



Honorable Mike K. Nakagawa
United States Bankruptcy Judge



Entered on Docket
August 23, 2021

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

* * * * *

In re:)	Case No.: 19-17405-mkn
)	
ANSHU PATHAK)	Chapter 7
dba Exotic Fruit Market, Exotic Meat)	
Market, dba Gourmet Beer Wine and Foods,)	
dba Exotic Fruit Market,)	
)	
Debtor.)	
SHELLEY D. KROHN, Trustee,)	Adv. Proc. No.: 21-01026-mkn
)	
Plaintiff,)	
v.)	
)	Date: August 12, 2021
ANSHU PATHAK,)	Time: 1:30 p.m.
)	
Defendant.)	
)	
)	

**ORDER ON MOTION FOR SUMMARY JUDGMENT
REVOKING DEBTOR'S DISCHARGE¹
(11 U.S.C. §727(d)(3) and §727(a)(6)(A))**

¹ In this Order, all references to "ECF No." are to the number assigned to the record of events as well as the documents filed in the above-captioned bankruptcy case as they appear on the docket maintained by the Clerk of Court. All references of "AECF No." are to the record of events as well as the documents filed in the above-captioned adversary proceeding. All references to "Section" or "§§ 101-1532" are to the provisions of the Bankruptcy Code. All references to "FRE" are to the Federal Rules of Evidence. All references to "Bankruptcy Rule" shall be to the Federal Rules of Bankruptcy Procedure. All references to "Civil Rule" shall be to the Federal Rules of Civil Procedure.

On August 12, 2021, the court heard the Motion for Summary Judgment Revoking Debtor's Discharge (11 U.S.C. §727(d)(3) and §727(a)(6)(A)) ("SJ Motion") brought in the above-captioned adversary proceeding. The appearances of counsel and the parties were noted on the record. After arguments were presented, the matter was taken under submission.²

BACKGROUND³

On November 19, 2019, Anshu Pathak ("Debtor") filed a voluntary Chapter 7 petition in pro se. (ECF No. 1). The case was assigned for administration to Chapter 7 panel trustee Shelley D. Krohn ("Trustee"). On the same date, a Notice of Chapter 7 Bankruptcy Case - - No Proof of Claim Deadline ("Bankruptcy Notice") was issued. (ECF No. 2). The Bankruptcy Notice scheduled a meeting of creditors as required by Section 341(a) ("341 Meeting") to be conducted by the Trustee on December 23, 2019. The Bankruptcy Notice also announced a deadline of February 21, 2020, for parties in interest to file objections to discharge under Section 727(a) and to object to dischargeability of certain debts under Section 523(a).

On December 3, 2019, Debtor filed his schedules of assets and liabilities ("Schedules") along with his statement of financial affairs. (ECF No. 13).

On December 6, 2019, Debtor filed an amended summary of assets and liabilities as well as an amended unsecured creditor Schedule "E/F." (ECF No. 16).

On December 23, 2019, the initial 341 Meeting was held and continued to January 17, 2020. (ECF No. 29).

On January 17, 2020, the 341 Meeting was continued to February 7, 2020. (ECF No. 34).

On February 7, 2020, the 341 Meeting was continued to May 6, 2020. (ECF No. 62).

² A scheduling conference in the adversary proceeding also was held on August 12, 2021. The scheduling conference was continued to October 14, 2021.

³ Pursuant to FRE 201(b), the court takes judicial notice of all materials appearing on the docket in the above-captioned adversary proceeding and the above-captioned Bankruptcy Case. See U.S. v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980); see also Bank of Am., N.A. v. CD-04, Inc. (In re Owner Mgmt. Serv., LLC Trustee Corps.), 530 B.R. 711, 717 (Bankr. C.D. Cal. 2015) ("The Court may consider the records in this case, the underlying bankruptcy case and public records.").

1 On March 6, 2020, and March 10, 2020, Debtor filed a Certificate of Debtor Education as
2 required by Section 727(a)(11). (ECF No. 74 and 75).

3 On March 10, 2020, an Order of Discharge was entered granting the Debtor a Chapter 7
4 discharge (“Chapter 7 Discharge”). (ECF No. 76).

