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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA – RIVERSIDE DIVISION**

10
11 In re
12 TIMOTHY ERNEST RAPP AND
13 PEGGY SUE RAPP
14 Debtors.

Case No.: 06-13903
Chapter 7

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17 DONALD RAPP,
18 Plaintiff,
19 vs.
20 TIMOTHY EARNEST RAPP AND
21 PEGGY SUE RAPP,
22 Defendants.

Adv. No.: 6:08-ap-01384-PC

**NOTICE OF MOTION AND MOTION TO
DISMISS UNDER RULE 12(b)(6), AND IN
THE ALTERNATIVE, MOTION FOR
SUMMARY JUDGMENT UNDER RULE
56**

Date: 5/26/2009
Time: 9:30 a.m.
Courtroom: 304
Judge: Hon. Peter H. Carroll

23
24 TO PLAINTIFF AND ITS ATTORNEY OF RECORD:
25 PLEASE TAKE NOTICE that on May 26, 2009, at 9:30 a.m., or as soon thereafter as
26 the matter may be heard in the above-entitled court, located at 3420 Twelfth Street,
27 Riverside, CA 92501-3819, defendants TIMOTHY RAPP and PEGGY RAPP will move the
28 court to dismiss the action pursuant to FRCP 12(b)(6), and in the alternative, motion for

1 summary judgment under rule 56, because plaintiff's complaint fails to state a claim upon
2 which relief can be granted, on the grounds that: (1) judicial estoppel prevents plaintiff from
3 asserting inconsistent positions from plaintiff's prior bankruptcy and the claims in this
4 adversary proceeding, (2) no facts in the complaint are stated which can hold Peggy Rapp
5 personally liable, (3) fraud was not pleaded with sufficient particularity, and (4) the
6 underlying claim originating in Superior Court was based on contract alone, not fraud.

7 The motion will be based on this Notice of Motion and Motion, the Memorandum of
8 Points and Authorities filed herewith, the request for judicial notice, and the pleadings and
9 papers filed herein.

10 Dated: 4/17/2009

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12 By: /s/ Brian T. Pedigo
13 Attorney for Defendants
14 TIMOTHY RAPP and
15 PEGGY RAPP
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. Introduction**

3 Defendants Timothy and Peggy Rapp moves this Court to dismiss this case by reason of
4 judicial estoppel under FRCP 12(b)(6), or in the alternative, to convert to a motion for
5 summary judgment. All the facts necessary for a judgment as a matter of law are contained
6 on the face of the pleadings and public documents attached to the *request for judicial notice*.

7 On October 2, 2008, Plaintiff Donald Rapp (Defendant Timothy’s father), filed an
8 adversary complaint against Timothy alleging fraud and/or defalcation while acting in a
9 fiduciary capacity after Timothy and Peggy’s Chapter 7 bankruptcy had closed (July 26,
10 2007). However, the interests in the property that are now sought by Plaintiff were not
11 disclosed in Plaintiff Donald Rapp’s own Chapter 7 bankruptcy, filed 9/26/2002 (Attached
12 hereto as Exhibit “1” with the accompanying *request for judicial notice*).

13 **II. Timeline**

14 The following timeline sets forth the facts taken from the face of the Complaint
15 (Complaint attached to *request for judicial notice* as Exhibit “2”). The facts stated in the
16 Complaint are not admitted (i.e. in dispute), but are listed here for the purposes of this motion
17 only. Facts are also taken from Plaintiff’s prior bankruptcy (attached as Exhibit “1”), to show
18 that Plaintiff’s claim should be barred by judicial estoppel for failure to disclose interests in
19 property during his own bankruptcy:

- 20 • ~2001: An alleged transfer of \$50,000 is made to Timothy for the purposes of a
21 down-payment on a home. *Complaint* at 2, ¶ 5(b).
- 22 • ~2001: Timothy takes over the family vending-machine business. *Complaint* 2, ¶
23 6(a).
- 24 • 11/26/2002: Donald files for Chapter 7 Bankruptcy, Case No. RS02-25671MJ,
25 failing to list any interest in the \$50,000 or the vending machine business, and
26 obtains a discharge on 1/7/2003.
- 27 • ~2004: Timothy sells his home. *Complaint* at 2, ¶ 5(c).
- 28 • ~2005: Timothy sells the vending machine business. *Complaint* at 2, ¶ 6(b).

- 1 • **12/19/2006:** Timothy and Peggy file for Chapter 7 Bankruptcy, Case No. 6:06-bk-
2 13903-PC, and they obtain a discharge on 7/2/2007.
- 3 • **11/2/2008:** Donald files an adversary complaint against Timothy alleging monies
4 owed which are related to the \$50,000 transfer and vending machine business
5 listed above, both of which alleged interests were not listed in Donald's own
6 Chapter 7 bankruptcy. Case No. 6:08-ap-01384-PC.

7 **III. Judicial Estoppel Applies because Plaintiff did not Disclose the Alleged Interests**
8 **in the Property now in Dispute during Plaintiff's own Chapter 7 Bankruptcy.**

9 “(A)bsent any good explanation, a party should not be allowed to gain an advantage by
10 litigation on one theory, and then seek an inconsistent advantage by pursuing an incompatible
11 theory.” *New Hampshire v. Maine* (2001) 532 US 742, 749, 121 S.Ct. 1808, 1814.

12 The Ninth Circuit, in *Hamilton v. State Farm Fire & Casualty Co.*, 270 F.3d 778 (9th
13 Cir.2001), estopped the plaintiff from bringing a bad faith claim against his insurer, not a
14 creditor, because plaintiff had previously failed to identify in his bankruptcy petition the
15 underlying claim for reimbursement of property loss then pending with the insurer. Though
16 only a claim for reimbursement at the time plaintiff filed his bankruptcy petition, the claim
17 was a potential asset requiring disclosure. The court reasoned:

18 In this case, we must invoke judicial estoppel to protect the integrity of the bankruptcy
19 process. The debtor, once he institutes the bankruptcy process, disrupts the flow of
20 commerce and obtains a stay and the benefits derived by listing all his assets. The
21 Bankruptcy Code and Rules impose upon the bankruptcy debtors an express, affirmative
22 ***duty to disclose all assets, including contingent and unliquidated claims***. The debtor's
23 duty to disclose potential claims as assets does not end when the debtor files schedules,
24 but instead continues for the duration of the bankruptcy proceeding. Hamilton's failure to
25 list his claims against State Farm as assets on his bankruptcy schedules deceived the
26 bankruptcy court and Hamilton's creditors, who relied on the schedules to determine
27 what action, if any, they would take in the matter. Hamilton did ***enjoy the benefit of both***
28 ***an automatic stay and a discharge of debt*** in his Chapter 7 bankruptcy proceeding.
However, it is his failure to disclose assets on his bankruptcy schedules that provides the
most compelling reason to bar him from prosecuting claims against State Farm.

In the bankruptcy context, a party is judicially estopped from asserting a cause of action
not raised in a reorganization plan or otherwise mentioned in the debtor's schedules or

1 disclosure statements. *Hay v. First Interstate Bank of Kalispell, N.A.*, 978 F.2d 555, 557 (9th
2 Cir.1992) (failure to give notice of a potential cause of action in bankruptcy schedules and
3 Disclosure Statements estops the debtor from prosecuting that cause of action).

4 Here, Plaintiff Donald Rapp obtained the advantage of receiving a Chapter 7 discharge
5 in this court while not disclosing the very same interests now alleged in this adversary
6 proceeding. Plaintiff relies on a contract theory (e.g. “defendant promised to pay me back”),
7 while at the same time asserting that he had no contractual rights of repayment at the time of
8 Plaintiff’s own bankruptcy. Because Plaintiff has taken clearly inconsistent positions in the
9 bankruptcy context, Plaintiff’s complaint should be dismissed under FRCP 12(b)(6) and the
10 doctrine of judicial estoppel.

