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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

In re: Richard M. Coan **3:09GP 18 AVC**

REPLY TO RESPONSE OF RESPONDENT COAN

If only Respondent Coan's fairy tale version of the facts were true, he wouldn't have needed nor felt compelled to bring the subject action before The Honorable Robert N. Chatigny, Chief Judge, U.S.D.C., District of Connecticut, to preclude me from suing him without leave of court. This intent to sue defendant Coan for damages arising from his illegal acts in the context of his purported role as trustee of my Chapter 7 estate in bankruptcy was clearly articulated and subsumed in the proceeding before Judge Chatigny and included his past, current and anticipated future illegal acts [*ie*., the Swann matter, the still unaccounted for Judgment entered in my favor by The Honorable Alvin W. Thompson, U.S.D.C.J. (Dist.Conn)] violative of RICO and other federal law. Specifically, in Judge Chatigny's own concluding words in pertinent part,

> 'On the existing record, a "leave of court" requirement should ***not*** (emphasis supplied) be imposed on Peia with regard to ***any*** (emphasis supplied) future legal action he might bring against plaintiff Coan……If Peia does sue Coan, and the complaint proves to be frivolous, appropriate sanctions can be imposed by the judge who gets that complaint, including an order prohibiting Peia from filing another action without leave of court.' 212 B.R. 217, 220 (D.Conn.1997).

Additionally, in his own sworn testimony before Judge Chatigny, Coan acknowledged his fiduciary duty to debtor's estate and debtor thereby (Exhibit B), which duty he purposefully, in the alternative, negligently breached. Reciting the 1951 case of *Mosser v.Darrow*, 341 U.S. 267, 71 S.Ct. 680, 95 L.Ed. 927 (1951), the *Court in Conn. Gen. Life Ins. V. Universal Ins. Cos.*, 838 F.2d 612 (1st Cir. 1988), sets forth the words of the Supreme Court as are apposite here and provided in pertinent part, "a trusteeship is serious business and is not to be undertaken lightly or so discharged. The most effective sanction for good administration is personal liability for the consequences of forbidden acts……", *Id*. at 621, and hence, respondent Coan's personal liability herein, having been sued individually herein. Indeed, said Court in *Conn. Gen. Life Ins., supra*, continues stating that federal courts have uniformly held that bankruptcy trustees are subject to personal liability for the willful and deliberate violation of their fiduciary duties, and even for negligent acts by said trustees. *Id.*; *see e.g., In re Gorski*, 766 F.2d. 723,727 (2d.Cir.1985*); In re Cochise College Park, Inc*., 703 F.2d. 1339, 1357 (9th Cir. 1983). Moreover, the U.S. District Court has a significant interest in overseeing and correcting the conduct of (corrupt) trustees as Coan.

THE FACTS UNDER PENALTY OF PERJURY

Coan had contacted me by mail in California, relating that he had been appointed Chapter 7 trustee, and further requested that I call his office. I did so, further apprised him of the California proceeding and the numerous improprieties (RICO predicate acts) by Shiff and (bankruptcy) court. He stated that there was a motion to dismiss adversary proceedings, that he was reviewing same, and that he might be inclined to abandon same. I received nothing further from him (or the bankruptcy court) until I received a copy of the order dismissing the adversary proceedings with prejudice which I distinctly remember inasmuch as I quipped to my landlord that he, Coan, had just cost me a lot of money. In the meanwhile, I had faxed copies of the papers to the FBI fax number that had been given to me. The interim months included the use of the mails by Shiff relative to the California Chapter 7 proceeding, perpetuating the lie/fraud by Shiff regarding the date of dismissal by Shiff of a proceeding over which he presided (dismissed) upon which he predicated a spurious contempt proceeding which as borne out by counsel on my behalf, Robert Sullivan, Esq., who filed papers revealing the case had actually been dismissed with prejudice at the hearing before Shiff on 6-3-92, in which I among other creditors was in attendance, and not the date of October 8, 1992, upon which he based his spurious contempt proceeding which under color of right extorted a sum of money from me, wrongfully threatening me with jail (Attorney Sullivan also asserted with cited authority that the Shiff Bankruptcy Court was without jurisdiction to bring such a contempt proceeding). Although I was in California, I hadn't given up residency in Connecticut and the U.S. Attorney's Office should have set forth the fact that the date of dismissal was 6-3-92 at the Shiff hearing as confirmed by counsel on my behalf, Robert Sullivan of Westport, Connecticut. I had indicated to the Hartford Division (I filed there, though transferred to Shiff/venue) of the U.S. Bankruptcy Court by correspondence delivered by courier that I would file and seek transfer of the case to another jurisdiction (the California, 1996 case) absent other than Shiff's wrongful conduct of the case. It is noteworthy in Coan's Exhibit A, that Shiff does not mention the September, 1989 Virginia Chapter 7 proceeding which should have resolved all legal/property issues but was never consummated according to law (which would have made unnecessary the subsequent filings for paper trail).