5 On March 12, 2020, the Trustee filed a Notice of Assets and Notice to File Claims. (ECF
6 No. 77). The notice scheduled a deadline of June 25, 2020, for creditors to file proofs of claim
7 against the bankruptcy estate.

8 On April 7, 2020, the court entered an order granting the Trustee’s motion to employ the
9 law firm of Schwartzer and McPherson as counsel on behalf of the bankruptcy estate. (ECF No.
10 85).

11 On May 6, 2020, the 341 Meeting was continued to May 22, 2020. (ECF No. 112).⁴

12 On May 15, 2020, the court entered an order authorizing the Trustee to sell at auction,
13 free and clear of all claims, encumbrances and interests, various pre-petition causes of action
14 alleged by the Debtor (“Sale Order”). (ECF No. 114).

15 On May 18, 2020, Debtor filed a notice appealing the Sale Order. (ECF No. 118).

16 On May 22, 2020, an order was entered abandoning to the Debtor any and all meat
17 regardless of type, frozen or fresh, and regardless of location (“Abandonment Order”). (ECF No.
18 135).

19 On May 22, 2020, the 341 Meeting was continued to June 19, 2020. (ECF No. 137).

20 On June 17, 2020, the Trustee filed a motion to compel the Debtor to appear at the
21 continued 341 Meeting and for sanctions, along with related documents. (“341 Motion”). (ECF
22 Nos. 150, 151, and 152).

26 ⁴ Because a Chapter 7 bankruptcy trustee is statutorily required, *inter alia*, to collect and
27 reduce to money all property of the bankruptcy estate, to account for all property received, and to
28 investigate the financial affairs of the debtor, see 11 U.S.C. §704(a)(1, 2 and 4), those duties do
not end simply when the individual debtor receives the Chapter 7 discharge.

1 On June 17, 2020, the Trustee filed a separate Motion to Declare Debtor Anshu Pathak a
2 Vexatious Litigant (“VL Motion”) along with related documents. (ECF Nos. 153, 154, 155, 156,
3 and 167).

4 On June 19, 2020, the 341 Meeting was continued to July 29, 2020. (ECF No. 159).

5 On June 22, 2020, the Trustee filed a Motion for Turnover of Documents and for
6 Sanctions, along with related documents (“Turnover Motion”).⁵ (ECF Nos. 163, 164, and 165).⁶

7 On June 26, 2020, Debtor filed a Motion of Motion and Motion to Remove Trustee for
8 1. Conflict of Interest (“Removal Motion”). (ECF No. 179).

9 On June 30, 2020, Debtor filed an opposition to both the 341 Motion and Turnover
10 Motion. (ECF No. 181).

11 On July 10, 2020, Debtor filed an opposition to the VL Motion. (ECF No. 184).

12 On July 15, 2020, the Trustee filed a reply to the Debtor’s opposition to the 341 Motion
13 and Turnover Motion as well as the VL Motion. (ECF No. 188).

14 On July 29, 2020, the 341 Meeting was continued to September 18, 2020. (ECF No.
15 195).

16 On August 6, 2020, Debtor filed a request for “a court order for Creditor’s Meeting after
17 the discharge of Debtor.” (ECF No. 196).

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20 ⁵ The Trustee sought to compel the Debtor to turnover various documents and
information that were requested at the initial 341 Meeting held on December 23, 2019.

21 ⁶ On June 24, 2020, the Trustee filed a certificate of service attesting that notice of the
22 341 Motion, VL Motion, and Turnover Motion were served on the Debtor by first class mail.
23 (ECF No. 172). On June 24, 2020, the Trustee filed a separate certificate of service attesting that
the 341 Motion, VL Motion, and supporting documents were served on the Debtor by first class
24 mail bearing tracking number 9405 5092 0212 1508 1578 17. (ECF No. 174). On July 1, 2020,
Debtor filed a declaration attesting that on June 20, 2020, he had received the package bearing
25 the same tracking number. (ECF No. 181). On July 8, 2020, the Trustee filed a declaration from
the office manager of her bankruptcy counsel attesting that the package was delivered to the
26 Debtor’s address on June 20, 2020. (ECF No. 183). On July 13, 2020, however, Debtor filed a
separate declaration attesting that he never received any mail from the Trustee on June 20, 2020,
27 even though his supporting exhibit indicated that a package with the same tracking number
28 would be arriving on June 20, 2020. (ECF No. 184).

