintiffs,)
)
v.) ADVERSARY NO. 12-2129
)
ROBERT JON SCHLYER,)
)
Defendant.)

ORDER CONCERNING MOTION TO DISMISS PLAINTIFF'S
AMENDED COMPLAINT PURSUANT TO FRCP 12(b)(6) ["MOTION"]

This adversary proceeding was initiated by a complaint filed on July 26, 2012. By its Record No. 23 order entered on December 5, 2012, the court granted the Record No. 17 motion to dismiss filed by the defendant, without prejudice. That order provided that the plaintiff was to file an amended complaint by January 14, 2013, with which the plaintiff complied. The Motion – directed to the amended complaint – was filed by the defendant Robert Jon Schlyer as Record No. 26 on January 31, 2013. No briefing schedule was set by the court, in that the Motion has been under review.

Having reviewed the Motion, the court determines that the Motion should be denied without further briefing by the parties. The court determines that the averments of the Record

No. 25 amended complaint are sufficient to overcome the Motion, and to state a claim for relief under 11 U.S.C. § 523(a)(4)¹

IT IS ORDERED that the Motion is denied.²

IT IS FURTHER ORDERED that a preliminary pretrial conference will be held in open court on **October 16, 2013, at 11:30 A.M.**

Dated at Hammond, Indiana on September 13, 2013.

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

Distribution:
Attorneys of Record
Robert Schlyer, pro se

¹ Unlike the original complaint, the averments of the amended complaint do not rely upon prior state court proceedings to establish collateral estoppel with respect to the claims asserted by the plaintiffs.

² This order constitutes the entire determination of the court with respect to the Motion. Pursuant to Fed.R.Bankr.P. 7052/Fed.R.Civ.P. 52(a)(3), the court "is not required to state findings or conclusions when ruling on a motion under Rule 12".