

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re:

RICHARD GERARD DESIRA,

Debtor.

Bankr. No. 11-54011-wsd
Chapter 7

RICHARD GERARD DESIRA,

Plaintiff,

-vs-

Adversary No. 12-04193
Hon. Walter Shapero

U.S. DEPARTMENT OF EDUCATION,

Defendant.

STIPULATION FOR CONSENT JUDGMENT

IT IS HEREBY STIPULATED by and between the plaintiff Richard Gerard Desira, and defendant, U.S. Department of Education, by and through their respective attorneys, that the student loan debt plaintiff Richard Gerard Desira owes to the U.S. Department of Education, for which he sought an undue hardship discharge pursuant to 11 U.S.C. § 523(a)(8) in the instant proceeding be treated as follows:

1. The parties agree that on or about April 25, 1996, Plaintiff, Richard Gerard Desira, executed a promissory note to secure a Federal Direct Consolidation loan from the U.S. Department of Education. The loan was disbursed for \$9,954.58 and \$105,302.40 on August 7, 1996. As of November 16, 2012, plaintiff Richard Gerard Desira is indebted to the

U.S. Department of Education in the amount of \$256,372.35, representing the amounts due on the above debts of \$22,142.34 and \$234,230.01, respectively, which includes principal and interest. The parties agree that this debt is not subject to an undue hardship discharge pursuant to 11 U.S.C. § 523(a)(8).

2. Interest will accrue on this nondischargeable amount at the federal judgment interest rate, 28 U.S.C. § 1961, in effect on the date of entry by the court of this consent judgment.

3. Defendant, U.S. Department of Education, agrees to discharge the smaller debt, currently at \$22,142.34, provided that Plaintiff meets the remaining terms of this Stipulation for Consent Judgment.

4. Plaintiff agrees to repayment of the remaining debt owed to the U.S. Department of Education by utilizing the Income Based Repayment Plan offered by the U.S. Department of Education, William D. Ford Federal Direct Loan Program.

5. Plaintiff agrees to abide by all terms of the Income Based Repayment Plan, including, but not limited to, (1) timely file his income tax returns, and (2) submit requested documents to Direct Loans when required.

6. In the event that the Plaintiff fails to make any required payments under the Income Based Repayment Plan, the United States may at any time and at its option, satisfy any part of the remaining unpaid balance by offset of monies payable to him by any department, agency, or agent of the United States.

7. It is further agreed that plaintiff Richard Gerard Desira does not waive his rights in a future bankruptcy proceeding, if his family or personal situation deteriorates, to commence a new action to determine the dischargeability of the obligations owed to the United States pursuant to 11 U.S.C. § 523(a)(8). Moreover, if plaintiff Richard Gerard Desira brings a future action, the consent judgment shall be deemed vacated, and plaintiff Richard Gerard Desira shall be liable for the amount of the student loan debt as set forth in paragraph 1 above (plus all accrued interest and less any payments received), which are not deemed dischargeable pursuant to 11 U.S.C. § 523(a)(8)(B), and the United States may proceed to recover the full amount owed, less any payments received.

8. It is further agreed that should plaintiff Richard Gerard Desira receive any financial windfalls in amounts greater than \$3,000.00 during the term of this agreement (i.e., lottery winnings and/or inheritance), within 30 days of said windfall, plaintiff shall notify the U.S. Department of Education; and (ii) the Bankruptcy Paralegal at the U.S. Attorney's Office for the Eastern District of Michigan, 211 W. Fort Street, Suite 2001, Detroit, Michigan 48226. The parties agree that plaintiff shall pay the lesser of (a) 50% of the windfall (net after taxes), or (b) the remaining balance of the debt to the U.S. Department of Education. In the event plaintiff fails to notify the defendant of the windfall, plaintiff shall pay 100% of the windfall (net after taxes) to the U.S. Department of Education.

9. It is further agreed that should plaintiff Richard Gerard Desira's residence change, plaintiff shall notify the U.S. Department of Education at the address provided above, in writing, by no later than the next payment date, of such residence change.

10. Defendant, U.S. Department of Education, agrees to dismiss, without prejudice, its counter-claim against the Plaintiff.

11. The parties further stipulate that each party shall bear their own costs and attorney's fees.

REDMAN LAW FIRM, P.C.

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Dated: December 5, 2012

/s/with permission of Richard Desira
Richard Desira, Plaintiff

Dated: December 5, 2012

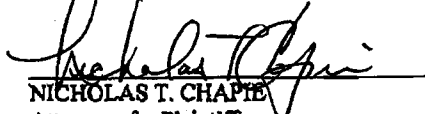
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Dated: December 6, 2012

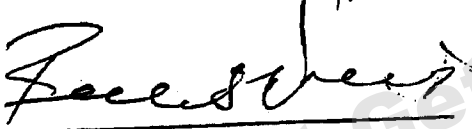
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