1 On August 6, 2020, Debtor's appeal of the Sale Order was dismissed due to his failure to
2 file an opening brief and excerpts of record. (ECF No. 208).

3 On September 1, 2020, an order was entered and amended, declaring Debtor to be a
4 vexatious litigant ("VL Order"). (ECF Nos. 200 and 206).⁷

5 On September 1, 2020, an order was entered granting the 341 Motion ("341 Order").
6 (ECF No. 201). The order provided that in the event the Debtor fails to appear at the rescheduled
7 341 Meeting, the Trustee could submit an ex parte request requiring the Debtor to pay the
8 amount of \$1,500.00 as a sanction for the Trustee having to bring the 341 Motion.

9 On September 1, 2020, an order was entered granting the Turnover Motion ("Turnover
10 Order"). (ECF No. 202). The order provided that in the event the Debtor fails to turn over the
11 documents identified in the Turnover Motion, the Trustee could submit an ex parte request
12 requiring the Debtor to pay the amount of \$1,500.00 as a sanction for the Trustee having to bring
13 the Turnover Motion.

14 On September 11, 2020, the Trustee filed a motion for sanctions under Bankruptcy Rule
15 9011, along with supporting materials, with respect to the Removal Motion⁸ previously filed by
16 the Debtor ("9011 Sanctions Motion"). (ECF No. 215).⁹

17 On September 18, 2020, the 341 Meeting was continued to October 16, 2020. (ECF No.
18 220).

19 On October 15, 2020, an order was entered granting the 9011 Sanctions Motion ("9011
20 Sanctions Order"). (ECF No. 225). That order directed the Trustee to submit a declaration
21 attesting to the legal expenses incurred in prosecuting the 9011 Sanctions Motion.

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23 ⁷ The Order of Dismissal entered by the appellate court indicates that the court previously
24 issued a conditional order warning the Debtor that his appeal of the Sale Order would be
dismissed if he did not file an opening brief by a particular deadline.

25 ⁸ As required by Bankruptcy Rule 9011(c)(1)(A), on July 10, 2020, the Trustee
26 apparently provided the Debtor with at least 21 days' opportunity to withdraw the Removal
Motion before filing the sanctions request with the court.

27 ⁹ On September 14, 2020, the Trustee filed a certificate of service attesting that the 9011
28 Sanctions Motion was served on the Debtor by first class mail. (ECF No. 219).

1 On October 22, 2020, the Trustee submitted the declaration of her counsel as required by
2 the 9011 Sanctions Order. (ECF No. 229).

3 On October 28, 2020, the Trustee filed an ex parte motion seeking sanctions for the
4 Debtor's noncompliance with the 341 Order by his failure to attend the 341 Meeting that had
5 been continued to September 18, 2020, and to October 16, 2020. (ECF No. 230).

6 On October 28, 2020, the Trustee filed an ex parte motion seeking sanctions for the
7 Debtor's failure to turnover all of the documents required by the Turnover Order. (ECF No.
8 232).

9 On November 2, 2020, an order was entered requiring the Debtor to pay \$1,500 as a
10 sanction for failure to attend the 341 Meeting in compliance with the 341 Order ("341 Sanctions
11 Order"). (ECF No. 235).¹⁰

12 On November 2, 2020, an order was entered requiring the Debtor to pay an additional
13 \$1,500 as a sanction for failure to turnover certain documents in compliance with the Turnover
14 Order ("Turnover Sanctions Order"). (ECF No. 236).¹¹

15 On November 5, 2020, an order was entered requiring the Debtor to pay the amount of
16 \$5,043.50 in attorney's fees as a civil sanction pursuant to the 9011 Sanctions Order ("9011 Fee
17 Order"). (ECF No. 239).¹²

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22 ¹⁰ On November 3, 2020, notice of entry of the 341 Sanctions Order was entered. (ECF
23 No. 238). On November 6, 2020, the Trustee filed a certificate of service attesting that the notice
24 of entry was served on the Debtor by first class mail. (ECF No. 241).

