

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE: CASE NO. 14-12365)
)
ANGOLA HEALTHCARE, LLC)
)
Debtor)
)
)
ANGOLA HEALTHCARE, LLC)
)
Plaintiff)
)
vs.) ADV. PROC. NO. 15-1054
)
)
ERICA LIVINGSTON, et. al.)
)
Defendants)

NOT FOR PUBLICATION

DECISION

On March 15, 2016

By this adversary proceeding, the debtor in this Chapter 11 case seeks to recover damages, under a number of different theories, for allegedly unauthorized payments that were made to the defendants. The matter is before the court following trial of the issues raised as to the defendant, Erica Livingston. The court has subject matter jurisdiction because the action is “related to” the debtor’s bankruptcy, see, 28 U.S.C. § 1334(b) and the parties have consented to the bankruptcy judge entering final judgment. See, 28 U.S.C. § 157(c)(2).

Unlike an investigative report, the court does not need to determine what happened. Instead, it is the plaintiff’s burden to persuade the court that it is entitled to recover from the defendant based upon the facts proved at trial. Throughout four days of testimony, only three of the eight witnesses testified truthfully: Detective Bowyer of the Clark County Sheriff’s office; Karen Kinsley, the

accountant; and Dee Smallman, the administrator of the debtor's facility in Angola. None of the other witnesses were credible. Given the dearth of credible testimony, it becomes impossible to determine where the truth may be found.

The plaintiff has failed to carry its burden of proving that the payments it seeks to recover from Erica Livingston were not authorized. Judgment will be entered according.

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