11 **IV. Plaintiff has Stated no Facts Which Could Hold Defendant Peggy Sue Rapp**
12 **Personally Liable on Timothy’s Separate Property Interest.**

13 “We begin by noting that in California, property acquired prior to marriage is separate,
14 while property acquired during the marriage is presumed community property. (Civ.Code, §§
15 5107, 5108, 5110.) Income from separate property is separate, the intrinsic increase of
16 separate property is separate, but the fruits of the community's expenditures of time, talent,
17 and labor are community property. (Civ.Code, §§ 5107, 5108.)” *In re Marriage of Dekker*, 17
18 Cal.App.4th 842, 850, 21 Cal.Rptr.2d 642, 646 - 647 (Cal.App. 4 Dist.,1993).

19 The non-specific fraud alleged in the complaint provides no basis to hold Peggy Sue
20 Rapp personally liable. The transfer of property at issue occurred between the years 2001 and
21 2002, before the defendants were married in 2005. *Complaint*, Page 5, ¶ 7. The transfer of
22 property at issue should be characterized as a separate property interest, not community
23 property. There is no allegation of transmutation having occurred. As a matter of law, only
24 Defendant Timothy Rapp could have received the transfer of the separate property interest at
25 issue.

26 The only time in which Peggy’s name appears on the face of the complaint is to 1)
27 explain who she is, and 2) to allege that she owed some kind of duty of disclosure at the time
28 of her own bankruptcy. And, as argued below, failure to provide notice to Plaintiff Donald

1 Rapp in a no-asset Chapter 7 case does not make the debts non-dischargeable. For these
2 reasons, the claims against Peggy Sue Rapp should be dismissed in their entirety.

3 **V. Because Fraud was not Pleaded with Particularity, the Complaint Should be**
4 **Dismissed.**

5 Plaintiff's failure to meet the specific pleading requirements of Rule 9(b) may result in
6 dismissal of the complaint. *See Vess v. Ciba-Geigy Corp. USA* (9th Cir. 2003) 317 F3d 1097,
7 1107–1108.

8 In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall
9 be stated “with particularity.” FRCP 9(b); *Desaigouard v. Meyercord* (9th Cir. 2000) 223
10 F3d 1020, 1022–1023—fraud must be pled “with a high degree of meticulousness.” Fraud
11 averments failing to meet the Rule 9(b) standard are to be disregarded, and the remaining
12 allegations evaluated to see if a valid claim has been stated. *Vess v. Ciba-Geigy Corp. USA*
13 (9th Cir. 2003) 317 F3d 1097, 1105.

14 The “particularity” requirement serves several purposes: (1) it ensures that a defendant
15 has sufficient information to formulate a defense by providing adequate notice of both the
16 nature and grounds of the claim; (2) it reduces the number of frivolous suits brought solely to
17 extract settlements; (3) it eliminates fraud actions in which all the facts are learned after
18 discovery; and (4) it provides an increased measure of protection for a defendant's reputation.
19 *Concha v. London* (9th Cir. 1995) 62 F3d 1493, 1502–1503.

20 Here, Plaintiff has not given sufficient information to inform the defendant or the Court
21 the requisite facts which would give rise to non-dischargeability for fraud. Rather, this
22 complaint savagely attacks Defendant Timothy Rapp’s reputation in broad and irrelevant
23 ways. Finally, almost all of the legally necessary facts would have to be produced through
24 discovery. For these reasons, the complaint should be dismissed for failure to plead with the
25 requisite particularity.
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1 **VI. The Underlying Claims from Superior Court were Based Solely on Contract, not**
2 **on Fraud.**

3 Plaintiff has pursued the defendants in to this court in an attempt to convert a default on
4 prior claims for *breach of contract* into claims for *fraud*. Plaintiff cites 11. U.S.C. §
5 523(a)(3), 727(a)(2)(A), and 717 [sic], as the authority to make Defendants' debts non-
6 dischargeable. Plaintiff does not state with the required specificity what alleged underlying
7 acts would constitute non-dischargeable fraud.

8 a. **§523(a)(3) does not affect this No-asset Chapter 7 bankruptcy Case.**

9 First, Section 523(a)(3)(A) is not implicated in a "no-asset" Chapter 7 case because there
10 is no time limit on filing proofs of claim. I.e., if the bankruptcy trustee determines there are
11 no assets to distribute in a Chapter 7 case, no deadline is set for creditors' claims. Thus,
12 "there can never be a time when it is too late to permit timely filing of a proof of claim." *In*
13 *re Nielsen*, (9th Cir. 2004) 383 F3d 922, 927.

14 Furthermore, reopening to add an omitted creditor is not necessary in a Chapter 7 "no
15 asset/no bar date" case (where the court sends a notice directing creditors not to file a proof
16 of claim). Relief is unnecessary because if the omitted debt is dischargeable under § 523(a)
17 (3)(A), it was already discharged under § 727; if nondischargeable under § 523(a)(3)(B), it
18 was not discharged. Amending the schedules does nothing in this situation. *In re Beezley* (9th
19 Cir. 1993) 994 F2d 1433, 1434.

20 In a Chapter 7 or individual Chapter 11 case, a creditor who fails to receive written notice
21 of the deadline for filing claims and has no actual knowledge of the bankruptcy case in time
22 to file a claim will not have its claim discharged. 11 USC § 523(a)(3). But this exception
23 *does not apply if no claim-filing deadline has been set* (as generally occurs in "no asset"
24 Chapter 7 cases). *See In re Beezley* (9th Cir. 1993) 994 F2d 1433, 1436.

25 Because §523(a)(3) does not apply to no-asset chapter 7 cases, this claim for "fraud"
26 under §523(a)(3) should be dismissed.

27 b. **No Facts were Alleged which would Entitle Plaintiff to Relief Under**
28 **§727(a)(2)(A) and Defendant-Debtors listed the Default Judgment in their**
Statement of Financial Affairs.

1 An objection to discharge under § 727(a)(2)(A) requires, within one year of filing the
2 petition, (1) a transfer or concealment, and (2) a subjective intent on the debtor's part to
3 hinder, delay or defraud a creditor through the transfer or concealment. The debtor's
4 fraudulent intent must be actual, rather than constructive, and “may be established by
5 circumstantial evidence, or by inferences drawn from a course of conduct.”

6 To obtain a denial of discharge under § 727(a)(4)(A), a creditor must establish that “(1)
7 the debtor's oath was made knowingly and fraudulently; and (2) the false oath was related to
8 a material fact.” (internal citations omitted). *In re Aubrey*, 111 B.R. 268, 274 (9th
9 Cir.B.A.P.1990); *In re Thomsen*, 1999 WL 140607, 1 (C.A.9) (C.A.9,1999).

10 There are no facts in the complaint which indicate with any particularity transfer,
11 concealment, or the intent to delay or defraud a creditor. Money owed under a default
12 judgment for breach of contract was not transferred or concealed. In fact, *the default*
13 *judgment was listed on debtors’ statement of financial affairs*. (Attached to request for
14 Judicial Notice, Exhibit “3”, page 2).

15 Because no allegations in the complaint would entitle Plaintiff to relief under
16 §727(a)(2)(A), this claim should be dismissed.

17 c. **11 U.S.C. §717 Does Not Exist.**

18 Defendant is unable to locate 11 U.S.C. § 717. This, therefore, is not a basis to hold
19 Defendants’ debts non-dischargeable.

20 **CONCLUSION**

21 For the foregoing reasons, defendant respectfully requests that this Court dismiss the
22 Complaint in its entirety.

23 Dated: 4/17/2009

24 By: /s/ Brian T. Pedigo
25 Attorney for Defendants
26 TIMOTHY RAPP and PEGGY RAPP
27
28

1 Brian T. Pedigo, Esq. (SBN 256439)
2 **THE PEDIGO LAW CORPORATION**
3 7545 Irvine Center Drive, Suite 200
4 Irvine, CA 92618
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6 E-Mail: Brian@PedigoLaw.com

7 Attorney for Defendants, Timothy and Peggy Rapp

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA – RIVERSIDE DIVISION**

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11 In re
12 TIMOTHY ERNEST RAPP AND
13 PEGGY SUE RAPP,
14 Debtors.

