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7 UNITED STATES BANKRUPTCY COURT FOR
8 THE WESTERN DISTRICT OF WASHINGTON

9 In Re:

10 CARLETON ROGERS MILLER MAGUS) CASE NO. 12-19029-TWD

11 KATJA VIOLET MAGUS)

12 Debtor,) Chapter 7

13 CARLETON ROGERS MILLER MAGUS)

14 KATJA VIOLET MAGUS) Adversary No.

15 Plaintiff,) COMPLAINT TO DETERMINE

16 v.) DISCHARGEABILITY OF A

17) DEBT (STUDENT LOANS)

18 UNITED STATES DOING BUSINESS)

19 AS U.S. DEPARTMENT OF EDUCATION;)

20 NATIONAL COLLEGIATE TRUST; THE)

21 EDUCATION RESOURCES INSTITUTE;)

22 DISCOVER; SALLIE MAE INC.; DEUTSCHE)

23 BANK ELT SLM TRUSTS; NORTHWEST)

24 EDUCATION LOAN ASSOCIATION;

25 WELLS FARGO ELT SLFA-WA INC.)

26 Defendant(s),)

27 I. PARTIES

28 1.1 CARLETON ROGERS MILLER MAGUS and KATJA VIOLET MAGUS are the
debtor herein, and filed for relief under Chapter 7 of the Bankruptcy Code (11 USC) on 8-31-
2012.

1.2 The following are defendants herein: UNITED STATES DOING BUSINESS AS
U.S. DEPARTMENT OF EDUCATION ; NATIONAL COLLEGIATE TRUST; THE
EDUCATION RESOURCES INSTITUTE; DISCOVER; SALLIE MAE INC.; DEUTSCHE

Complaint

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1 BANK ELT SLM TRUSTS; NORTHWEST EDUCATION LOAN ASSOCIATION; and
2 WELLS FARGO ELT SLFA-WA INC. are the defendants herein.

3 1.3 Jurisdiction in these proceedings is vested in the above entitled court pursuant to 28
4 U.S.C. Sections 157, 1334, and 11 U.S.C. 523(c)(1).
5

6 1.4 Venue is in the United States Bankruptcy Court Western District of Washington as
7 Seattle Washington pursuant to 28 U.S.C. 1409(a).

8 1.5 This proceeding is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(I).
9

10 II. FACTS

11 2.1. The debtor incurred obligations presently owing to the defendant totaling
12 approximately as follows:

13 A. United States of America doing business as US Department of Education is owed
14 \$23,352.46 as of 8-22-2012 and also on Katja Magus loans over \$23,000.
15

16 B. Sallie Mae Inc. Is owed \$119,911 in principal and \$350 in interest on a FFEL
17 Consolidated loan as of 10-9-2012, and \$8,511 in principal and \$113 in interest on the Stafford
18 Loan as of 10-9-2012 , and over \$240,000 in loans owed by Katja Magus. The lender on this
19 large loan is Deutsche Bank ELT SLM Trusts and the lender on 2nd loan is Wells Fargo ELT
20 SLFA-Wa, Inc. The guaranty agency is Northwest Educational Loan Association. NELA is also
21 guaranty agency on other Sallie Mae Loans.
22

23 C. National Collegiate Trust is owner of loan; The Educational Resources Institute
24 (“hereafter TERI”) is the guarantor; American Education Services is ONLY the servicer of the
25 loan. The balance owed on is \$6,540.73 on loan 1001, \$3,798.36 on loan #1002, and \$,3864.25
26

27 Complaint

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1 on loan #3 1003 , all as of the billing date o f 8-15-2012.

2 D. Discover is owner and guarantor and servicer of debt owed to Discover owed \$15,877
3 or more.

4
5 2.2 Said loan is believed to be for an educational benefit overpayment or loan made,
6 insured or guaranteed by a governmental unit, or made under any program funded in whole or in
7 part by a governmental unit, or for an obligation to repay funds received as an educational
8 benefit, scholarship or stipend, as described in 11 U.S.C. 523(a)(8).

9
10 2.3 On 8-31-12, the debtor filed for relief under Chapter 7 of the U.S. Bankruptcy Code.

11 2.4 That the debtors are married, and have three dependant children living with them aged
12 4, 7 and 9 as of the petition date herein. Debtor' adjusted gross income for 2011 is \$58,154 .

13 2.5 That to not discharge these student loans would impose an undue hardship on this
14 defendant.

15
16 III. THEORIES OF LIABILITY, DISCHARGE

17 3.1 That the plaintiff is and shall be discharged from a debt evidenced by the loans in
18 paragraph 2.1 herein pursuant to 11 U.S.C. 523(a)(8) as in effect at the time of the petition
19 herein; Section 523(a)(8)

20 3.2 That upon discharge by the above captioned bankruptcy court the plaintiff is entitled
21 to that relief set forth in 11 U.S.C. 524(a).

22
23 3.3 That in the event the defendant willfully violates the provisions of 11 U.S.C. 362, the
24 plaintiff if injured, shall be entitled to a judgment against defendant for actual damages,
25 including costs and attorney's fees, and punitive damages.

26
27 Complaint

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1 IV. PRAYER

2 WHEREFORE, the debtor, prays for the following relief:

- 3 1. An order determining the debt owed to the defendants herein be determined to be
4 dischargeable and thereby discharged pursuant to 11 U.S.C. § 523(a)(8) ;
5
6 2. For such other and further relief as the Court may deem just.
7
8 3. For an order providing that no payments are due on said loans and thus not late as of
9 the petition date here so that post petition payments falling due are not reported as late on credit
10 reports for months and years post - petition.

11 DATED THIS 7TH DAY OF NOVEMBER, 2012.

12 /S/ Richard D. Granvold
13 RICHARD D. GRANVOLD
14 ATTORNEY FOR PLAINTIFF WSBA #16903
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26 Complaint

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