

B 104
(Rev. 2/92)

ADVERSARY PROCEEDING COVER SHEET

(Instructions on Reverse)

ADVERSARY PROCEEDING NUMBER

FILED IN CASE NO.

U.S. BANKRUPTCY COURT
DISTRICT OF WYOMING

PLAINTIFFS

UNITED STATES OF AMERICA

DEFENDANTS

KENNETH RICHARD KEELER

2002 DEC 25 PM 2:49

JOYCE W. HARRIS, CLERK

BY _____
DEPUTY CLERK

ATTORNEYS (Firm Name, Address, and Telephone No.)
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ATTORNEYS (If Known)
Georg Jensen
1613 Evans Avenue
Cheyenne, WY 82001

PARTY (Check one box only) 1 U.S. PLAINTIFF 2 U.S. DEFENDANT 3 U.S. NOT A PARTY

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Objection to discharge pursuant to 11 U.S.C. Section 727(1)(5).

02-2084

NATURE OF SUIT

(Check the one most appropriate box only.)

- 454 To Recover Money or Property
- 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property
- 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property
- 424 To object or to revoke a discharge 11 U.S.C. § 727
- 455 To revoke an order of confirmation of a Chap. 11, Chap. 12, or Chap. 13 Plan
- 426 To determine the dischargeability of a debt 11 U.S.C. § 523
- 434 To obtain an injunction or other equitable relief
- 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan
- 456 To obtain a declaratory judgment relating to any of foregoing causes of action
- 459 To determine a claim or cause of action removed to a bankruptcy court
- 498 Other (specify)

ORIGIN OF PROCEEDINGS (Check one box only.) 1 Original Proceeding 2 Removed Proceeding 4 Reinstated or Reopened 5 Transferred from Another Bankruptcy Court

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____ **OTHER RELIEF SOUGHT** _____ **JURY DEMAND**
Check only if demanded in complaint

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES

NAME OF DEBTOR Kenneth Richard Keeler	BANKRUPTCY CASE NO. 02-21121
DISTRICT IN WHICH CASE IS PENDING Wyoming	DIVISIONAL OFFICE
NAME OF JUDGE *** McNi ff	

RELATED ADVERSARY PROCEEDING (IF ANY)

PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
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DISTRICT	DIVISIONAL OFFICE	NAME OF JUDGE
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FILING FEE (Check one box only.) FEE ATTACHED FEE NOT REQUIRED FEE IS DEFERRED

DATE 12/23/02	PRINT NAME Carol A. Statkus	SIGNATURE OF ATTORNEY OR PLAINTIFF <i>Carol A. Statkus</i> for CAS
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ORIGINAL

FILED IN THE
US BANKRUPTCY COURT
DISTRICT OF WYOMING

2002 DEC 23 PM 2:49

JOYCE W. HARRIS, CLERK

BY _____
DEPUTY CLERK

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF WYOMING

IN RE:)	
)	
KENNETH RICHARD KEELER,)	Case No. 02-21121
)	
Debtor.)	
_____)	Chapter 7
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Adv. No. 02-2084
)	
KENNETH RICHARD KEELER,)	
)	
Defendant.)	

COMPLAINT OBJECTING TO DISCHARGE OF DEBTOR

Plaintiff, the United States of America, by and through its undersigned counsel, complains and alleges as follows:

JURISDICTION AND VENUE

1. This is an action in which the United States seeks to deny the Chapter 7 bankruptcy discharge of defendant Kenneth R. Keeler pursuant to 11 U.S.C. § 727(a)(5).

2. This adversary proceeding is commenced at the request of and with the authorization of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States, pursuant to 26 U.S.C. § 7401.

3. The United States Bankruptcy Court for the District of Wyoming has jurisdiction over this action by virtue of 28 U.S.C. § 157 and § 1334, and by virtue of 11 U.S.C. § 105 and § 727.

4. Venue is proper in the United States Bankruptcy Court for the District of Wyoming pursuant to 28 U.S.C. § 1409(a) because defendant Kenneth R. Keeler is the debtor in Case No. 02-21121, a Chapter 7 proceeding filed on August 30, 2002 and currently pending in this Court

5. This is a core proceeding under 28 U.S.C. §157(b)(2)(J).

MR. KEELER'S UNPAID FEDERAL INCOME TAX LIABILITIES

6. Mr. Keeler owes the IRS more than \$49 million in unpaid federal income taxes, penalties, and interest for tax years 1981, 1982, and 1983.

7. Mr. Keeler's federal tax liabilities for 1981, 1982, and 1983 were determined by the United States Tax Court in *Leema Enterprises, et al. v. Commissioner*, T.C. Memo, 1999-18, 1999 WL 34819, 77 T.C.M. (CCH) 1261 (1999) and affirmed by the Tenth Circuit Court of Appeals in *Keeler v. Commissioner*, 243 F.3d 1212 (10th Cir. 2001).

8. Mr. Keeler has not voluntarily paid his federal tax liabilities for 1981, 1982, and 1983.

9. The federal tax liabilities owed to the IRS are the only liabilities listed on Mr. Keeler's bankruptcy schedules. The IRS is the sole creditor listed on Mr. Keeler's bankruptcy schedules.