Case No.: 06-13903
Chapter 7

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16 DONALD RAPP,
17 Plaintiff,
18 vs.
19 TIMOTHY EARNEST RAPP AND
20 PEGGY SUE RAPP,
21 Defendants.

Adv. No.: 6:08-ap-01384-PC

REQUEST FOR JUDICIAL NOTICE

Date: 5/26/2009
Time: 9:30 a.m.
Courtroom: 304
Judge: Hon. Peter H. Carroll

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24 Defendants, by and through its attorney, hereby requests the Court to take judicial
25 notice pursuant to Federal Rule of Evidence 201 of the following facts:
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1. Plaintiff filed for Chapter 7 bankruptcy in this Court on September 26, 2002, a copy of the schedules and Statement of Financial Affairs is attached hereto as Exhibit "1".
2. Plaintiff filed an Adversary Complaint for Non-Dischargeability in this Court on October 2, 2008, attached hereto as Exhibit "2".
3. Defendants filed for Chapter 7 bankruptcy in this Court on December 19, 2006. A copy of Defendants' Statement of Financial Affairs is attached as Exhibit "3".

Dated: 4/17/2009

By: /s/ Brian T. Pedigo
Attorney for Defendants
TIMOTHY RAPP and
PEGGY SUE RAPP

Exhibit 1

FORM B1

United States Bankruptcy Court
Central District of California, Riverside Division

Voluntary Petition

Handwritten initials 'MP' and a checkmark.

Name of Debtor (if individual, enter Last, First, Middle):
Donald E. Rapp

Name of Joint Debtor (Spouse) (Last, First, Middle):

All Other Names used by the Debtor in the last 6 years
(include married, maiden, and trade names):
D/B/A Munchy Machines
Donald Eugene Rapp

All Other Names used by the Joint Debtor in the last 6 years
(include married, maiden, and trade names):

Soc. Sec./Tax I.D. No. (if more than one, state all):
4112

Soc. Sec./Tax I.D. No. (if more than one, state all):

Street Address of Debtor (No. & Street, City, State & Zip Code):
23911 Cresta Drive
Crestline, CA 92325

Street Address of Joint Debtor (No. & Street, City, State & Zip Code):

County of Residence or of the
Principal Place of Business: San Bernardino

County of Residence or of the
Principal Place of Business:

Mailing Address of Debtor (if different from street address):
P.O. Box 3482
Crestline, CA 92225

Mailing Address of Joint Debtor (if different from street address):

Location of Principal Assets of Business Debtor
(if different from street address above):

Information Regarding the Debtor (Check the Applicable Boxes)

Venue (Check any applicable box)

- Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

Type of Debtor (Check all boxes that apply)

- Individual(s)
Corporation
Partnership
Other
Railroad
Stockbroker
Commodity Broker

Chapter or Section of Bankruptcy Code Under Which
the Petition is Filed (Check on box)

- Chapter 7
Chapter 9
Sec. 304 - Case ancillary to foreign proceeding
Chapter 11
Chapter 12
Chapter 13

Nature of Debts (Check one box)

- Consumer/Non-Business
Business

Filing Fee (Check one box)

- Full Filing Fee attached
Filing Fee to be paid in installments (applicable to individuals only)
Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments.
Rule 1006(b).

Chapter 11 Small Business (Check all boxes that apply)

- Debtor is a small business as defined in 11 U.S.C. § 101
Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional)

09/26/2002 **FILED** 09:43

RS02-25671MJ

DEBTOR:

RAPP, DONALD E

JUDGE: HON. M. Jury - 582

TRUSTEE: ZIMP CH: 07 (COMPLETE)

341A MTG: 10/31/2002 01:30 USB

ADR: 3420 Twelfth St. Room 100B Rivsi

Statistical/Administrative Information (Estimates only)

- Debtor estimates that funds will be available for distribution to unsecured creditors.
Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

Estimated Number of Creditors
1-15
16-49
50-99
100-199
200-999
1000-c

Estimated Assets

\$0 to \$50,000
\$50,001 to \$100,000
\$100,001 to \$500,000
\$500,001 to \$1 million
\$1,000,001 to \$10 million
\$10,000,001 to \$50 million
\$50,000,001 to \$100 million
More than \$100 million

Estimated Debts

\$0 to \$50,000
\$50,001 to \$100,000
\$100,001 to \$500,000
\$500,001 to \$1 million
\$1,000,001 to \$10 million
\$10,000,001 to \$50 million
\$50,000,001 to \$100 million
More than \$100 million

CLERK, U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIF. ID: 032
RECEIPT NO: RS-024639 \$ 200.00

ORIGINAL

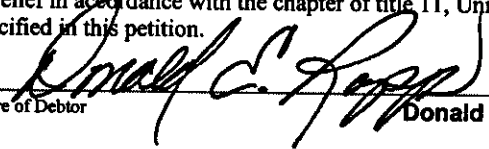
Voluntary Petition <i>(This page must be completed and filed in every case)</i>	Name of Debtor(s): Donald E. Rapp
---	---

Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attach additional sheet)		
Location Where Filed: None	Case Number:	Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)		
Name of Debtor: None	Case Number:	Date Filed:
District:	Relationship:	Judge:

Signatures

Signature(s) of Debtor(s) (Individual/Joint)
I declare under penalty of perjury that the information provided in this petition is true and correct.
[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under Chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United State Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.
I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X 
Signature of Debtor **Donald E. Rapp**

X _____
Signature of Joint Debtor

Telephone Number (If not represented by attorney)

September 19, 2002
Date

Exhibit A
(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)

Exhibit A is attached and made a part of this petition.

Exhibit B
(To be completed if debtor is an individual whose debts are primarily consumer debts)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

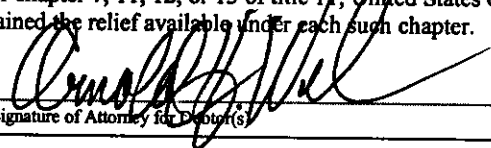

X  **9/19/02**
Signature of Attorney for Debtor(s) Date

Exhibit C

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

Yes, and Exhibit C is attached and made a part of this petition.
 No

X 
Signature of Attorney for Debtor(s)

Arnold H. Wuhrman 167183
Printed Name of Attorney for Debtor(s)

Law Ofc. Arnold H. Wuhrman, P.C.
Firm Name

17291 Irvine Blvd, #156
Address

Tustin, CA 92780

(714) 730-7847
Telephone Number

September 19, 2002
Date

Signature of Non-Attorney Petition Preparer

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

Printed Name of Bankruptcy Petition Preparer

Social Security Number

Address

Signature of Debtor (Corporation/Partnership)
I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.
The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____
Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

X _____
Signature of Bankruptcy Petition Preparer

Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 18 U.S.C. § 156.

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Debtor(s)

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of _____ **13** sheets, and that they are true and correct to the best of my knowledge, information, and belief.
(Total shown on summary page plus 1)

Date: September 19, 2002 Signature: *Donald E. Rapp* 9-23-02
Donald E. Rapp Debtor

Date: _____ Signature: _____
(Joint Debtor, if any)

[If joint case, both spouses must sign.]

CERTIFICATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

Printed or Typed Name of Bankruptcy Petition Preparer

Social Security No.

Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

If more than one person prepared this document, attach additional signed sheets conforming to the appropriate Official Form for each person.

