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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In Re:)	
ALLEN JANISCH,)	Case No. 07-15620
)	
Debtor.)	
_____)	
UNITED STATES TRUSTEE,)	Adversary No.
)	
Plaintiff,)	
v.)	COMPLAINT TO DENY DISCHARGE
ALLEN JANISCH,)	OF ALLEN JANISCH
)	
Defendant.)	
_____)	

The Acting United States Trustee, Robert D. Miller Jr., for claims against defendant Alen Janisch (the “Defendant”), asserts and alleges:

PARTIES

1. The plaintiff is the Acting United States Trustee for Region 18, which includes the Western District of Washington. The United States Trustee has standing to bring this action under 11 U.S.C. §§ 307 and 727(c)(1).

2. The Defendant is a debtor in the above-captioned chapter 7 bankruptcy case.

1 **JURISDICTION AND VENUE**

2 3. This is an adversary proceeding to deny the Defendant’s discharge, brought
3 pursuant to 11 U.S.C. §§ 727(a)(2), (a)(4), and (a)(7), and Rule 7001 of the Federal Rules of
4 Bankruptcy Procedure.

5 4. This Court has jurisdiction over this adversary proceeding pursuant to
6 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(J).

7 5. Venue is proper pursuant to 28 U.S.C. § 1409(a).

8 **FACTUAL ALLEGATIONS**

9 6. On November 23, 2007 (the “Petition Date”), the Defendant filed a voluntary
10 chapter 7 petition (the “Petition”), thereby initiating the above-referenced chapter 7 case (the
11 “Ch. 7 Case”). In conjunction with the Ch. 7 Case, the Defendant also filed schedules of assets
12 and liabilities (each a “Schedule” and collectively, the “Schedules”), and a statement of financial
13 affairs (the “SOFA”).

14 7. The Defendant signed the Petition, Schedules and SOFA under penalty of perjury
15 as being true and correct.

16 8. Other than an amendment to add five creditors to Schedule F, no other
17 amendment to the Schedules or SOFA has been filed.

18 9. Edmund J. Wood is the chapter 7 trustee (the “Trustee”).

19 10. The Defendant has testified that he has an undergraduate degree in education, an
20 undergraduate degree in business, and a Masters of Business Administration degree.

21 11. The initial meeting of creditors was scheduled for December 27, 2007. The
22 Defendant failed to appear, and the meeting was continued. The Defendant also failed to appear
23 at continued meetings on February 14, 2008, and April 3, 2008.

24 12. The Trustee sought and obtained an Order compelling the Defendant to attend a
25 continued meeting of creditors on May 22, 2008. The Defendant did appear and testify on May
26 22, 2008, and the meeting was continued to July 10, 2008, for further examination.

13. The Defendant testified at the May 22, 2008, meeting of creditors that he
executed the signature pages in the Schedules and SOFA before the Schedules and SOFA were

1 actually prepared by his attorney, and that he did not read the Schedules and SOFA prior to their
2 being filed with the Court.

3 14. On the Petition Date, the Defendant had at an open checking account at Key Bank
4 (the "Key Bank Account"). The Defendant may have had other checking, savings or other
5 financial accounts open on the Petition Date.

6 15. Schedule B question no. 2 is marked "None" in response to the requirement to list
7 all open accounts.

8 16. The Key Bank Account is not otherwise disclosed in the Schedules or SOFA.

9 17. The Defendant had a stock brokerage account at Net Vest that was open on June
10 6, 2007 (the "Net Vest Account").

11 18. The Net Vest Account is not disclosed on Schedule B as open on the Petition
12 Date, or disclosed on SOFA question no. 11 as an account closed within one year of the Petition
13 Date.

14 19. The Defendant closed an account at Washington Mutual Bank ("WAMU")
15 xxx760 (the "WAMU Closed Account") sometime in 2007.

16 20. The Defendant checked the box indicating "None" on SOFA question no. 11 with
17 respect to disclosure of all financial accounts closed within one year of the Petition Date.

18 21. The WAMU Closed Account is not otherwise disclosed in the Schedules or
19 SOFA.

20 22. On the Petition Date, the Defendant had an IRA at New York Life Insurance
21 Company (the "IRA").

22 23. Schedule B question no. 12 is marked "None" in response to the requirement to
23 list and give particulars of all interests in IRA, ERISA, Keogh, or other pension or profit sharing
24 plans.

25 24. The IRA is not otherwise disclosed in the Schedules or SOFA.

26 25. The Defendant was the sole shareholder, President, and only director of Court
Reporting Institute, Inc. ("CRI"), a Washington corporation. CRI ceased business operations
around August 2006.

1 26. Schedule B question no. 13 is marked “None” in response to the requirement to
2 list all stock and interests in incorporated businesses.

3 27. The Defendant checked the box indicating “None” on SOFA question no. 18a
4 with respect to disclosure of pertinent information about all corporations in which the Defendant
5 was an officer, director, partner, or managing executive within six years of the Petition Date.