MR. KEELER'S INCOME AND ASSETS AS REPORTED TO THE COURT

10. Mr. Keeler reports on his Statement of Financial Affairs, filed on September 16, 2002, that he earned \$1,479,408.00 in total income during 2001.

11. Mr. Keeler reports on his Statement of Financial Affairs, filed on September 16, 2002, that he earned \$780,448.00 in total income during 2000.

12. Mr. Keeler reports on his bankruptcy schedules that he owns real and personal property worth a total of \$2,035,310.40.

13. The real property reported on Mr. Keeler's bankruptcy schedules includes his forty-five percent (45%) interest in a home located at 115 Grand View Court, Uinta County, Evanston, Wyoming worth \$42,872.40.

14. The real property reported on Mr. Keeler's bankruptcy schedules includes his forty-five percent (45%) interest in Lot 33, Brook Hollow 2, Uinta County, Evanston, Wyoming worth \$5,400.00.

15. Mr. Keeler reports on his bankruptcy schedules that he owns certain personal property including but not limited to:

- \$10,000.00 in cash;
- \$282,000.00 in a Wells Fargo checking account;
- \$12,031.00 in a Solomon trading account;
- \$7,717.00 in a Solomon checking account
- \$1,390,129.00 in a "pension plan trust"; and
- \$120,000.00 of "accrued earnings."

COUNT I - 11 U.S.C. § 727(a)(5)

16. The Bankruptcy Code provides that "[t]he Court shall grant the debtor a discharge, unless the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor's liabilities." 11 U.S.C. § 727(a)(5).

The Discrepancy Between Mr. Keeler's Income And Reported Assets

17. Mr. Keeler reported on his Statement of Financial Affairs that he earned a total of \$2,259,856.00 in the years 2000 and 2001.

18. Upon information and belief, Mr. Keeler earned approximately \$7.5 million from 1996 through 2001.

19. Despite earning approximately \$7.5 million from 1996 through 2001, Mr. Keeler reports only \$2,035,310.40 of assets on his bankruptcy schedules.

Mr. Keeler's Trading Accounts

20. On or about November 5, 2001, Mr. Keeler had approximately \$5.7 million in two trading accounts.

21. Despite having approximately \$5.7 million in two trading accounts on or about November 5, 2001, Mr. Keeler reports on his bankruptcy schedules, filed on September 16, 2002, that he has only \$12,031.00 in a Solomon trading account, that he has only \$1,390,129.00 in a "pension plan trust," and that he has total assets of only \$2,035,310.40.

North Coast Business Park

22. In 1981, Mr. Keeler and Laura Barrett Keeler, his former wife, acquired a four-percent (4%) interest in North Coast Business Park Associates Limited, a California Limited Partnership in exchange for \$200,000.00.

23. North Coast Business Park Associates Limited owns an office park in Encinitas, California called North Coast Business Park.

24. In August of 2001, Mr. Keeler stated under penalty of perjury on financial statements submitted to the IRS that he held an interest in North Coast Business Park Associates Limited.

25. From 2000 through 2001, Mr. Keeler received payments totaling approximately \$50,000.00 from North Coast Business Park Associates Limited.

26. Mr. Keeler does not mention or make any reference to North Coast Business Park on any of his bankruptcy schedules or his Statement of Financial Affairs.

Hamilton Family Limited Partnership

27. In August 2001, Mr. Keeler stated under penalty of perjury on financial statements submitted to the IRS that he had an interest in the Hamilton Family Limited Partnership and that his interest in the Hamilton Family Limited Partnership had a market value of \$309,894.00.

28. From 2000 through 2001, Mr. Keeler received payments totaling approximately \$40,000.00 from the Hamilton Family Limited Partnership.

29. Despite previously reporting that his interest in the Hamilton Family Limited Partnership had a market value of \$309,894.00, Mr. Keeler reported on his bankruptcy schedules, under penalty of perjury, that his interest in the Hamilton Family Limited Partnership had a market value of \$0.00.

30. Mr. Keeler has failed to explain satisfactorily the loss of assets and/or the deficiency of assets to meet his liabilities in this action, particularly his 1981, 1982, and 1983 federal income tax liabilities, as required by 11 U.S.C. § 727(a)(5).

31. Due to his failure to satisfactorily explain the loss and/or deficiency of assets to meet his liabilities, Mr. Keeler is not entitled to a discharge under 11 U.S.C. § 727.

WHEREFORE, the United States of America prays that this Court:


- A. Declare that defendant Kenneth R. Keeler is denied a discharge under 11 U.S.C. § 727;
- B. Award to the United States its costs of prosecuting this action; and

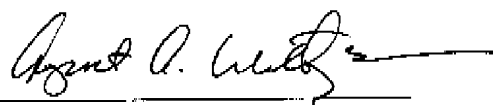
C. Order such other and further relief as may be deemed just and proper.

Respectfully submitted this 20th day of December, 2002.

ROBERT S. WATKINS
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Western Region, Tax Division
United States Department of Justice

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