Signature of Bankruptcy Petition Preparer

Date

A bankruptcy petition preparer's failure to comply with the provision of title 11 and the Federal Rules of Bankruptcy Procedures may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF CORPORATION OR PARTNERSHIP

I, the _____ (the president or other officer or an authorized agent of the corporation or a member or an authorized agent of the partnership) of the _____ (corporation or partnership) named as debtor in this case, declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of _____ sheets, and that they are true and correct to the best of my knowledge, information, and belief.
(Total shown on summary page plus 1)

Date: _____ Signature: _____

(Print or type name of individual signing on behalf of debtor)

[An individual signing on behalf of a partnership or corporation must indicate position or relationship to debtor.]

Penalty for making a false statement or concealing property. Fine of up to \$500,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571.

United States Bankruptcy Court
Central District of California, Riverside Division

IN RE:

Case No. _____

Donald E. Rapp

Chapter **7**

Debtor(s)

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts from Schedules D, E, and F to determine the total amount of the debtor's liabilities.

AMOUNTS SCHEDULED

NAME OF SCHEDULE	ATTACHED (YES/NO)	NUMBER OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	117,000.00		
B - Personal Property	Yes	2	57,422.70		
C - Property Claimed as Exempt	Yes	1			
D - Creditors Holding Secured Claims	Yes	1		167,842.21	
E - Creditors Holding Unsecured Priority Claims	Yes	1		0.00	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	2		58,452.78	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	1			2,319.70
J - Current Expenditures of Individual Debtor(s)	Yes	1			2,730.07
Total Number of Sheets in Schedules		12			
			Total Assets	174,422.70	
				Total Liabilities	226,294.99

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Debtor(s)

SCHEDULE A - REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a co-tenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, or both own the property by placing an "H" for Husband, "W" for Wife, "J" for Joint, or "C" for Community in the column labeled "HWJC." If the debtor holds no interest in real property, write "None" under "Description and Location of Property".

Do not include interests in executory contracts and unexpired leases on the schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a security interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim".

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

DESCRIPTION AND LOCATION OF PROPERTY	NATURE OF DEBTOR'S INTEREST IN PROPERTY	H W J C	CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION	AMOUNT OF SECURED CLAIM
2 lots in California Pines left to debtor by his parents via a will. Lot No.'s FA009003 & FA009004 Parcel No's 03603418 & 03603417 each lot valued at \$2,500	Fee Simple		5,000.00	0.00
23911 Cresta, Crestline, CA 2 Br 1 Ba house			112,000.00	102,000.00

TOTAL 117,000.00

(Report also on Summary of Schedules)

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Debtor(s)

SCHEDULE B - PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "X" in the appropriate position in the column labeled "None". If additional space is needed in any category, attached a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, or both own the property by placing an "H" for Husband, "W" for Wife, "J" for Joint, or "C" for Community in the column labeled "HWJC." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions only in Schedule C - Property Claimed as Exempt.

Do not include interests in executory contracts and unexpired leases on the schedule. List them in Schedule G - Executory Contracts and Unexpired Leased. If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property".

TYPE OF PROPERTY	N O N E	DESCRIPTION AND LOCATION OF PROPERTY	H W J C	CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
1. Cash on hand.		\$10.00		10.00
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Health Associates Cedit Union Wells Fargo Bank		100.00 350.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, include audio, video, and computer equipment.		Computer, desk, printer Television set, wall unit, sofa and love seat Two bedroom sets, dresser, night stands, mattresses.		400.00 200.00 250.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		Books and pictures		50.00
6. Wearing apparel.		Clothing, jacket, shoes, etc.		200.00
7. Furs and jewelry.		Deceased wife's wedding band, watch, glasses, and gold chain		215.00
8. Firearms and sports, photographic, and other hobby equipment.	X			
9. Interest in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		Pacific Life Pension w/ Retail Clerks monthly benefit of \$439.66		708.04 439.66
10. Annuities. Itemize and name each issue.	X			
11. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Itemize.		MFSS Trust Company Account No. 0003-10060107455 0003-10060124905	H	4,000.00
12. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
13. Interests in partnerships or joint ventures. Itemize.	X			
14. Government and corporate bonds and other negotiable and non-negotiable instruments.	X			
15. Accounts receivable.	X			
16. Alimony, maintenance, support, and property settlements in which the debtor is or may be entitled. Give particulars.	X			
17. Other liquidated debts owing debtor including tax refunds. Give particulars.	X			

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SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

TYPE OF PROPERTY	N O N E	DESCRIPTION AND LOCATION OF PROPERTY	H W J C	CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
18. Equitable or future interest, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule of Real Property.	X			
19. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
20. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
21. Patents, copyrights, and other intellectual property. Give particulars.	X			
22. Licenses, franchises, and other general intangibles. Give particulars.	X			
23. Automobiles, trucks, trailers, and other vehicles and accessories.		1968 Ford Galaxy		500.00
		1999/2000 29'6" Motor home by Landau built by Georgie Boy		30,000.00
		2000 Toyota Tundra	C	20,000.00
24. Boats, motors, and accessories.	X			
25. Aircraft and accessories.	X			
26. Office equipment, furnishings, and supplies.	X			
27. Machinery, fixtures, equipment, and supplies used in business.	X			
28. Inventory.	X			
29. Animals.	X			
30. Crops - growing or harvested. Give particulars.	X			
31. Farming equipment and implements.	X			
32. Farm supplies, chemicals, and feed.	X			
33. Other personal property of any kind not already listed. Itemize.	X			

TOTAL 57,422.70

(Include amounts from any continuation sheets attached.
Report total also on Summary of Schedules.)

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0 continuation sheets attached

Debtor(s)

AMENDED SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

(Check one box)

- 11 U.S.C. § 522(b)(1): Exemptions provided in 11 U.S.C. § 522(d). NOTE: These exemptions are available only in certain states.
- 11 U.S.C. § 522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT MARKET VALUE OF PROPERTY WITHOUT DEDUCTING EXEMPTIONS
SCHEDULE A - REAL PROPERTY			
2 lots in California Pines left to debtor by his parents via a will. Lot No.'s FA009003 & FA009004 Parcel No's 03603418 & 03603417 each lot valued at \$2,500	CCCP § 703.140(b)(1)	5,000.00	5,000.00
23911 Cresta, Crestline, CA 2 Br 1 Ba house	CCCP § 703.140(b)(1)	10,000.00	112,000.00
SCHEDULE B - PERSONAL PROPERTY			
\$10.00	CCCP § 703.140(b)(5)	10.00	10.00
Health Associates Cedit Union	CCCP § 703.140(b)(5)	100.00	100.00
Wells Fargo Bank	U.S.C. 42 § 407	350.00	350.00
Computer, desk, printer	CCCP § 703.140(b)(3)	400.00	400.00
Television set, wall unit, sofa and love seat	CCCP § 703.140(b)(3)	200.00	200.00
Two bedroom sets, dresser, night stands, mattresses.	CCCP § 703.140(b)(3)	250.00	250.00
Books and pictures	CCCP § 703.140(b)(3)	50.00	50.00
Clothing, jacket, shoes, etc.	CCCP § 703.140(b)(3)	200.00	200.00
Deceased wife's wedding band, watch, glasses, and gold chain	CCCP § 703.140(b)(4)	215.00	215.00
Pacific Life	CCCP § 703.140(b)(10)(E)	708.04	708.04
Pension w/ Retail Clerks monthly benefit of \$439.66	CCCP § 703.140(b)(10)(E)	439.66	439.66
MFSS Trust Company Account No. 0003-10060107455 0003-10060124905	CCCP § 703.140(b)(10)(E) CCCP § 703.140(b)(1)	2,000.00 2,000.00	4,000.00
1968 Ford Galaxy	CCCP § 703.140(b)(1)	500.00	500.00
2000 Toyota Tundra	CCCP § 703.140(b)(2)	1,286.00	20,000.00

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34A WA

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and account number, if any, of all entities holding claims secured by property of the debtor as of the date of filing of the petition. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests. List creditors in alphabetical order to the extent practicable. If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C", respectively, in the column labeled "HWJC."

