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8 UNITED STATES BANKRUPTCY COURT

9 FOR THE CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION

11	In re)	Case No. 6:10-bk-12942-PC
12	JOSE DEL VALLE and)	Adversary No. [See Summons]
13	OLIVIA DEL VALLE,)	
	Debtors.)	Chapter 7
14	_____)	
15	UNITED STATES TRUSTEE FOR THE)	COMPLAINT OBJECTING TO THE
16	CENTRAL DISTRICT OF CALIFORNIA,)	DISCHARGE PURSUANT TO § 727 OF
	REGION 16,)	THE BANKRUPTCY CODE
17	Plaintiff,)	_____
18	v.)	
19	JOSE DEL VALLE and)	
20	OLIVIA DEL VALLE,)	
21	Defendants.)	
	_____)	

22 Plaintiff, the United States Trustee (the "Plaintiff"), alleges:

23 **STATEMENT OF JURISDICTION AND VENUE**

- 24 1. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and
- 25 1334 and 11 U.S.C. § 727. This is a core proceeding under 28 U.S.C. § 157(b)(2)(J).
- 26 2. Venue properly lies in this judicial district in that this civil proceeding arises under Title 11

1 United States Code as provided in 28 U.S.C. § 1409.

2 3. This adversary proceeding arises out of and relates to the Chapter 7 case of In re Jose Del
3 Valle and Olivia Del Valle, Case No. 6:10-bk-12942-PC (“Bankruptcy Case”).

4 **PARTIES TO THE ACTION**

5 4. Plaintiff is the United States Trustee for the Central District of California, Region 16.

6 5. The Debtors, Jose Del Valle and Olivia Del Valle (collectively the "Defendants" or
7 "Debtors") filed a voluntary petition for relief under Chapter 7 of Title 11 United States Code
8 on February 2, 2010 (the “Petition Date”).

9 6. Plaintiff is informed and believes that the Debtors reside in Temcula, California.

10 **STATEMENT OF STANDING**

11 7. Plaintiff, as the United States Trustee for Region 16, has standing to bring this action under
12 11 U.S.C. §§ 307 and 727, and Federal Rules of Bankruptcy Procedure 7001(4).

13 **GENERAL ALLEGATIONS**

14 8. The Defendants’ Petition, Schedules, and Statement of Financial Affairs filed in the
15 Bankruptcy Case were signed under penalty of perjury.

16 9. On March 19, 2010, Arturo Cisneros, the Chapter 7 trustee in the Bankruptcy Case (the
17 “Chapter 7 Trustee”), conducted the Debtors’ initial 341(a) meeting of creditors. The
18 Debtors appeared and testified, *inter alia*, that Jose Del Valle was the owner, CEO, and CFO
19 of RDV Consulting Group (“RDV”). The Debtors further testified to the following: (1) that
20 they held a 50% interest in a mobile home located at 1150 N. Kirby Street, #116, Hemet, CA
21 (the “Mobile Home”); (2) that Mr. Del Valle was the plaintiff in a defamation lawsuit filed in
22 the Superior Court of California, County of Riverside (“Defamation Lawsuit”); and (3) that
23 shortly prior to the Petition Date, they sold property located at 42715 Meadowlark Ridge,
24 Murrieta, CA (the “Meadowlark Property”) and 39659 Chambray Drive, Murrieta, CA (the
25 “Chambray Property”). These assets and transfers (collectively, the “Omitted Assets”) were
26 not listed anywhere on the Debtors’ petition, schedules or statement of financial affairs. The

1 Debtors further testified that Mr. Del Valle's income from employment with RDV Consulting
2 was approximately \$150,000 in 2007 and \$356,000 in 2008 (the "2008 Income"). The
3 Debtors' statement of financial affairs filed on February 2, 2002, lists income from
4 employment in 2007 as \$35,016, and failed to list any income for 2008. Based on the
5 Debtors' testimony, the Chapter 7 trustee requested that the Debtors amend their schedules
6 and statement of financial affairs and continued the meeting to April 1, 2010.

7 10. On information and belief, Mr. Del Valle's company, RDV, began its operations in January
8 2006 as a full service real estate company. Mr. Del Valle claimed that RDV was a multi-
9 million dollar corporation that handled all portions and aspects of real estate transactions,
10 including services such as trust deed investments, traditional real estate transactions,
11 foreclosure investments, consulting, conventional home loans, situational lending,
12 transactions, broker services, home loan processing, and commercial real estate.

