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 DISTRICT OF IDAHO
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Attorneys for Trustee

UNITED STATES BANKRUPTCY COURT
 DISTRICT OF IDAHO

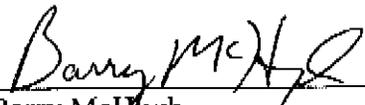
In Re:)
)
 GERALD & ONA LINDSEY, d/b/a) Case No. 03-21652
 SEARCHLIGHT TRUST and RIVER)
 MOUNTAIN RANCH,) MOTION TO COMPEL AND
) MEMORANDUM IN SUPPORT
 Debtors.) OF MOTION
)

COMES NOW Ford Elsaesser, the Chapter 7 Trustee, by and through his attorney of record, Barry McHugh of Elsaesser JARZABEK ANDERSON MARKS ELLIOTT & MCHUGH, CHTD., and hereby moves the Court for an order compelling Debtors, Gerald and Ona Lindsey, to testify regarding their knowledge of a loan of \$660,000.00 in which Mr. Lindsey was involved, and which he testified to, in part, on March 15, 2004. The Trustee's Motion to Compel is supported by the Affidavit of Barry McHugh, filed herewith, and 11 U.S.C. § 343 which requires debtors to testify fully as to matters relating to the existence of bankruptcy estate assets, and their improper disposal or concealment. The motion is also supported by documents filed in support of the Trustee's Motion for Preliminary Injunction.

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82

DATED this 7TH day of May, 2004.



Barry McHugh
Attorney for Ford Elsaesser, Trustee

CERTIFICATE OF SERVICE

I hereby certify that on the 7TH day of May, 2004, a true and correct copy of the foregoing MOTION TO COMPEL AND MEMORANDUM IN SUPPORT OF MOTION was served upon the following in the manner indicated:

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Chapter 7 Trustee
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Sandpoint, ID 83864

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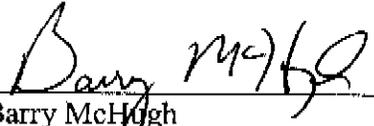
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Barry McHugh

- 18 Q. Okay. In reference to the six hundred
19 sixty thousand dollars, was that --
20 A. That was money taken out, out of Sterling.
21 Q. By you? Taken out by you?
22 A. I believe so.
23 Q. For what purpose?
24 A. Well, that was during Y2K and it was taken
25 out for -- for safety.

- 1 Q. And what was the source of that money?
2 A. It was the sale of the -- sale of the
3 ranch, one of the ranches. I don't remember which
4 one, but it was one of the ranches.
5 Q. When did you receive that money?
6 A. I -- I don't remember.
7 Q. Now, why would that -- was that in your
8 personal account?
9 A. I don't remember that either.
10 Q. Well, would it have made sense for you to
11 take out money of the trust in 2000 after the trust
12 had been established for six years?
13 A. It sure would have during the Y2K, if the
14 banks got wiped out, we sure as hell didn't want no
15 money in there.
16 Q. What authority --
17 MRS. LINDSEY: All our stockbroker
18 information told us to do that.
19 A. That was a -- that was a decision we had to
20 make and we made it. And that's what we did.
21 Q. We who?
22 A. Me and Ona and whoever was involved in
23 the -- in the trust. It was done for safety.
24 Q. And where did the money go? Well, let me
25 ask this, did you take it out in cash?

- 1 A. Yeah. He has a record of it. I signed a
2 disclosure on it.
3 Q. And what did you do with it?
4 A. I don't -- I don't have to answer that. I
5 know it's gone. It was -- I don't have it.
6 Q. Okay. But my question is, what did you do
7 with it?
8 A. I don't know.
9 Q. Well --
10 A. It disappeared, though, I'll tell you that,

11 and I -- there's a long story behind it.
12 Q. Well, I'd like to hear the story.
13 A. It will take a long time to tell and it
14 will all come back to the --
15 Q. Well, let's start with when you took the
16 money out of the bank.
17 A. I don't -- I don't want to start on it.
18 The money will be accounted for; the IRS will account
19 for the money.
20 Q. Well, the IRS would account for the money
21 being taken out of the bank, right?
22 A. Uh-huh.
23 Q. And then how else would the IRS account for
24 what happened to it after it was taken out of the
25 bank?