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	C O D E B T O R	H W J C	DATE CLAIM WAS INCURRED NATURE OF LIEN AND DESCRIPTION AND MARKET VALUE OF PROPERTY SUBJECT TO LIEN	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL
							UNSECURED PORTION, IF ANY
Account No. 020043048 Countrywide Home Loans, Inc. Loan No. 020043048 P.O. Box 5170 SimiValley,, CA 93062			Single Family Dwelling Value \$ 112,000.00				102,000.00
Account No. 0001007064 Health Association Credit Union Account No. 0001007064 P.O. Box 1449 Orange, CA 92856		C	2000 Toyota Tundra Value \$ 20,000.00				18,714.00
Account No. 30431431 THE CIT Group/Sales Financing, Inc. Account NO. 30431431 P.O. Box 24330 Oklahoma City, OK 73124			1999/2000 29'6" Motorhome by Landau built by Georgie boy Value \$ 29,800.00				47,128.21 17,328.21
Account No.			Value \$				
Account No.			Value \$				

Continuation Sheets attached

Subtotal
(Total of this page) **167,842.21**

(Complete only on last sheet of Schedule D) **TOTAL 167,842.21**
(Report total also on Summary of Schedules)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name and mailing address, including zip code, and account number if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of this petition.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C", respectively, in the column labeled "HWJC."

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotal" on each sheet. Report the Total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Repeat this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS

(Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

 Extensions of credit in an involuntary case

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(2)

 Wages, salaries, and commissions

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$4,650* per person earned within 90 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(3).

 Contributions to employee benefit plans

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

 Certain farmers and fishermen

Claims of certain farmers and fishermen, up to a maximum of \$4,650* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(5).

 Deposits by individuals

Claims of individuals up to a maximum of \$2,100* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(6)

 Alimony, Maintenance, or Support

Claims of a spouse, former spouse, or child of the debtor for alimony, maintenance, or support, to the extent provided in 11 U.S.C. § 507(a)(7).

 Taxes and Other Certain Debts Owed to Governmental Units

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

 Commitments to Maintain the Capital of an Insured Depository Institution

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

* Amounts are subject to adjustment on April 1, 2004, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

0 Continuation Sheets attached

Debtor(s)

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and account number, if any, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C", respectively, in the column labeled "HWJC."

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding unsecured nonpriority claims to report on this Schedule F.

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CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	C O D E B T O R	H W J C	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM IF CLAIM IS SUBJECT TO SETOFF, SO STATE	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. 4024-0060-0000-1553 Bank Of America Visa Account No. 4024-0060-0000-1553 P.O. Box 2930 Phoenix, AZ 85062-2930		C					14,897.34
Account No. 00000038504-00001 Bank Of America #410 Re: Account No. 00000038504-00001 P.O. Box 51906 Los Angeles, CA 90051-6206							19,585.10
Account No. 02500207108487031 Bank Of America Custom Line Account No. 02500207108487031 P.O. Box 2240 Brea, CA 92822							4,273.54
Account No. 6011--2988-8258-0859 Discover Card Account No. 6011298882580859 P.O. Box 15251 Wilmington, DE 19886-5251							11,231.22
Account No. 4417-1215-3944-3799 First Card Account No. 4417-1215-3944-3799 P.O. Box 50882 Henderson, NV 89016-0882		C					7,040.60

1 Continuation Sheets attached

Subtotal
(Total of this page) **57,027.80**

(Complete only on last sheet of Schedule F) **TOTAL**
(Report total also on Summary of Schedules)

Debtor(s)

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	C O D E B Y T O R	H W J C	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM IF CLAIM IS SUBJECT TO SETOFF, SO STATE	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. RE: Rebecca Rapp Hilgenfeld Mortuary Re: Rebecca Rapp 120 E. Broadway Anaheim, CA 92805							1,424.98
Account No.							
Account No.							
Account No.							
Account No.							
Account No.							
Account No.							

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Sheet 1 of 1 Continuation Sheets attached to Schedule F

Subtotal
(Total of this page) **1,424.98**

(Complete only on last sheet of Schedule F) **TOTAL 58,452.78**

(Report total also on Summary of Schedules)

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by a married debtor in a chapter 12 or 13 case whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Debtor's Marital Status Widow	DEPENDENTS OF DEBTOR AND SPOUSE		
	NAMES	AGE	RELATIONSHIP
EMPLOYMENT: DEBTOR		SPOUSE	
Occupation	Retired		
Name of Employer	N/A		
How long employed	3 Years		
Address of Employer			

Income: (Estimate of average monthly income)

Current Monthly gross wages, salary, and commissions (pro rata if not paid monthly)

Estimated monthly overtime

SUBTOTAL

LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and Social Security
- b. Insurance
- c. Union dues
- d. Other (specify) _____

SUBTOTAL OF PAYROLL DEDUCTIONS

TOTAL NET MONTHLY TAKE HOME PAY

Regular income from operation of business or profession or farm (attach detailed statement)

Income from real property

Interest and dividends

Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

Social Security or other government assistance

(Specify) **Social Security**

Pension or retirement income

Other monthly income

(Specify) _____

TOTAL MONTHLY INCOME

TOTAL COMBINED MONTHLY INCOME \$ 2,319.70 (Report also on Summary of Schedules)

	DEBTOR	SPOUSE
Current Monthly gross wages, salary, and commissions (pro rata if not paid monthly)	\$ _____	\$ _____
Estimated monthly overtime	\$ _____	\$ _____
SUBTOTAL	\$ 0.00	\$ _____
LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and Social Security	\$ _____	\$ _____
b. Insurance	\$ _____	\$ _____
c. Union dues	\$ _____	\$ _____
d. Other (specify) _____	\$ _____	\$ _____
SUBTOTAL OF PAYROLL DEDUCTIONS	\$ 0.00	\$ _____
TOTAL NET MONTHLY TAKE HOME PAY	\$ 0.00	\$ _____
Regular income from operation of business or profession or farm (attach detailed statement)	\$ _____	\$ _____
Income from real property	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____
Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ _____	\$ _____
Social Security or other government assistance	\$ _____	\$ _____
(Specify) Social Security	\$ 1,172.00	\$ _____
Pension or retirement income	\$ 1,147.70	\$ _____
Other monthly income	\$ _____	\$ _____
(Specify) _____	\$ _____	\$ _____
	\$ _____	\$ _____
TOTAL MONTHLY INCOME	\$ 2,319.70	\$ _____

Describe any increase or decrease of more than 10% in any of the above categories anticipated to occur within the year following the filing of this document:

Debtor has requested termination of his IRA, which has been claimed as exempt to the full extent of the \$4,000 value, so that he may use the money to pay his wife's funeral expenses. Debtor understands that said debt would be dischargeable, but he feels morally obligated to pay it, and so he intends to do so as allowed under 11 U.S.C. Sec. 524(f).

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average monthly expenses of the debtor and the debtor's family. Pro rate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>879.07</u>
Are real estate taxes included? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Is property insurance included? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Utilities: Electricity and heating fuel	\$ <u>120.00</u>
Water and sewer	\$ <u>85.00</u>
Telephone	\$ <u>112.00</u>
Other <u>Internet</u>	\$ <u>20.00</u>
<u>Cable</u>	\$ <u>61.00</u>
Home maintenance (repairs and upkeep)	\$ <u>50.00</u>
Food	\$ <u>300.00</u>
Clothing	\$ <u>50.00</u>
Laundry and dry cleaning	\$ _____
Medical and dental expenses	\$ _____
Transportation (not including car payments)	\$ <u>120.00</u>
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ <u>100.00</u>
Charitable contributions	\$ _____
Insurance (not deducted from wages or included in home mortgage payments)	\$ _____
Homeowner's or renter's	\$ _____
Life	\$ _____
Health	\$ <u>237.00</u>
Auto	\$ <u>65.00</u>
Other _____	\$ _____
Taxes (not deducted from wages or included in home mortgage payments)	\$ _____
(Specify) _____	\$ _____
Installment payments (in chapter 12 and 13 cases, do not list payments to be included in the plan)	\$ _____
Auto _____	\$ _____
Other _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____
Payments for support of additional dependents not living at your home	\$ _____
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ _____
Other <u>Toyota Tundra</u>	\$ <u>471.00</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules)	\$ <u>2,730.07</u>

(FOR CHAPTER 12 AND 13 DEBTORS ONLY)

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

- A. Total projected monthly income \$ _____
- B. Total projected monthly expenses \$ _____
- C. Excess income (A minus B) \$ _____
- D. Total amount to be paid into plan each _____ \$ _____

(interval)

United States Bankruptcy Court
Central District of California, Riverside Division

IN RE:

Case No. _____

Donald E. Rapp

Chapter 7

Debtor(s)

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs.

