

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

IN RE:)	
)	
PARK, MICHAEL JINYONG)	Case No. 308-05613
Debtor(s))	Chapter 7
)	
)	
BLANCA D. NARCIO)	
Plaintiff)	Adversary No.
)	
v.)	
)	
MICHAEL JINYONG PARK, Debtor)	
Defendant)	

COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT

Comes now the Plaintiff, Creditor BLANCA D. NARCIO, by and through counsel, and sues the Defendant as follows:

INTRODUCTION

This case concerns money, specifically, about \$39,972.00, (herein called "the money") more or less, that Plaintiff trusted to the Defendant to invest in a Sears Bond, or some other type of Sears paper, while Defendant was acting in the capacity of a fiduciary and investment counselor to Plaintiff. Defendant apparently did not keep Plaintiff's money separate from either his own money, nor from the money entrusted to Defendant by other investors. Defendant apparently did not purchase either a Sears bond, nor any other type of Sears paper with Plaintiff's money. Defendant apparently deceived Plaintiff by paying her \$700.00 per quarter since he received her \$39,972.00 and telling her that this amount represent "interest" on her investment. Plaintiff has only recently learned that Defendant did not invest her money as Defendant promised he would do, and of the apparent co-mingling of Plaintiff's money with that of other investors and with that of Defendant himself. Plaintiff's investment corpus is now unaccounted for.

1. JURISDICTIONAL STATEMENT

1. Jurisdiction to entertain this proceeding is conferred on this Court by 28 U.S.C. §151 & 157, and 11 U.S.C. § 523.
2. Venue to entertain this proceeding is properly laid with the Court pursuant to 28 U.S.C. § 1408 & 1409(a).
3. Plaintiff is a creditor in this bankruptcy proceeding.

2. CAUSE OF ACTION

4. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-3 above.
5. Although Plaintiff does not know Defendant's true status or whether he was in fact licensed to do so, Plaintiff believed that Defendant was a licensed broker at the time she gave him the money, and he had an office in Brentwood, Tennessee where he held himself out as being a licensed broker.
6. Sometime around May of 2002 Plaintiff gave Defendant the money to invest in a Sears 7% fixed rate bond.
7. Since that time, Defendant has paid, more or less regularly, the cash sum of \$700.00 to Plaintiff per calendar quarter, and he told her this amount represented interest on her invested money.
8. Defendant did not, apparently, actually invest Plaintiff's money into a Sears bond, nor any other kind of Sears paper, nor into any investment vehicle at all.
9. Defendant apparently either kept the Plaintiff's money for his own use, or did something else with the money which Defendant was not authorized by Plaintiff to do.
10. Defendant did these things while acting in a fiduciary capacity for the Plaintiff.
11. The present bankruptcy case, of which this adversary proceeding is a part, was filed on 7/01/08.
12. The Defendant has failed, either wholly or in large part, to account to Plaintiff as to exactly where the money is or what Defendant did with the Money.

3 PRAYER FOR RELIEF

13. Plaintiff prays that this Complaint be filed and served upon the Defendant.
14. Plaintiff prays that Defendant should account to Plaintiff and tell her exactly how Defendant invested or otherwise disposed of her money.
15. Plaintiff prays for a money Judgment against Defendant in the amount of \$39,972.00., plus accrued interest, if any, from the date of the investment.
16. Plaintiff prays for an Order determining this debt to be non-dischargeable under applicable law, including but not limited to 11 U.S.C. 523 (a)(4), (6), & (19).
17. Plaintiff prays for an award of costs and attorney fees for bringing this pleading.
18. Plaintiff prays for any other or further or general relief as this Court deems proper under the circumstances of this case.

Respectfully Submitted,

/s/ DAVE TALLEY

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