

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
WESLEY HEATH and) CASE NO. 04-66148 JPK
DONNA A. HEATH,) Chapter 7
)
) Debtors.)
*****)
STACIA L. YOON, TRUSTEE,)
)
Plaintiff,)
)
v.) ADVERSARY NO. 05-6255
)
WESLEY HEATH and)
DONNA A. HEATH,)
)
Defendants.)

ORDER FOR HEARING

This adversary proceeding was initiated by complaint filed on November 23, 2005. In this complaint, the plaintiff, as the Chapter 7 Trustee of the debtors' Chapter 7 bankruptcy case (case number 04-66148), requests a judgment revoking the debtors' discharge, and in addition, a monetary judgment of \$4,866.86. No specific provision of 11 U.S.C. § 727(d) is cited in the complaint in support of the request for revocation of discharge. The sole predicate for both claims seems to be the Court's order entered on September 1, 2005 in the debtors' main case, by which the Court ordered the debtor Wesley Heath to turn over to the Trustee a copy of his 2004 state tax return, and the debtor Donna A. Heath to turn over to the Trustee copies of her 2004 state and federal tax returns. Paragraph 8 of the adversary complaint states that Donna A. Heath has failed to turn over her state tax return. The Court denied the remainder of the Trustee's motion which was the subject of the September 1, 2005 order, including a request in that motion for turnover of tax refunds.

Thus, the complaint seeks revocation of discharge upon Donna A. Heath's failure to

comply with a turnover order [an action within the scope of 11 U.S.C. § 727(d)(3)/727(a)(6)(A)] but which does not implicate Wesley Heath, and further seeks a monetary judgment on the basis of failure to turn over an amount said to be the estate's pro rata share of refunds, which amount has no support other than the naked assertion in the record.

IT IS ORDERED that a hearing will be held on **June 23, 2006, at 11:30 A.M.** pursuant to Fed.R.Bankr.P. 7055/Fed.R.Civ.P. 55(b)(2) to determine the extent of the relief to which the plaintiff may be entitled pursuant to the Motion for [Default] Judgment filed on May 26, 2006.

Dated at Hammond, Indiana on June 5, 2006.

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

Distribution:
Attorney for Plaintiff