25 ¹¹ On November 3, 2020, notice of entry of the Turnover Sanctions Order was entered.
26 (ECF No. 237). On November 6, 2020, the Trustee filed a certificate of service attesting that the
27 notice of entry was served on the Debtor by first class mail. (ECF No. 242).

28 ¹² On November 5, 2020, notice of entry of the 9011 Fee Order was entered. (ECF No.
240). On November 10, 2020, the Trustee filed a certificate of service attesting that the notice of
entry was served on the Debtor by first class mail. (ECF No. 243).

On February 24, 2021, the Trustee filed a complaint commencing the instant adversary proceeding (“Complaint”), seeking to vacate the Chapter 7 Discharge pursuant to Section 727(d)(3)¹³ and to deny the Debtor a discharge pursuant to Section 727(a)(6)(A). (AECF No. 1).

On March 26, 2021, Debtor filed an answer to the Complaint (“Answer”). (AECF No. 7).

On June 25, 2021, the Trustee filed the instant SJ Motion, supported by the Declaration of Shelley D. Krohn (“Krohn Declaration”) and Statement of Undisputed Facts (“SUF”). (AECF Nos. 11, 12, and 13). A hearing on the SJ Motion was noticed to be held on August 12, 2021. (AECF No. 14).

On July 14, 2021, Debtor filed an opposition to the SJ Motion (“Opposition”). (AECF No. 18).

On August 3, 2021, the Trustee filed a reply. (AECF No. 19).

SUMMARY JUDGMENT STANDARDS

A motion for summary judgment is governed by Civil Rule 56 which is applicable in this adversary proceeding under Bankruptcy Rule 7056. See Silva v. Smith’s Pac. Shrimp, Inc. (In re Silva), 190 B.R. 889, 891 (B.A.P. 9th Cir. 1995). Under Civil Rule 56(a), summary judgment may be granted only if “the movant shows that there is no genuine dispute as to any material fact and that the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a).

For summary judgment purposes “[m]aterial facts are those that may affect the outcome of the case.” Farmer v. Las Vegas Metro. Police Dep’t, 423 F. Supp.3d 1008, 1013 (D. Nev. 2019), citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1985). Findings of fact may not be entered because summary judgment may only be granted where there are no disputed issues of fact. See Animal Legal Def. Fund v. U.S. Food & Drug Admin., 836 F.3d 987, 989-90 (9th Cir. 2016). A genuine issue of material fact exists when “the evidence is such that a

¹³ Under Section 727(e)(2), revocation of discharge based on Section 727(a)(3) may be sought no later than one year after discharge or the date the Chapter 7 case is closed, whichever occurs later. Although the Trustee filed the Complaint more than one year after the Chapter 7 Discharge was entered on March 10, 2020, the case has never been closed perhaps in part due to the activities of the Debtor. Thus, the instant adversary proceeding was commenced timely.

reasonable jury could return a verdict for the nonmoving party.” Id. The moving party’s evidence is judged by the same standard of proof applicable at trial. See Celotex Corp. v. Catrett, 477 U.S. 316, 323 (1986); see also Southern Calif. Gas Co. v. City of Santa Ana, 336 F.3d 885, 888 (9th Cir. 2003). The burden of proof is on the party seeking the summary judgment, but the inferences are viewed in favor of the opposing party. See Eastman Kodak Co. v. Image Technical Services, Inc., 504 U.S. 451, 456 (1992); see also Miller v. Glenn Miller Prods., Inc., 454 F.3d 975, 987 (9th Cir. 2006).

Once the moving party demonstrates the absence of disputed material facts, the responding party must provide admissible evidence raising a genuine dispute. The responding party cannot rely solely on conclusory allegations unsupported by factual data. See Farmer v. Las Vegas Metro. Police Dep’t, 423 F. Supp.3d at 1014 (“the nonmoving party cannot avoid summary judgment by relying solely on conclusory allegations that are unsupported by factual data [. . .] Instead, the opposition must go beyond the assertions and allegations of the pleadings and set forth specific facts by producing competent evidence that shows a genuine issue for trial.”) (external citations omitted). More important, the dispute raised must be material to the outcome of the plaintiff’s claim. See Draft Bars LLC v. Anheuser-Busch LLC, 2020 WL 5806499, at *6 (Bankr. D. Nev. Sep. 29, 2020) (“A fact is material only if it is one that ‘under the governing substantive law...could affect the outcome of the case.’”).

