

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN THE MATTER OF)	
)	
PAUL TAYLOR and SHEILA TAYLOR)	CASE NO. 14-31690 HCD
)	CHAPTER 13
DEBTORS)	
)	
)	
STATE OF INDIANA on the relation of the)	
INDIANA DEPARTMENT OF WORKFORCE)	
DEVELOPMENT)	
)	
PLAINTIFF)	
vs.)	PROC. NO. 14-3068
)	
PAUL TAYLOR)	
)	
DEFENDANT)	

Appearances:

Maricel Elaine Villacampa Skiles, Esq., Office of the Indiana Attorney General, 302 West Washington Street, IGCS 5th Floor, Indianapolis, Indiana 46204

Paul Taylor, 56565 Best Avenue, Elkhart, Indiana 46516, pro se.

MEMORANDUM OF DECISION

At South Bend, Indiana, on March 31, 2015.

Before the court is the Motion for Default Judgment filed by the State of Indiana on the relation of the Indiana Department of Workforce Development (IDWD) against the defendant Paul Taylor (Taylor), pursuant to 11 U.S.C. § 523(a)(2)(A)¹. The court finds the IDWD properly served Taylor, and he did not file any response. For the reasons stated below, the court grants the relief sought by the IDWD. The court excepts Taylor's debt owing to the IDWD from discharge.

Background

¹The court has jurisdiction to decide the matter before it pursuant to 28 U.S.C. § 1334 and § 157 and the Northern District of Indiana Local Rule 200.1. The court has determined that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

The IDWD filed this adversary proceeding on September 29, 2014. The Complaint alleges the IDWD paid Taylor unemployment benefits during periods when he was ineligible to receive such benefits. The IDWD asks for a determination, pursuant to 11 U.S.C. § 523(a)(2)(A), that the indebtedness of Taylor resulting from these improper payments is not dischargeable as a debt for money obtained by false pretenses, false representations or actual fraud.

On October 1, 2014, the clerk issued a summons in this adversary proceeding. The summons required Taylor to respond to the complaint within 35 days, by November 5, 2014. The certificate of service filed by the IDWD shows they served the complaint and summons on Taylor by regular and certified mail on October 2, 2014. The IDWD filed a Motion for Entry of Default by Clerk on November 19, 2014. On November 20, 2014, the clerk entered the default of Taylor. The IDWD filed the Motion now before the court on January 23, 2015.

Discussion

The IDWD's Complaint² asks this court to find Taylor's debt to the IDWD nondischargeable under § 523(a)(2)(A) as a debt for money obtained by false pretenses, false representation, or actual fraud. Under that subsection of § 523(a), the IDWD must establish that: (1) Taylor obtained the money from the IDWD through representations that Taylor either knew to be false, or made with such reckless disregard for the truth as to constitute willful misrepresentation; (2) Taylor acted with an intent to deceive the IDWD; and (3) the IDWD justifiably relied on Taylor's false representations to its detriment. *See, e.g., In re Davis*, 638 F.3d 549, 553 (7th Cir. 2011); *Ojeda v. Goldberg*, 599 F.3d 712, at 716-17 (7th Cir. 2010); *In re Maurice*, 21 F.3d 767, 774 (7th Cir. 1994).

In its Complaint, the IDWD alleges that it improperly paid \$23,276.00 in unemployment compensation benefits to Taylor over the course of three calendar years. As an exhibit to its Complaint,

²The Complaint refers to the defendant, Paul Taylor, in paragraphs 80 and 110 as "her." In reviewing the entire Complaint, the court finds this mis-description is immaterial. The court presumes these are typographical or proof reading errors. They do not impair the gravamen of the Complaint.

the IDWD attached Taylor's weekly unemployment claim vouchers. Each of these vouchers incorporates a certification that Taylor reported "all work, earnings, and self-employment activity." One question on the vouchers is "Did you work?" Taylor consistently answered "No" to this question. These vouchers are clear representations by Taylor that he had no income or earnings for these periods. The three years in question, 2009 through 2011, amount to 156 weeks. During this period the IDWD alleges Taylor made improper claims for benefits in 79 weeks. As part of its investigation into the payments it made to Taylor, the IDWD interviewed Taylor on September 8, 2011. Taylor provided a sworn statement during that interview. In response to the question "Why did you fail to properly report all your work and earnings from Forest River, Inc. when claiming and receiving unemployment benefits in 2009-2011?" Taylor replied "My wife wasn't working at the time (laid off). Mainly financial gain."

Based on his benefit claims, the IDWD paid more than \$23,000 in unemployment benefits to Taylor. Taylor has not presented any evidence pointing to errors in the IDWD's allegations. "Where a debtor knowingly or recklessly makes false representations which the debtor knows or should know will induce another to act, an intent to deceive may be inferred." *In re Westfall*, 379 B.R. 798, 804 (Bankr. C.D. Ill. 2007) (citations omitted). The lack of any presentation by Taylor to the contrary leads the court to conclude he intended to deceive the IDWD when submitting unemployment vouchers.

The IDWD has attached verified copies of weekly earnings reports from Taylor's employer, Forest River, Inc. to its Complaint. Indiana law requires employers keep records containing information necessary for the state's unemployment compensation system. See I.C. § 22-4-19-6 *et seq.* These weekly earnings reports by Forest River reflect wages paid to Taylor over the same periods that he had filed unemployment claim vouchers. The Indiana unemployment compensation system relies on accurate reporting by employers, and truthful benefit claims by benefit applicants such as Taylor. The design of Indiana's unemployment compensation system and the lack of any suggestion by Taylor that the IDWD improperly relied on his voucher claims lead the court to conclude that the IDWD was justified in relying on Taylor's voucher claims for unemployment compensation.

As the court has noted above, Taylor did not respond to the IDWD's Complaint, and the clerk has entered Taylor's default in this adversary proceeding. "A debtor's silence regarding a material fact can constitute a false representation under § 523(a)(2)(A)." *Westfall*, 379 B.R. at 803. The court finds the IDWD presented un rebutted documentary evidence that establishes a *prima facie* case that Taylor knowingly filed multiple vouchers for regular unemployment compensation benefits and emergency unemployment compensation benefits during periods when he was in fact employed. The repeated nature of Taylor's misrepresentations regarding employment status convinces the court that Taylor's actions were false representations, both willful and knowing, that satisfy the requirements of § 523(a)(2)(A). Taylor made these false representations intending to induce the IDWD into improperly paying him unemployment compensation benefits.

Conclusion

For the reasons stated in this Memorandum of Decision, the court grants the relief sought in the IDWD's Complaint to Determine Dischargeability of Debt. The court excepts the debt of defendant Paul Taylor to the plaintiff Indiana Department of Workforce Development from discharge under 11 U.S.C. § 523(a)(2)(A). Taylor's obligation to the IDWD, consisting of improperly claimed regular and emergency unemployment compensation benefits and statutory penalties, totaling \$37,562.00, and the adversary proceeding filing fee of \$350.00 incurred in filing this action, is nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A).

SO ORDERED.

/s/ HARRY C. DEES, JR.

HARRY C. DEES, JR., JUDGE
UNITED STATES BANKRUPTCY COURT