Questions 1-18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19-25. If the answer to an applicable question is "None," mark the box labeled "None." If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within the six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the two years immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

2. Income other than from employment or operation of business

None State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the two years immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT SOURCE
36,128.00 Social Security - 2000,2001, 2002
13,400.00 Retail Clerk's Pension 2000, 2001, 2002
22,300.00 Pacific Life Pension 2000, 2001, & 2002

3. Payments to creditors

None a. List all payments on loans, installment purchases of goods or services, and other debts, aggregating more than \$600 to any creditor, made within 90 days immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

None b. List all payments made within one year immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

4. Suits and administrative proceedings, executions, garnishments and attachments

None a. List all suits and administrative proceedings to which the debtor is or was a party within one year immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

None b. Describe all property than has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

5. Repossessions, foreclosures and returns

None List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

6. Assignments and receiverships

None a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and joint petition is not filed.)

None b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

7. Gifts

None List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

8. Losses

None List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case or since the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
Social security of deceased spouse was \$600 per month.	Debtor and spouse retired, and then they purchased a house and an RV to travel around in. Shortly thereafter, however, Debtor's wife was diagnosed with cancer. She passed away on 08/15/2002, causing Debtor to lose the income from HER social security benefits.	08/15/2002

9. Payments related to debt counseling or bankruptcy

None List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under bankruptcy law or preparation of a petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Law Offices Of Arnold H. Wuhrman , P.C. Arnold H. Wuhrman, PC 17291 Irvine Blvd., Su lte #156 Tustin, CA 92705	09/15/2002	1,300.00

10. Other transfers

None List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

11. Closed financial accounts

None List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, association, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

12. Safe deposit boxes

None List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

13. Setoffs

None List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

14. Property held for another person

None List all property owned by another person that the debtor holds or controls.

15. Prior address of debtor

None If the debtor has moved within the **two years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

16. Spouses and Former Spouses

None If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the **six-year period** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

Rebecca Ann Rapp deceased on 08/15/02

17. Environmental Information

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law.

None a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law.

None b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

None c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

18. Nature, location and name of business

None a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or was a self-employed professional within the **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within the **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within the **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within the **six years** immediately preceding the commencement of this case.

None b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

[If completed by an individual or individual and spouse]

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date: September 19, 2002

Signature
of Debtor



Donald E. Rapp

Date: _____

Signature
of Joint Debtor
(if any)

_____ 0 continuation pages attached

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years or both. 18 U.S.C. § 152 and 3571.

STATEMENT OF RELATED CASES
INFORMATION REQUIRED BY LOCAL RULE 1015-2
UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT OF CALIFORNIA

1. A petition under the Bankruptcy Act of 1898 or the Bankruptcy Reform Act of 1978 has previously been filed by or against the debtor, his/her spouse, an affiliate of the debtor, any copartnership or joint venture of which debtor is or formerly was a general or limited partner, or member, or any corporation of which the debtor is a director, officer, or person in control, as follows: (Set forth the complete number and title of such prior proceeding, date filed, nature thereof, the Bankruptcy Judge and court to whom assigned, whether still pending and, if not, the disposition thereof. If none, so indicate. Also, list any real property included in Schedule A that was filed with any such proceeding(s).)
None

2. (If petitioner is a partnership or joint venture) A petition under the Bankruptcy Act of 1898 or the Bankruptcy Reform Act of 1978 has previously been filed by or against the debtor or an affiliate of the debtor, or a general partner in the debtor, a relative of the general partner, general partner of, or person in control of the debtor, partnership in which the debtor is a general partner, general partner of the debtor, or person in control of the debtor as follows: (Set forth the complete number and title of such prior proceeding, date filed, nature of the proceeding, the Bankruptcy Judge and court to whom assigned, whether still pending and, if not, the disposition thereof. In none, so indicate. Also, list any real property included in Schedule A that was filed with any such prior proceedings(s).)
None

3. (If petitioner is a corporation) A petition under the Bankruptcy Act of 1898 or the Bankruptcy Act of 1978 has previously been filed by or against the debtor, or any of its affiliates or subsidiaries, a director of the debtor, an officer of the debtor, a person in control of the debtor, a partnership in which the debtor is general partner, a general partner of the debtor, a relative of the general partner, director, officer, or person in control of the debtor, or any persons, firms or corporations owning 20% or more of its voting stock as follows: (Set forth the complete number and title of such prior proceeding, date filed, nature of proceeding, the Bankruptcy Judge and court to whom assigned, whether still pending, and if not, the disposition thereof. If none, so indicate. Also, list any real property included in Schedule A that was filed with any such prior proceedings(s).)
None

4. (If petitioner is an individual) A petition under the Bankruptcy Reform Act, including amendments thereof, has been filed by or against the debtor within the last 180 days: (Set forth the complete number and title of such prior proceeding, date filed, nature of proceeding, the Bankruptcy Judge and court to whom assigned, whether still pending, and if not, the disposition thereof. If none, so indicate. Also, list any real property included in Schedule A that was filed with any such prior proceeding(s).)
None

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed at Tustin, California


Debtor

Dated: September 19, 2002

Joint Debtor

6:02-bk-25671-MJ Donald E Rapp**Case type:** bk **Chapter:** 7 **Asset:** No **Vol:** v **Judge:** Meredith A. Jury**Date filed:** 09/26/2002 **Date of last filing:** 01/23/2003 **Date discharged:** 01/07/2003**Date terminated:** 01/23/2003

History

Doc. No.	Dates	Description
1	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Voluntary Petition (Chapter 7)
2	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Exhibit C not Required
3	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Statement of Related Case
4	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Notice Avail Chapters
5	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Summary of Schedules
6	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule A - Real Property
7	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule B - Personal Property
8	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule C
9	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule D - Creditors Holding Secured Claims
10	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule E - Creditors Holding Unsecured Priority Claims
11	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule F - Creditors Holding Unsecured Nonpriority Claims
12	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule G
13	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule H
14	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule I - Average Income
15	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Schedule J - Current Expenditures
16	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Declaration Re Sched
17	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Statement of Financial Affairs
18	<i>Filed:</i> 09/26/2002 <i>Entered:</i> 09/27/2002	● Statement of Intent