THE COMPLAINT TO REVOKE DISCHARGE

The Trustee’s Complaint seeks to revoke the Chapter 7 Discharge received by the Debtor on March 10, 2020, due to the Debtor’s failure to obey several orders entered in the case. The Trustee alleges that the Debtor failed to obey the 341 Order as well as the 341 Sanctions Order. See Complaint at ¶¶ 13 through 19. The Trustee further alleges that the Debtor failed to comply with the Turnover Order and Turnover Sanctions Order. Id. at ¶¶ 20 through 26. She also alleges that the Debtor failed to obey the 9011 Sanctions Order as well as the 9011 Fee Order. Id. at ¶¶ 27 through 30. The Trustee maintains that the Debtor willfully or intentionally refused to obey the subject orders. Id. at ¶¶ 32 through 37. Based on the Debtor’s alleged failure to obey

the subject orders warranting a denial of a Chapter 7 discharge under Section 727(a)(6)(A), the Trustee prays that the Chapter 7 Discharge be revoked under Section 727(d)(3).

The Debtor's Answer alleges that he attempted to deliver a \$1,500 cashier's check to the Trustee. See Answer at ¶¶ 2, 3, 4, and 6. He alleges that he requested the Trustee to schedule a 341 Meeting and the Trustee refused. Id. at ¶¶ 5 and 11. Debtor also alleges that since November 19, 2019, he emailed all information to the Trustee. Id. at ¶ 7. Debtor further alleges various conduct by the Trustee in connection with her administration of the Chapter 7 proceedings. Id. at ¶¶ 8, 9, 10, and 13 through 31.

THE RECORD PRESENTED

For the instant SJ Motion, the record presented consists of the Krohn Declaration, the SUF along with exhibits attached thereto, and the materials attached to the Opposition.

Exhibit 1 to the SUF submitted by the Trustee consists of a copy of the 341 Order entered on September 1, 2021. Exhibit 2 consists of a copy of the 341 Sanctions Order entered on November 2, 2020. Exhibit 3 consists of a copy of a certificate of service attesting to service upon the Debtor of the 341 Sanctions Motion, supporting declaration, and notice of entry of 341 Sanctions Order. Exhibit 4 consists of a copy of the Turnover Order entered on September 1, 2020. Exhibit 5 consists of a copy of the Turnover Sanctions Order entered on November 2, 2020. Exhibit 6 consists of a certificate of service attesting to service upon the Debtor of the Turnover Sanctions Motion, supporting declaration, and notice of entry of Turnover Sanctions Order. Exhibit 7 consists of a copy of the 9011 Fee Order entered on November 5, 2020. Exhibit 8 consists of a certificate of service attesting to service upon the Debtor of a notice of entry of the 9011 Fee Order.

The Opposition submitted by the Debtor includes a declaration by the Debtor. In that declaration, Debtor certifies that all of the statements made in three exhibits attached to his Opposition are true and correct. Exhibit 1 consists of a copy of a document entitled "Request for Court Order to File Adversary Against Trustee Shelley Krohn."¹⁴ Exhibit 2 consists of a copy of

¹⁴ Debtor submitted the request on July 12, 2021, as permitted by the VL Order. On August 2, 2021, an order was entered denying the request. (ECF No. 264).

1 a document entitled “Request for Court Order to File Adversary Against Creditor, ‘The Moreno
 2 Valley Ranch Community Association and Erin Maloney’ for Violation of the Automatic Stay
 3 and Filing Fraudulent Proof of Claim.”¹⁵ Exhibit 3 consists of a copy of a document entitled
 4 “Request for Court Order to File Adversary Against Creditor, ‘Superior Farms’ for Violation of
 5 Court Order.”¹⁶

6 DISCUSSION

7 Having considered the arguments of the parties along with the materials presented, the
 8 court concludes there are no genuine disputes of material fact and that the Trustee is entitled to
 9 judgment as a matter of law.