13 11. On information and belief, Mr. Del Valle through RDV would lure investors to purchase
14 mortgage interests secured by deeds of trusts. The investors would then obtain a promissory
15 note from RDV. When the investors' promissory notes came due, Plaintiff is informed and
16 believes that the investors were persuaded to reinvest their initial investments. In or about
17 2008, upon information and belief, RDV received over \$5,825,000.00 in funds from
18 investors. To date, neither Mr. Del Valle nor his company have accounted for or returned all
19 of the funds to the investors (the "Investment Proceeds").

20 12. On April 1, 2010, the Chapter 7 trustee conducted the Debtors' *first* continued 341(a)
21 meeting of creditors. The Debtors appeared and testified, *inter alia*, that they had filed their
22 Amended Schedules B and C and statement of financial affairs on March 31, 2010.
23 Although, the Debtors' amended their statement of financial affairs, they still failed to list the
24 transfers of the Meadowlark and Chambray Properties and the Debtors' 2008 Employment
25 Income.

26 13. On April 15, 2010, the Chapter 7 trustee conducted the Debtor's *second* continued 341(a)

1 meeting of creditors. At that meeting Mr. Del Valle appeared and testified that he failed to
2 disclose his real estate broker bank account on Schedule B (the RE Broker Bank Account”).
3 He further testified that he lost between \$200,000 and \$300,000 in investments (the
4 “Investment Loses”) with an individual named Ralph J. Solis; that approximately \$90,000 of
5 the Investment Loses came from a retirement account that Mr. Del Valle held prior to starting
6 RDV; that the remaining Investment Loses were taken out of a retirement account he
7 established after creating RDV and that a portion of those funds were moneys received from
8 trust deed investments with Ralph J. Solis. Neither the RE Broker Bank Account, nor the
9 claim against Mr. Ralph J. Solis (the “Solis Claim”) were listed in the Debtors’ schedules
10 filed on February 2, 2010 or the amended schedules filed on March 31, 2010. To date, the
11 Debtors have not filed any further amendments, including amendments to disclose the RE
12 Broker Bank Account or Solis Claim. The 341(a) meeting was continued to June 14, 2010.

13 14. On June 14, 2010, the Chapter 7 Trustee conducted the Debtors’ *third* continued 341(a)
14 meeting of creditors. At that meeting, Mr. Del Valle appeared and testified that he did not
15 recall what his income was in 2008, but that in 2009 it was approximately \$320,000 (the
16 “2009 Income”). He further testified that he had retained an attorney by the name of William
17 Pascod and had paid him \$5,000 prior to the Bankruptcy Case to represent him in the
18 Defamation Lawsuit. Thereafter, the Debtors provided to the U.S. Trustee a declaration from
19 Mr. Del Valle’s mother, Blanca Del Valle, which indicates that she loaned the Debtors the
20 \$5,000 for Mr. Pascod’s retainer. To date, the Debtors have not filed any further
21 amendments to disclose the retainer paid to Mr. Pascod or to list Blanca Del Valle as a
22 creditor.

23 15. On July 23, 2010, the Chapter 7 trustee conducted the Debtors’ *fourth* continued 341(a)
24 meeting of creditors. The Chapter 7 Trustee concluded the Debtors’ meeting of creditors.

25 16. In the meantime, as a result of the U.S. Trustee’s inquiry, the Debtors provided the U.S.
26 Trustee with copies of their: 2006 Federal and State Personal Income Tax Returns; 2007

1 Federal and Personal State Income Tax Returns; 2008 Federal and State Personal Income Tax
2 Returns; 2009 Federal and State Personal Tax Returns; 2006 Federal Corporate Return for
3 RDV; 2007 Federal and State Corporate Return for RDV; and a select amount of bank
4 account statements for the Debtors and RDV for 2008 and 2009. The majority of the
5 Debtors' personal bank accounts for 2008 were not provided to the U.S. Trustee. Neither the
6 testimony of the Debtors nor the documents provided to the U.S. Trustee explain adequately
7 what happened to the funds under Mr. Del Valle's control at RDV or received by the Debtors
8 from RDV.

