UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE: CASE NO. 14-10359	)	
	)	
DANIEL JOSEPH HAIFLEY	)	
	)	
Debtor	)	
	)	
	)	
LIZ TRANSPORT INC.	)	
	)	
Plaintiff	)	
	)	
vs.	)	PROC. NO. 14-1064
	)	
DANIEL JOSEPH HAIFLEY	)	
	)	
Defendant	)	

DECISION AND ORDER DENYING MOTION FOR SUMMARY JUDGMENT

On December 19, 2014.

By this adversary proceeding the court has been asked to declare that the defendant/debtor's obligation to the plaintiff is a non-dischargeable debt pursuant to § 523(a)(4) and/or § 523(a)(6) of the United States Bankruptcy Code. That debt is represented by a judgment the plaintiff received from the Steuben Superior Court. The plaintiff has filed a motion for summary judgment based upon the proposition that, through collateral estoppel, the findings from the state court obviate the need for further litigation over dischargeability. It is that motion, together with the defendant's response thereto, which is presently before the court.

Summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file . . . show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Bankr. P. Rule 7056(c); Fed. R. Civ. P.

Rule 56(c). The moving party initially must identify "those portions of 'the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,' which it believes demonstrate the absence of a genuine issue of material fact." Celotex Corp. v. Catrett, 477 U.S. 317, 323, 106 S.Ct. 2548, 2553 (1986). Once it does so, the non-moving party must affirmatively demonstrate, by specific factual allegations, that there is a genuine issue of material fact requiring trial. Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 587, 106 S.Ct 1348, 1356 (1986). In ruling on the motion, the court accepts as true the non-moving party's evidence, draws all legitimate inferences in favor of the non-moving party, and does not weigh the evidence or credibility of witnesses. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249, 106 S.Ct. 2505, 2511 (1986).

The defendant has submitted affidavits controverting the plaintiff's version of the facts. The real issue raised by the motion is whether or not he is allowed to do so.

Plaintiff's motion is largely premised on collateral estoppel. Under that doctrine, the facts found in previous litigation between the parties, which were necessary to the court's judgment, may not be challenged in subsequent litigation and may lead to judgment in that litigation if they establish all the elements of the claim sued upon. In re Halperin, 215 B.R. 321, 335 (Bankr.E.D.N.Y.1997); See also, Grogan v. Garner, 498 U.S. at 284 n. 11, 111 S. Ct. 654 (1991). The key to collateral estoppel is not the prior litigation itself, but the facts which were determined in that litigation. As the party asserting preclusion, the plaintiff is expected to identify the specific facts that were determined in the previous litigation and then to demonstrate how those facts compel a particular result in this action. See, Reid v. State, 719 N.E. 2d 451, 456 (Ind. App. 1999); In re Busick, 264 B.R. 518 (Bankr. N.D. Ind. 2001); Bicknell v. Stanley, 118 B.R. 652, 664 (D. S.D. Ind. 1990).

Nonetheless, if the prior court was not required to make a determination regarding a fact placed in issue, collateral estoppel does not apply. See, In re Staggs, 178 B.R. 767, 775-8 (Bankr. N.D. Ind. 1994) (actually litigated component of collateral estoppel requires the court to resolve a disputed factual issue).

Plaintiff points to requests for admissions in the state court litigation, which were deemed admitted, and those facts apparently formed the basis for the state court's judgment. But, requests for admissions in one proceeding are only good for that proceeding and have no bearing in subsequent litigation. Ind. T.R. 36(b) ("Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding."). See also, Fed. R. Civ. P. Rule 36(b). As a result, any facts so established are not controlling in this case and cannot form the basis of collateral estoppel. See, Kairys v. I.N.S., 981 F.2d 937, 940-41 (7th Cir. 1992) ("facts determined by admissions and stipulations ordinarily are not entitled to collateral estoppel effect, because facts so determined are not actually litigated"); Otherson v. Department of Justice, 711 F.2d 267, 274 (D.C. Cir. 1983) (collecting cases); In re Kugler, 170 B.R. 291, 300-01 (Bankr. E.D. Va 1994) (deemed admissions fail to satisfy the "actually litigated" element of collateral estoppel). See also, In re Kane, 254 F.3d 325, 329 (1st Cir. 2001) (fact established by stipulation has not been actually litigated).

Based upon the information submitted in support of and in opposition to the plaintiff's motion, the court finds that there are genuine issues of material fact as to whether the debtor's actions constituted theft or conversion. Plaintiff's motion for summary judgment is DENIED, and the parties shall jointly file a proposed pretrial order within the time required by the court's order of October 8, 2014.

SO ORDERED.

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