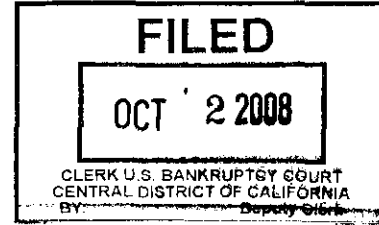
19	Filed: Entered:	09/26/2002 09/27/2002	● Disclosure of Compensation of Attorney for Debtor
20	Filed: Entered:	09/26/2002 09/27/2002	● Attorney's State Bar Number
21	Filed: Entered:	09/26/2002 09/27/2002	● Verification of creditor matrix
22	Filed: Entered:	09/26/2002 09/27/2002	● Matrix (Mailing List)
23	Filed: Entered:	09/26/2002 09/27/2002	● Declaration of Attorney
24	Filed: Entered:	09/26/2002 09/27/2002	● Atty Signature Pg2 Petition
25	Filed & Entered: Terminated:	09/27/2002 11/05/2002	● Notice of 341a meeting (BNC)
26	Filed: Entered:	09/29/2002 10/01/2002	● Certificate of Mailing
27	Filed & Entered:	11/05/2002	● Declaration of debtor(s) re: performance under 11 USC sec 521(2)(A) and (B)
28	Filed & Entered: Terminated:	11/05/2002 12/02/2002	● Trustee worksheet; meeting continued
29	Filed: Entered:	11/07/2002 11/08/2002	● Notice of continued meeting of creditors and appearance of debtor (11 USC 341(a))
30	Filed & Entered: Terminated:	11/08/2002 12/05/2002	● Motion for Relief from Stay - Personal Property
31	Filed & Entered:	11/08/2002	● Request for special notice
32	Filed: Entered:	11/13/2002 11/14/2002	● Reaffirmation agreement (no hearing required)
33	Filed: Entered:	11/19/2002 11/20/2002	● Response to motion for order to terminate, annul, modify or condition the automatic stay and declaration(s) in support
34	Filed: Entered:	11/19/2002 11/20/2002	● <i>Description not available</i>
35	Filed: Entered:	11/19/2002 11/20/2002	● Schedule C
36	Filed: Entered:	11/19/2002 11/20/2002	● Statement of Financial Affairs
37	Filed: Entered:	11/27/2002 12/02/2002	● Trustee worksheet; meeting continued
38	Filed: Entered:	11/27/2002 12/02/2002	● Notice of continued meeting of creditors and appearance of debtor (11 USC 341(a))
39	Filed & Entered:	12/04/2002	● Change of address

40	<i>Filed:</i> <i>Entered:</i>	12/04/2002 12/05/2002	● Hearing Held
41	<i>Filed:</i> <i>Entered:</i>	12/04/2002 12/05/2002	● Motion for relief from the automatic stay PERSONAL PROPERTY (BNC-PDF)
42	<i>Filed:</i> <i>Entered:</i>	12/10/2002 12/11/2002	● Trustee worksheet; meeting concluded
43	<i>Filed & Entered:</i>	12/11/2002	● Final report of trustee in no asset case
44	<i>Filed & Entered:</i>	01/07/2003	● DISCHARGE OF DEBTOR - Chapter 7 (BNC)
45	<i>Filed:</i> <i>Entered:</i>	01/09/2003 01/10/2003	● Certificate of Mailing
46	<i>Filed & Entered:</i>	01/23/2003	● ORDER closing case

PACER Service Center			
Transaction Receipt			
03/22/2009 15:29:36			
PACER Login:	bp2419	Client Code:	Rapp
Description:	History/Documents	Search Criteria:	6:02-bk-25671-MJ Type: History
Billable Pages:	2	Cost:	0.16

Exhibit 2

1 Joyce W. Rapp, Esq., Bar No. 158659
2 Box 3482
3 Crestline, CA 92325
4 909-338-1252
5 Counsel for respondent



6
7
8 UNITED STATES BANKRUPTCY COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 DONALD RAPP,

12 Plaintiff,

13 vs.

14 TIMOTHY ERNEST RAPP AND
15 PEGGY SUE RAPP,

16 Defendants.
17

CASE NO. 06-13903PC

COMPLAINT FOR NON-
DISCHARGEABILITY

18
19 Plaintiff Donald Rapp, by his undersigned counsel, for his complaint against the
20 defendants, alleges as follows:

- 21 1. This is a core proceeding over which this Court has jurisdiction under 28 U.S.C. § 157(b).
22 2. Defendants are the debtors in this chapter 7 case. Plaintiff is a creditor of defendants.
23 Plaintiff/Creditor Donald Rapp (hereinafter "Donald") is the father of debtor/defendant
24 Timothy Rapp (hereinafter "Timothy") and the father-in-law of Peggy Sue Rapp.
25 3. This is an adversary proceeding to determine the dischargeability of a debt.
26 4. Defendants commenced their chapter 7 case in December 2006. At the time defendants
27 owed to plaintiff a total debt of \$96,000, plus pre- and post-judgment interest thereon and
28 costs of suit.

1 5. Defendants failed to include plaintiff as a creditor in the schedules. The last day to file a
2 complaint for a determination that the debt owed to plaintiff is nondischargeable under
3 section 523(a)(2)(A) has expired. The debt is nondischargeable under sections 523(a)(2)-
4 (A), 523(b)(1)(C) and 523(C)(4) of said code for the following reasons:

5 a. After Timothy graduated from college he lived in his father's and [now deceased]
6 mother's home, refusing to go out and work and obtain his own home, even when
7 requested to, even though he was past 30 years of age.

8 b. Therefore, in 2001, Donald and Timothy's mother refinanced their home, in order
9 to lend \$50,000 to Timothy to purchase his own home (at the approximate cost of
10 \$270,000); other monies were used to pay down Timothy's debts that he had
11 incurred with his mother's assistance, without his father's knowledge.

12 c. Timothy was to repay the \$50,000 when he sold that home; he sold it in 2004 for
13 approximately \$480,000, thus realizing a profit, but refused to pay his father the
14 \$50,000 he had agreed to pay. Timothy told his father that, with those proceeds,
15 he paid approximately \$125,000 for the modular home which listed in the petition
16 as a "mobile" home. Said home was valued at \$114,000 at the time he filed the
17 bankruptcy proceeding.

18 6. Defendants are indebted to plaintiff in the sum of \$46,000 on a debt for fraud or defalcation
19 while acting in a fiduciary capacity as a result of the following events:

20 a. Also in 2001 Donald needed to take care of his terminally-ill wife full-time and
21 Timothy still was not working, so Donald allowed Timothy to take over managing
22 his vending machine business, which Donald started and of which he paid for and
23 owned all of the assets. The agreement was that Donald was to receive \$800 per
24 month of the daily proceeds and 50% of the sale proceeds. However, Timothy
25 kept all of the daily proceeds.

26 b. Timothy sold the business in 2005, for approximately \$60,000, and kept all of the
27 sale proceeds, as well, thus breaching the agreement.

28 c. In 2005 Timothy paid his father a total of \$4,000 on the debts, claiming he
"needed more time" to get his life together and pay the rest of the money.

Personally and through others he also asked his father to "be patient" until some

1 undetermined time at which he would pay his father.

- 2 d. To avoid the expiration of the statute of limitations, Donald filed suit for fraud
3 and breach of contract in January 2006 and caused Timothy to be served that
4 month.
- 5 e. Upon being served, Timothy, personally and through relatives, induced everyone
6 in the family who would do so to cease having any contact with Donald unless he
7 dropped the State Court suit; those who refused to ignore Donald ceased to hear
8 from Timothy. However, in those few communications, usually instigated by
9 Donald, no one told him of Timothy's filing for bankruptcy.
- 10 f. Because Timothy took no timely action in the state court case his default was
11 entered in March, 2006; in July Timothy moved to set aside the default, which
12 was denied in August 2006 for procedural reasons.
- 13 g. He then attempted to file a substitution of attorney of himself *in pro per* in
14 November, which was rejected because there was no proof of service on Donald;
15 it was subsequently filed. Thereafter, Timothy made no further attempt to redress
16 his rights or to pay his debts to his father and the case went to trial on the default
17 in January 2007, in which the judge ordered Timothy to pay \$96,000 to his father.
- 18 h. Because Timothy has also failed to pay the real property taxes on his property,
19 two tax liens are also recorded against it.
- 20 i. Unknown to Donald, Timothy and Peggy had filed a Chapter 7 Petition for
21 bankruptcy in December 2006, listing the case against Timothy in the petition.;
22 however, he did not request an automatic stay. Nor did he amend his petition to
23 include the judgment.
- 24 j. Even after receiving notice of Donald's judgment recorded against his real
25 property in August 2007 Timothy never gave any notice, nor did anyone else, to
26 Donald or his attorney.
- 27 k. Because Timothy had previously affirmed to his father the debts on which the
28 complaint was based, both personally to his father and through his sister; because
he failed to protect his legal rights in the state court case; and no one had told
Donald that Timothy had filed a bankruptcy petition; Donald had no reason to

1 believe that Timothy would do anything other than pay his father back the monies
2 he owed him once the judgment was entered.