9 **FIRST CAUSE OF ACTION**

10 **Denial of Discharge**

11 **(11 U.S.C. § 727(a)(2))**

12 17. Plaintiff incorporates each and every allegation contained in paragraphs 1 through 16 above,
13 as though fully set forth herein.

14 18. On or about June, 18, 2009, within one year of the Petition Date, the Defendants transferred
15 the Meadowlark Property to L & L Investment Group, LLC (the "Meadowlark Ridge
16 Transfer").

17 19. On or about November 30, 2009, within one year of the Petition Date, the Defendants
18 transferred the Chambray Property to Yun Tao Peng (the "Chambray Transfer").

19 20. On information and belief, the Defendants transferred within one year of the Petition Date,
20 some or all of the 2008 and/or 2009 Income (the "Income Transfers").

21 21. Upon information and belief, the Meadowlark Transfer, the Chambray Transfer, and the
22 Income Transfers were done by the Debtors with intent to hinder, delay, or defraud a creditor
23 or an officer of the estate charged with custody of property.

24 **SECOND CAUSE OF ACTION**

25 **Denial of Discharge**

26 **(11 U.S.C. § 727(a)(3))**

1 22. Plaintiff incorporates each and every allegation contained in paragraphs 1 through 21 above,
2 as though fully set forth herein.

3 23. Pursuant to 11 U.S.C. §727(a)(3) the court shall not grant the debtor a discharge if:

4 (3) the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or
5 preserve any recorded information, including books, documents, records, and papers
6 from which the debtor's financial condition or business transactions might be
7 ascertained. . . .

8 24. The Defendants failed to produce relevant documents to the U.S. Trustee that would have
9 made it possible to ascertain the Debtors' financial condition and/or determine what they did
10 with the millions of dollars under Mr. Del Valle's control at RDV in 2008.

11 **THIRD CAUSE OF ACTION**

12 **Denial of Discharge**

13 **(11 U.S.C. §727(a)(4))**

14 25. Plaintiff incorporates each and every allegation contained in paragraphs 1 through 24 above,
15 as though fully set forth herein.

16 26. Pursuant to 11 U.S.C. §727(a)(4) the court shall not grant the debtor a discharge if:

17 (4) the debtor knowingly and fraudulently, in or in connection with the case –
18 (A) made a false oath or account. . . .

19 27. Upon information and belief the Defendants knowingly and fraudulently in connection of
20 with their case made many false oaths and accounts, including , without limitation:

- 21 • the failure to list all of their assets on Schedule B;
22 • the failure to list all of their liabilities on Schedule F;
23 • the failure to list transfers of property within one year prior to the filing of their
24 bankruptcy case on their statement of financial affairs; and
25 • the failure to list all of their gross income for the three years prior to the filing of the
26 bankruptcy case on their statement of financial affairs.

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4 **FOURTH CAUSE OF ACTION**

5 **Denial of Discharge**

6 **(11 U.S.C. § 727(a)(5))**

7 28. Plaintiff incorporates each and every allegation contained in paragraphs 1 through 27 above,
8 as though fully set forth herein.

9 32. Pursuant to 11 U.S.C. §727(a)(5) the court shall not grant the debtor a discharge if:

10 (5) the debtor has failed to explain satisfactorily, before determination of denial of
11 discharge under this paragraph, any loss of assets or deficiency of assets to meet the
12 debtor's liabilities. . .

13 33. The Debtors have failed to explain satisfactorily the disposition of the millions of dollars
14 under Mr. Del Valle's control at RDV in 2008.

15 **WHEREFORE**, Plaintiff prays for judgment as follows:

16 **ON ALL CLAIMS FOR RELIEF**

- 17 A. That Debtors' discharge be denied;
18 B. Attorney's Fees as allowed by law;
19 C. Costs of suit as allowed by law; and
20 D. For such other and further relief as the Court deems just and proper.

21
22 UNITED STATES TRUSTEE FOR THE
23 CENTRAL DISTRICT OF CALIFORNIA,
REGION 16

24 Dated: July 30, 2010

25 By: /s/ Misty Perry Isaacson
Misty Perry Isaacson
26 Attorney for the U.S. Trustee