6 28. CRI filed a chapter 7 petition in the Western District of Washington on November
7 27, 2006, initiating case no. 06-14202 (the “CRI Petition Date”). On December 9, 2006, in
8 conjunction with its chapter 7 case, CRI filed schedules of assets and liabilities (each a
9 “Schedule” and collectively, the “CRI Schedules”), and a statement of financial affairs (the “CRI
10 SOFA”).

11 29. The Defendant signed the CRI Schedules and CRI SOFA under penalty of perjury
12 as being true and correct.

13 30. On page 2 of the Petition, the Defendant states “None” in response to the
14 requirement to list all pending bankruptcy cases filed by Affiliates. The CRI chapter 7 case is
15 not otherwise disclosed in the Schedules or SOFA.

16 31. In 2003, CRI or the Defendant transferred \$62,000 to Steve Fleischman for use in
17 conjunction with issuance of a letter of credit by Bank of America (the “Letter of Credit
18 Funds”). CRI and/or the Defendant has a legal or equitable interest in the Letter of Credit Funds
19 Funds.

20 32. No legal or equitable interest in the Letter of Credit Funds is disclosed in the
21 Schedules or SOFA.

22 33. No legal or equitable interest in the Letter of Credit Funds is disclosed in the CRI
23 Schedules or CRI SOFA.

24 34. The Letter of Credit Funds are the subject of an adversary proceeding seeking
25 turnover thereof brought by the chapter 7 trustee in the CRI chapter 7 case, adversary no. 08-
26 01131.

 35. On the Petition Date, the Defendant was a party to certain leases and/or executory
contracts (the “Leases”).

1 36. On Schedule G, the box is checked indicating that the Defendant has no
2 executory contracts or unexpired leases.

3 37. The Leases are not otherwise disclosed in the Schedules or SOFA.

4 38. On the Petition Date, persons and/or entities were co-debtors with the Defendant
5 on certain obligation (the "Co-Debtors"). Co-Debtors included, without limitation, CRI on lines
6 of credit with WAMU and U.S. Bank, and on two leases with Great American Leasing.

7 39. On Schedule H, the box is checked indicating that the Defendant has no co-
8 debtors.

9 40. The Co-Debtors are not otherwise disclosed in the Schedules or SOFA.

10 41. On the Petition Date, the Defendant owned two diamond rings (together, the
11 "Rings"). According to testimony by the Defendant, based upon appraisals the Rings have a
12 combined value of approximately \$50,000.

13 42. Between January 1, 2006, and September 7, 2006, CRI issued a series of checks
14 made payable to the Defendant in the aggregate sum of \$487,360 ("CRI Payments"). The
15 Defendant negotiated those checks for his benefit.

16 43. Some of the CRI Payments were for compensation to the Defendant (the "2006
17 Compensation").

18 44. The source of some of the CRI Payments may have been CRI students' prepaid
19 tuition.

20 45. On the CRI SOFA filed December 9, 2006, the Defendant stated on behalf of CRI
21 in response to question no. 23 that he received average monthly compensation from CRI of
22 \$15,000.

23 46. In September 2006, CRI paid the Defendant \$9,160 by check for the cash
24 surrender value of his life insurance with CRI (the "Insurance Funds").

25 47. The Defendant checked the box indicating "None" on SOFA question no. 1 with
26 respect to income from employment or operation of business during the two years prior to the
Petition Date.

1 k. receipt of the Insurance Funds;
2 l. the Fleischman Transfers;
3 m. the transfer of \$150,000 to Moldskred in 2006;
4 n. the transfer of \$165,000 to CRI in April, May and June 2006;
5 o. the transfer of the security interest in the Rings in October 2006; and
6 p. the granting of a deed of trust and transfer of a security interest in
7 residential real property in October 2006.

8 65. The false oaths relate to material facts.

9 66. The false oaths were made with fraudulent intent.

10 67. The false oaths were made in or in connection with the case.

11 **THIRD CLAIM FOR RELIEF**

12 11 U.S.C. § 727(a)(7)

13 (False Oaths in CRI Chapter 7)

14 68. Paragraphs 6 through 58 are hereby incorporated.

15 69. The Defendant signed the CRI Schedules under penalty of perjury as true and
16 correct, when they were in fact materially false.

17 70. The CRI Schedules failed to disclose an interest in the Letter of Credit Funds.

18 71. The false oath relates to material facts.

19 72. The false oath was made with fraudulent intent.

20 73. The false oath was made within one year before the Petition Date in connection
21 with the chapter 7 case of insider CRI.

22 WHEREFORE, the United States Trustee prays for relief as follows:

23 A. That the Court enter a judgment denying the discharge of the Defendant pursuant
24 to 11 U.S.C. §§ 727(a)(2), (a)(4), and (a)(7); and
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B. For such other and further relief as the Court deems just and equitable.

DATED this 4th day of September, 2008.

Respectfully submitted,

Robert D. Miller Jr.
Acting United States Trustee

By: /s/ Martin L. Smith
Martin L. Smith, WSBA #24861
Attorney for United States Trustee