A close examination of the **ORDER OF DISMISSAL** (with prejudice), Exhibit A, sets forth that the court ordered on May 31, 1996 that the adversary proceedings would be subject to dismissal (only) if Interim Trustee Coan failed to submit a filing by June 18, 1996; that at a hearing held on June 25, 1996 the court determined that Interim Trustee Coan had submitted no filing and dismissed as to all defendants with prejudice.

THE LAW

Reciting the 1951 case of *Mosser v.Darrow*, 341 U.S. 267, 71 S.Ct. 680, 95 L.Ed. 927 (1951), the *Court in Conn. Gen. Life Ins. V. Universal Ins. Cos.*, 838 F.2d 612 (1st Cir. 1988), sets forth the words of the Supreme Court as are apposite here and provided in pertinent part, "a trusteeship is serious business and is not to be undertaken lightly or so discharged. The most effective sanction for good administration is personal liability for the consequences of forbidden acts……", Id. at 621, and hence, defendant coan's personal liability herein, having been sued individually herein. Indeed, said Court in Conn. Gen. Life Ins., supra, continues stating that federal courts have uniformly held that bankruptcy trustees are subject to personal liability for the willful and deliberate violation of their fiduciary duties, and even for negligent acts by said trustees. *Id.*; *see e.g., In re Gorski*, 766 F.2d.

723,727 (2d.Cir.1985*); In re Cochise College Park, Inc*., 703 F.2d. 1339, 1357 (9th Cir. 1983). Business judgment as alluded to by Coan? What business judgment (other than that akin to the likes of AIG, CITIBANK, among other wall street fraudsters/banksters, etc., which despite the multi-trillion dollar securities fraud, there has been as here yet not one prosecution for which disgorgement is appropriate)? Is that supposed to be a joke as is his disingenuous portrayal of himself as the "grieved"? In his own sworn testimony Coan has admitted he had a fiduciary duty to the Chapter 7 estate, that he contacted neither the FBI nor the Chapter 13 Trustee, that without investigation he summarily concluded my true sworn statements unbelievable concerning mafia/drug-crazed individual (Swann), and has mischaracterized my limited references to corrupt Judges Trump Barry and Shiff along with the corrupt Deidre Martini (to somehow by leap refer to all judges and officials). Exhibit B. Rather than being complicit as Coan would ask this Committee to be, the U.S. District Court has a significant interest in overseeing and correcting the conduct of (corrupt) trustees as Coan herein. *See generally, In re Lehal Realty Associates*, *In re Lehal Associates*, 101 F.3d 272, 275-277 (2nd Cir. 1996) (distinguishable from the instant case inasmuch as the trustee in that case had benefited the estate through his actions, as opposed to Coan who has purposefully, wrongfully, and illegally damaged the estate). There is applicable insurance/surety coverage. Parenthetically, I invite this Committee's attention to the fact that RICO is a criminal statute with a civil money damages remedy purportedly to vindicate the law for which preponderance of evidence is the evidentiary standard and for which there are no immunities (nobody being above the law, including Coan).

THE 1881 CASE OF *BARTON V. BARBOUR* IS NOT APPOSITE, RELEVANT, OR IN THE ALTERNATIVE IS MOOT IN LIGHT OF CLOSURE OF THE BANKRUPTCY CASE ON OCTOBER 20, 2004, FINAL REPORT SUPPOSEDLY RENDERED, THE DAMAGE TO DEBTOR CONSUMATED BY DEFENDANT COAN AT SAID POINT IN TIME (NO NOTICE TO EITHER PLAINTIFF OR CREDITORS).