446

1 A. I -- I don't know.
2 Q. So it wouldn't, would it?
3 A. I don't know that.
4 Q. Well, would it be accounted for in returns
5 or documents that you filed with the IRS?
6 A. I don't know that either.
7 Q. So, you don't know if there's --
8 A. No.
9 Q. -- any way to trace it through documents
10 regarding the IRS?
11 A. I don't know.
12 Q. Okay. Who else would know about where the
13 money might have gone to after you took it out of the
14 bank?
15 A. I don't know.
16 Q. Okay. Here's the problem, Mr. Lindsey.
17 We're talking a large amount of money; you're
18 availing yourself to the bankruptcy system. I
19 represent the trustee. It's an amount of money that
20 I have an interest in. I don't know where it's at.
21 It may be available, and so I need to know what
22 happened to it. So you're going to have to answer
23 and describe for me what happened to the money.
24 A. It was given in -- to gift -- a loan,
25 loaned out, and I never had -- it was never -- I

447

1 never could recover the loan.
2 Q. Loaned to who?
3 A. I won't reveal his name at this time.
4 MRS. LINDSEY: It's the truth. It's the

5 truth. It's another bad investment.

6 Q. Okay. And so it's --

7 A. It was a bad investment, and I don't want
8 to get into it.

9 Q. So it was a loan that was not repaid?

10 A. That's not repaid.

11 Q. Okay. And, therefore, that's a loan --
12 that's an amount of money that is owed to you that is
13 part of your bankruptcy estate that we will attempt
14 to collect on. And so you need to reveal to me the
15 name of the person that you gave the loan to.

16 A. I can't do it.

17 Q. Why?

18 A. It's too -- it's too complicated and I just
19 can't do it.

20 Q. Well, Mr. Lindsey, you need to let us try
21 to figure that out regardless of complications.

22 A. If it comes up at the trial, I'll reveal it
23 at the trial.

24 Q. Well, if -- if we go to the judge and ask
25 for him to order you to tell us, he probably will.

448

1 A. That's all right.

2 Q. So, and you don't mind paying your lawyer
3 to go to that trouble and then for us to all go to
4 that trouble so that you'll tell us what you could
5 just tell us right now?

6 A. I won't tell him either. I'll go -- just
7 go to jail.

8 Q. So what you're telling us is that there's a
9 debt of --

10 MRS. LINDSEY: There's --

11 Q. Just a minute, Mrs. Lindsey. There's a
12 debt of over six hundred thousand dollars owed to you
13 that you would refuse to provide us information
14 about, and you would rather go to jail.

15 A. The debt is delinquent and it's -- no
16 longer exists and I've lost it.

17 Q. Well --

18 A. And that's the end of the story.

19 Q. Well, that's not enough information for us
20 to conclude that it is no longer valid, because a
21 debt's a debt, and your saying it's over isn't
22 sufficient. We need some documentation, some
23 agreement that may have existed. And right now,
24 based on what you've told me so far, I don't believe
25 it exists.

1 A. Well, you're calling me a liar then.

2 Q. I'm saying that I don't think there's any
3 documentation extinguishing that debt, and your
4 conclusion that it doesn't exist any longer, I would
5 need to see some reason to believe that to be the
6 case. And your unwillingness to provide us the name
7 of the person that you were involved with, leads me
8 to believe that it may or may not be true. And so,
9 my job as representing the trustee, is to get as much
10 information so that I can advise the trustee. That's
11 why I want the information from you.