3 1. Thus, Donald had no actual notice, no constructive notice, nor any inquiry notice
4 of Timothy's and Peggy's bankruptcy until his daughter and son-in-law finally
5 told him in his most recent contact with them in April 2008.

6 7. Timothy and Peggy were married after he obtained the property and incurred the debts to
7 his father; however, although Peggy may claim a community property interest in Timo-
8 thy's property, it is subordinate to Donald's interests in the property, pursuant to §509.

9 8. Thus, the debts owed by defendants to plaintiff in the total amount of \$96,000 plus pre-
10 and post-judgment interest are nondischargeable under section 523(a)(3) of said Code.

11 9. The debts are additionally nondischargeable under sections 727(a)(2)(A) and 717, based
12 on the following:

13 a. Both debtors signed their entire bankruptcy petition under penalty of perjury;
14 additionally, they signed under penalty of perjury that the list of creditors was
15 complete.

16 b. At item 14 Timothy additionally failed to acknowledge that he held and controlled
17 his father's money.

18 c. Defendants' modular - not "mobile" - home was valued by the tax assessor in the
19 amount of \$114,000 at the time defendants filed their petition, rather than the
20 value given in the petition.

21 WHEREFORE, plaintiff prays that the court determine that the total debt of \$96,000 plus
22 pre- judgment interest is nondischargeable; that the court enter judgment declaring the debt to be
23 nondischargeable; that the Court award post-judgment interest and plaintiff's costs to plaintiff;
24 and that plaintiff have such other and further relief as is just and proper.

25 Respectfully submitted,

26 July 1, 2008

27
28

JOYCE W. RAPP, Counsel for creditor

ADVERSARY PROCEEDING COVER SHEET (Instructions on Page 2)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
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PLAINTIFFS DONALD RAPP	DEFENDANTS TIMOTHY ERNEST RAPP AND PEGGY SUE RAPP
----------------------------------	---

ATTORNEYS (Firm Name, Address, and Telephone No.) Joyce Rapp, SB 158659 P.O. Box 3482	ATTORNEYS (If Known)
--	-----------------------------

PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee
--	--

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)
 COMPLAINT TO DETERMINE NON-DISCHARGEABILITY UNDER 11 U.S.C. Section 523(a)(3)(B)

NATURE OF SUIT
 (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input checked="" type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input checked="" type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input checked="" type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input checked="" type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
--	--

(continued next column)

<input type="checkbox"/> Check if this case involves a substantive issue of state law <input type="checkbox"/> Check if a jury trial is demanded in complaint	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 Demand \$ 96,000.00
--	--

Other Relief Sought

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR TIMOTHY ERNEST RAPP AND PEGGY SUE RAPP		BANKRUPTCY CASE NO. 06-13903PC
DISTRICT IN WHICH CASE IS PENDING CENTRAL	DIVISIONAL OFFICE Eastern	NAME OF JUDGE Peter Carroll
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) <i>Joyce Rapp SB 158659</i>		
DATE <i>10/2/08</i>	PRINT NAME OF ATTORNEY (OR PLAINTIFF) <i>Joyce Rapp</i>	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.

Exhibit 3

**United States Bankruptcy Court
Central District of California**

In re **Timothy E. Rapp
Peggy Sue Rapp**

Debtor(s)

Case No. _____
Chapter **7**

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. Do not include the name or address of a minor child in this statement. Indicate payments, transfers and the like to minor children by stating "a minor child." See 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

I. Income from employment or operation of business

None State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
\$0.00	Employment Income Husband- 2004
\$16,000.00	Employment Income Husband- 2005
\$21,888.00	Employment Income Husband- Ytd

2. Income other than from employment or operation of business

None State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
\$2,000.00	Unemployment Benefits Husband- 2005

3. Payments to creditors

None **Complete a. or b., as appropriate, and c.**

a. *Individual or joint debtor(s) with primarily consumer debts.* List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within **90 days** immediately preceding the commencement of this case if the aggregate value of all property that constitutes or is affected by such transfer is not less than \$600. Indicate with an (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and creditor counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
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None b. *Debtor whose debts are not primarily consumer debts:* List each payment or other transfer to any creditor made within **90 days** immediately preceding the commencement of the case if the aggregate value of all property that constitutes or is affected by such transfer is not less than \$5,000. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS/ TRANSFERS	AMOUNT PAID OR VALUE OF TRANSFERS	AMOUNT STILL OWING
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None c. *All debtors:* List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
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4. Suits and administrative proceedings, executions, garnishments and attachments

None a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
Donald Rapp v. Timothy Rapp Case No.: RIC 443161	Contract	Riverside Superior Court Corona Division	Default judgment entered

None b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY
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5. Repossessions, foreclosures and returns

None List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY
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6. Assignments and receiverships

None a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT
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None b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY
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7. Gifts

None List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
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8. Losses

None List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case or **since the commencement of this case**. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
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9. Payments related to debt counseling or bankruptcy

None List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Law Offices of Timothy G. McFarlin P.O. Box 6035 Irvine, CA 92616-6035		\$2,000

10. Other transfers

- None a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **two years** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
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- None b. List all property transferred by the debtor within **ten years** immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY
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11. Closed financial accounts

- None List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
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12. Safe deposit boxes

- None List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
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13. Setoffs

- None List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
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14. Property held for another person

- None List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
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15. Prior address of debtor

None If the debtor has moved within **three years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
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16. Spouses and Former Spouses

None If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within **eight years** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

None a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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None b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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None c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
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18 . Nature, location and name of business

None a. *If the debtor is an individual*, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SOC. SEC. NO./ COMPLETE EIN OR OTHER TAXPAYER I.D. NO.	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
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None b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME	ADDRESS
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The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within **six years** immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership, a sole proprietor or self-employed in a trade, profession, or other activity, either full- or part-time.

*(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)*

19. Books, records and financial statements

None a. List all bookkeepers and accountants who within **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS	DATES SERVICES RENDERED
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None b. List all firms or individuals who within the **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME	ADDRESS	DATES SERVICES RENDERED
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None c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME	ADDRESS
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None d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued by the debtor within **two years** immediately preceding the commencement of this case.

NAME AND ADDRESS	DATE ISSUED
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20. Inventories

None a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY	INVENTORY SUPERVISOR	DOLLAR AMOUNT OF INVENTORY (Specify cost, market or other basis)
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None b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY	NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY RECORDS
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21 . Current Partners, Officers, Directors and Shareholders

None a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS	NATURE OF INTEREST	PERCENTAGE OF INTEREST
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None b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP
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22 . Former partners, officers, directors and shareholders

None a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL
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None b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION
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23 . Withdrawals from a partnership or distributions by a corporation

None If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
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24. Tax Consolidation Group.

None If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within **six years** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER (EIN)
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25. Pension Funds.

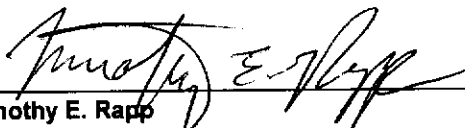
None If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within **six years** immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER (EIN)
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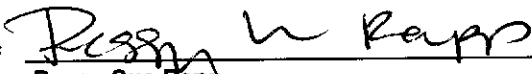
DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date 11/20/06

Signature 
Timothy E. Rapp
Debtor

Date 11/20/06

Signature 
Peggy Sue Rapp
Joint Debtor

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571