

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: CHAD CASSNER	:	CHAPTER 7
	:	
Debtor	:	No. 15-11965
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WELLS FARGO BANK, N.A.	:	
Plaintiff,	:	ADVERSARY ACTION
v.	:	
	:	NO.
CHAD CASSNER	:	
Defendant.	:	
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**WELLS FARGO BANK, N.A.’S COMPLAINT OBJECTING TO DISCHARGE
PURSUANT TO 11 U.S.C. §§ 727 (A)(4) AND (5)**

Wells Fargo Bank, N.A. (“Wells Fargo”), by and through its attorneys, Berger Law Group, P.C., hereby files this Complaint Objecting to Discharge Pursuant to 11 U.S.C. §§ 727 (a)(4) and (5), 523(a)(2)(A), and 523(a)(2)(B), and avers as follows:

1. Plaintiff/Creditor Wells Fargo is a national banking association organized and existing under the laws of the United States of America with a place of business at 123 South Broad Street, Philadelphia, Pennsylvania.
2. Debtor/Defendant Chad Cassner (“Debtor” or “Defendant”) is the debtor in this bankruptcy case and is an adult resident of the Commonwealth of Pennsylvania with a last known residence at 502 N. Monocacy Creek Road, Douglassville, PA 19518.
3. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334 and venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).
4. This is a core proceeding in Debtor’s bankruptcy case pursuant to 28 U.S.C. § 157 (b)(2)(1) and 157(b)(2)(J).

5. This matter constitutes an adversary proceeding pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure.

6. This Adversary proceeding is being filed within the authorized time.

FACTS

7. On March 23, 2015, the Debtor filed a voluntary petition with this Court under Chapter 7 of the Bankruptcy Code.

8. By way of background, on July 24, 2014, Plaintiff Wells Fargo transferred a judgment it obtained in the sum of \$264,828.00 against Motor City Investors, LLC, Diane Angelosante, William Scott McDonald (collectively, the “Non-Bankrupt Parties”), and Defendant Cassner to the Berks County Court of Common Pleas, at Docket No. 14-16543 (the “Judgment”).

9. To date, the Judgment has not been satisfied.

10. Through research related to the holdings of the Non-Bankrupt Parties and Defendant Cassner, Plaintiff Wells Fargo has learned that Defendant Cassner and William Scott McDonald (“McDonald”) are sole members and owners of Keys 2 Retirement, L.L.C. f/k/a Keys to Retirement, L.L.C. (“K2R”), a Pennsylvania registered Limited Liability Company, with each owning 50% of K2R. A true and correct copy of the Pennsylvania Department of State Corporation Bureau Certificate of Organization for K2R showing that Defendant Cassner and McDonald are listed as the organizers of K2R is attached as Exhibit “1”.

11. On October 1, 2014, Plaintiff Wells Fargo sent Defendant Cassner and McDonald discovery requests (the “Discovery Requests”), in the form of a Request for the Production of Documents (“Request for Production”), Interrogatories (“Interrogatories”) and a Notice of Deposition in Aid of Execution (the “Notice of Deposition”).

12. Pursuant to the Discovery Requests and Notices of Deposition (which had been postponed by request of the Defendants), Defendant Cassner and McDonald produced responses and documents on November 10, 2014, and then were deposed on November 11, 2014.

13. During the depositions, Defendant Cassner and McDonald were questioned about distributions they each received from K2R.

14. Both Defendant Cassner and McDonald stated that they received distributions from K2R whenever K2R brought in any money.

15. Specifically, if K2R held real estate courses or consulted for a fee, Defendant Cassner and McDonald would pay expenses and then take the remaining funds as a distribution.

16. These distributions would be paid to separate limited liability companies, which were wholly owned by Defendant Cassner and McDonald, and then those funds would be transferred to Defendant Cassner and to McDonald's personal accounts.

17. The above distributions are supported by the tax returns and bank records from each of the Defendants and from K2R.

18. Specifically, the tax 2011 return for K2R shows a distribution of \$84,196 to Defendant Cassner and a distribution of \$84,196 to McDonald, while the 2014 tax return for K2R shows a distribution of \$106,328 to Defendant Cassner and a distribution of \$106,328 to McDonald.

True and correct (redacted) copies of the K2R tax returns for 2011 and 2012 are attached hereto as Exhibits "2" and "3", respectively.

19. Moreover, Defendant Cassner and McDonald testified that they were each receiving distributions from K2R of approximately \$10,000.00 a month up until very recently.

20. This information is supported by the bank statements of Defendant Cassner and McDonald, which show large monthly distributions being made directly to their personal accounts

from a checking account ending in 7228, which account was confirmed to be the business account of K2R. True and correct (redacted) copies of a selection of Defendant Cassner and McDonald's bank statements showing the distributions are attached hereto and made a part hereof as Exhibit "4".

21. Furthermore, the 2013 tax return for K2R shows end of year total assets of \$1,319,310. A true and correct (redacted) copy of K2R's 2013 tax return is attached hereto and made a part hereof as Exhibit "5".

22. The majority of these assets are described in the tax return as "Advances" (\$1,263,121 of the \$1,319,310 in total assets are "Advances"). *See* Exh. "5".

23. Defendant Cassner testified that these Advances represent fees from clients that are held until a project is completed, i.e., a home is purchased or a property is sold.

24. Accordingly, once a project concludes, the Advances are then distributed to Defendant Cassner and to McDonald.

25. Defendant Cassner further testified that each distributed Advance was roughly \$10,000.00.

26. Therefore, upon information and belief, K2R had approximately 126 projects in place at the end of 2013, with distributions of approximately \$10,000.00 for each of the 126 projects flowing to Defendant Cassner and to McDonald upon their completion.

27. Accordingly, Plaintiff Wells Fargo believes that Defendant Cassner and McDonald have received and/or may receive further distributions from K2R of at least \$1,000,000.00, which further advances are subject to garnishment.

28. Accordingly, Plaintiff Wells Fargo previously filed a Petition for a Charging Order with the Berks County Court of Common Pleas, requesting that the court enter a charging order

against the economic interest of Defendant Cassner and McDonald in K2R against all further advances until the Judgment is paid in full.

29. Furthermore, the Petition for a Charging Order sought to prevent Defendant Cassner and McDonald from making any distributions to any third parties.

30. Specifically, Defendant Cassner and McDonald each revealed during their depositions that a \$500,000.00 loan for which they are both guarantors was going to mature on November 15, 2014.

31. Therefore, Plaintiff sought a Charging Order prior to the maturity of said Note, so that Defendants did not attempt to use any of the K2R advances to pay off this junior lien to their individual benefit and to the detriment of Plaintiff.

32. On November 14, 2014, Plaintiff Wells Fargo obtained a Charging Order against the economic interest of Defendant Cassner and McDonald in K2R (the "Charging Order"). A true and correct copy of the Order entering the Charging Order is attached hereto and made a part hereof as Exhibit "6."

33. Pursuant to the Charging Order, K2R was prohibited from making any distributions to any third party except to pay Plaintiff Wells Fargo.

34. Moreover, the Charging Order required the K2R representative, being Defendant Cassner, to immediately turnover to Plaintiff Wells Fargo all distributions which were due from K2R to either Defendant Cassner or to McDonald, until the Judgment was satisfied in full.

35. However, despite the Court's clear and explicit Charging Order, the Plaintiff has not received any funds from Defendant Cassner, from McDonald, or from K2R to date.

36. Accordingly, Wells Fargo is a party in interest under 11 U.S.C.S. § 362(d).

37. Following the Debtor's Bankruptcy filing, Plaintiff Wells Fargo reviewed the

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