12 A. I can't give it to you. I don't even -- I
13 don't even have it available.

14 Q. You know the name of the person you loaned
15 the money to, don't you?

16 A. Yeah, I know.

17 Q. Okay.

18 A. I know.

19 Q. But you won't give me that information?

20 A. He's not -- he'll never repay it because
21 the -- the debt's past due.

22 Q. It's not your position to evaluate that, so
23 I'll ask again.

24 A. And I can't document it so....

25 Q. I'm not asking you to document it. I'm

1 asking you to tell me the name of the person that you
2 loaned the money to.

3 A. I can't give it to you.

4 Q. You won't give it to me.

5 A. I can't give it you.

6 Q. Why can't you?

7 A. It would be a violation of a trust.

8 Q. Well, in a way, availing yourself to the
9 bankruptcy system doesn't really avail you of that
10 kind of trust relationship. When there are assets
11 out there that the trustee could try to obtain to pay
12 off your creditors, it doesn't necessarily -- your
13 trust doesn't secure or insulate somebody who owes
14 you money. So, I'm going to, you know, I'm not -- I
15 don't want to ask again, my -- I just want to make
16 sure you --

17 A. Well, I was holding it for the trust. I
18 wasn't -- it wasn't my money, it was the trust's
19 money to begin with. So let's -- let's go ahead.

20 Q. Okay. This relationship that existed was a
21 trust relationship between you and another
22 individual, correct?
23 A. That's correct.
24 Q. Okay. So, who authorized you on behalf of
25 the trust to enter into that loan relationship?

451

1 A. I don't remember that either.
2 Q. Did you talk with either of the trustees
3 who were members of the board --
4 A. Uh-huh.
5 Q. -- trustees of the trust at that time?
6 A. Definitely did.
7 Q. Okay. And was there any documentation
8 regarding that loan?
9 A. I'd have to look and see.
10 MRS. LINDSEY: Gerald --
11 A. I don't know.
12 Q. The trustees that you discussed this loan
13 with, were they Mr. Spickelmire and Mr. Hopkins?
14 A. That's correct. One of the trustees went
15 with me when we delivered the -- delivered the money.
16 MR. McHUGH: Okay. I think that's all the
17 questions I have.
18 (Discussion held off the record.)
19 MR. DERBIDGE: Well, you might -- you might
20 want to find out whether -- whether he's changed his
21 mind or whether we'll enter an order of the court
22 directing him to reveal that information.
23 MR. McHUGH: Okay. Just for the record,
24 Mr. Lindsey had an opportunity to speak with counsel
25 for a moment.

452

1 Q. (BY MR. McHUGH) And again, I'll just ask
2 if you're willing to give us information with regards
3 to the loan that we've been discussing here?
4 A. I'd have to discuss it with -- with the
5 trust administrators, and it would have to be okayed
6 by the trust because it was trust money. I have -- I
7 don't have that --
8 Q. So you're refusing to give us that
9 information today?
10 A. I don't have that right to give it to you.
11 You're asking me for something I can't give to you.
12 Q. The property that was sold that generated
13 this six hundred sixty thousand dollars, was it

14 Searchlight Trust property?
15 A. Yes, it was.
16 Q. Okay.
17 A. So Searchlight's money.
18 Q. And, was it being held in a Searchlight
19 Trust account prior to you taking it out of the bank?
20 A. I believe so.
21 Q. Did you have signatory authority over that
22 account?
23 A. I don't remember. I don't know.
24 Q. Did you take that out with anybody's
25 assistance, out of the bank, or did you take it out

453

1 yourself?
2 A. I don't remember that either.
3 Q. Do you remember whether anybody was with
4 you when you took six hundred sixty thousand dollars
5 in cash out of the bank?
6 A. I don't remember.
7 Q. And did you carry that cash out of the bank
8 and away from the bank by yourself with nobody else
9 around?
10 A. I don't remember that.