The 1881 case of *Barton v. Barbour*, 104 U.S. 126 (1881), involved a plaintiff that had brought an action for injuries sustained while a passenger in a train, which railroad was currently in receivership. Said plaintiff brought the action against the receiver without having sought leave of court from the court that had appointed him. It is important to emphasize that there was no allegation nor even a hint of impropriety, culpability, or illegality on the part of either the receiver or the subject court that had appointed him. Indeed, the fundamental and underlying *ratio decidendi* and policy considerations leading ineluctably to said Court's conclusion was that to permit such an action without leave of court would potentially impair the (value of the) property in the hands of the receiver, to the detriment of existing creditors and prior claimants. *Id.*,127-129. In the case *sub judice*, the precise opposite is true where respondent Coan has through his wrongful acts/conduct /negligence impaired the (value of the) property in to the detriment of existing creditors and prior claimants. Moreover, there was no RICO statute extent at said time to address the endemic and pervasive corruption that has become synonymous with America today and that the RICO statute was enacted thwart consistent with the liberal construction to be accorded said remedial legislation as per the Court in *Sedima, S.P.R.L. v. Imrex Co., Inc*., 473 U.S. 479 (1989). Specifically, complainant's action herein has been to preserve the estate which has been purposefully and consistently damaged by defendant Coan, consistent with a pattern of racketeering activity by an associated-in-fact enterprise of which defendant Coan along with the U.S. Bankruptcy court that appointed him was a part. It should further be noted *a fortiori* that complainant's action would inure

to the benefit of the estate and consequently, legitimate creditors and/or claimants thereof. It further is true that at the evidentiary hearing before Judge Chatigny, on cross examination by complainant and repeated in follow-up questioning by Judge Chatigny, defendant Coan admitted he did not know of any legal way a real property as complainant's could have been sold during the pendancy of the automatic stay [and the consequent fraud concerning surplus funds among other causes/predicate violations, etc., and those ripe for the entry of default (/judgment)], nor how without violating fiduciary duty the September, 1989 Virginia Chapter 7 proceeding which should have resolved all legal/property issues was never consummated according to law (which would have made unnecessary the subsequent filings for paper trail), etc.. Exhibit B. Moreover, in said sworn testimony Coan also confirmed he had considered abandoning said proceedings.

It should be noted that a cause of action under RICO is fundamentally recognized for losses (to ie., creditors, the debtor, lienholders, etc.) caused by sales of a debtor's assets in bankruptcy proceedings at submarket prices. *See, e.g., Bivens Gardens Office Bldg., Inc. v. Barnett Banks of Fla.,* 140 F.3d 898,908(11th Cir. 1998). In the instant case, defendant Coan's acts are even more egregious (and within the ambit of RICO) inasmuch as he has at all times relevant hereto purposefully, wrongfully, negligently, and flagrantly damaged assets of debtor's estate, purposefully, wrongfully, alternatively negligently causing dismissal of adversary proceedings involving RICO claims ripe for entry of default (judgment) Exhibit A, Exhibit "A" RICO Verified Complaint, Exhibit "B" Affidavit, Exhibit "A" RICO Statement, obstructing justice thereby, damaging plaintiff (debtor, as well as, *ie*., creditors, lienholders, etc.) , while concomitantly benefiting RICO co-conspirators, and committing a fraud upon the estate of debtor and creditors/lienholders thereby (violations of Sections 1513, 102 and that concerning extortion would also have been appropriate). The same violations apply to the adversary proceeding where the Trustee was named as a party plaintiff concerning junkie and thief, David George Swann (DOB 4-6-60; three guilty pleas to theft in less than 5 years residence in California) who stole (bankruptcy) estate among other assets of plaintiff and against whom default (judgment) was ripe for entry. Coan neither abandoned nor re-brought same, violating Section 1503 and (defrauding) damaging complainant thereby, and consistent with his defalcation of duty *ab initio*. It is preposterous for Coan to assert (falsely) to this Committee that I would fly in for the hearing concerning the relatively small Swann matter, and the subsequent hearing before The Honorable Robert N. Chatigny, Chief Judge, U.S.D.C., District of Connecticut, yet ignore the adversary proceedings integral to the value of the Chapter 7 Estate.

The foregoing statements made by me are true under penalty of perjury pursuant to the laws of the United States of America.

Dated: 4-22-09

Respectfully Submitted and Signed by: _____

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CERTIFICATION OF SERVICE

I, Albert L. Peia, hereby certify that copies of the within, including Autorun DVD with relevant (PDF formatted) documents, as set forth therein including the foregoing instant document designated by date as 4-22-09 Complainant's Reply to Response of Respondent Coan (42209complainantreply.pdf) were served by way of regular first class mail, postage pre-paid on this _____day of April, 2009, upon the following:

MEMBERS OF THE FEDERAL GRIEVANCE COMMITTEE as set forth in the Federal Grievance Committee Service List (As Updated March 24, 2009 – 14 Members) which is appended immediately hereto.

Richard M. Coan,
Coan, Lewendon, Gulliver, and Miltenberger , LLC.,
495 Orange St.,
New Haven, Ct. 06511

Walter W. Grattan, Jr., Supervisory Special Agent
Kimberly K. Mertz, Special Agent in Charge
Federal Bureau of Investigation
600 State Street, New Haven, Connecticut 06511

Dated: 4- -09

Signed:_____

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