10 Section 727(d)(3) directs that courts “shall” revoke a discharge if a debtor has committed
 11 an act specified in Section 727(a)(6). In turn, Section 727(a)(6)(A) precludes discharge if “the
 12 debtor has refused, in the case . . . to obey any lawful order of the court, other than an order to
 13 respond to a material question or to testify.” 11 U.S.C. § 727(a)(6). The plaintiff must prove
 14 that the debtor refused to obey a lawful order by a preponderance of the evidence. See Retz v.
 15 Samson (In re Retz), 606 F.3d 1189, 1196 (9th Cir. 2010), citing Bernard v. Sheaffer (In re
 16 Bernard), 96 F.3d 1279, 1281 (9th Cir. 1996); Searles v. Riley (In re Searles), 317 B.R. 368, 376
 17 (B.A.P. 9th Cir. 2004), citing Grogan v. Garner, 498 U.S. 279, 289 (1991). The debtor’s refusal
 18 to obey must be willful or intentional, “i.e., something more than mere failure to object the order
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20 ¹⁵ Debtor submitted the request on July 2, 2021, as permitted by the VL Order. On
 21 August 2, 2021, an order was entered denying the request. (ECF No. 262).

22 ¹⁶ Debtor submitted the request on July 2, 2021, as permitted by the VL Order. On
 23 August 2, 2021, an order was entered denying the request. (ECF No. 263). The gist of the
 24 Debtor’s allegation against Superior Farms was that the entity required him to pay postpetition
 25 for certain meat products ordered by the Debtor prepetition. In other words, as of the
 26 commencement of the Chapter 7 proceeding, the meat was never owned by the Debtor or the
 27 Chapter 7 estate because it had not been purchased. On May 22, 2020, the Trustee abandoned to
 28 the Debtor the bankruptcy estate’s interest, if any, in all meat products regardless of location.
 Nothing in the Abandonment Order determined the Debtor to be the owner of any meat products.
 Apparently, the Debtor thereafter paid Superior Farms the same invoice amount and thereby
 became owner of certain meat. Debtor apparently believes that Superior Farms somehow
 violated the Abandonment Order and is required to return the amount he paid for the meat.

through inadvertency, mistake, or inability to comply.” In re Clark, 525 B.R. 442, 463 (Bankr. D. Idaho 2015). See also In re Szanto, 2020 WL 1312889, at *9 (Bankr. D. Or. Mar. 18, 2020), aff’d, Szanto v. United States Trustee, 2021 WL 1329435 (B.A.P. 9th Cir. Apr. 1, 2021); Vaughan v. Weinstein (In re Vaughan), 2016 WL 878308, at *7 (B.A.P. 9th Cir. Feb. 29, 2016).

If the plaintiff meets this standard, the burden then shifts to the debtor to explain his or her behavior to the court’s satisfaction. See In re Clark, 525 B.R. at 457, citing In re Retz, 606 F.3d at 1196; see also Hicks v. Decker (In re Hicks), 2006 WL 6810987 at *8 (B.A.P. 9th Cir. Feb. 1, 2006), citing Chalik v. Moorefield (In re Chalik), 748 F.2d 616, 619 (11th Cir. 1984).

The court has broad discretion to determine whether a particular violation of its orders is sufficiently serious to justify denial of discharge under Section 727(a)(6). See Devers v. Bank of Sheridan (In re Devers), 759 F.2d 751, 755 (9th Cir. 1985). The Ninth Circuit has recognized that denial of discharge is a serious deprivation, but that courts should not condone a debtor’s refusal to obey a lawful court order. Id.

The Trustee has demonstrated by the record that the 341 Order and the Turnover Order were entered on September 1, 2020. Additionally, the 9011 Sanctions Order was entered on October 15, 2020. The Trustee also has demonstrated that the 341 Sanctions Order and the Turnover Sanctions Order were entered on November 2, 2020. Additionally, the 9011 Fee Order was entered on November 5, 2020.

The court previously determined that the Debtor did not comply with the 341 Order and the Turnover Order. Those orders have never been stayed, reversed or modified on appeal, or otherwise vacated. Both orders remain in effect. As a result of the Debtor’s failure to comply, the 341 Sanctions Order and the Turnover Sanctions Order were entered. Both of the resulting orders remain in effect.

The court previously determined that the 9011 Sanctions Motion should be granted and entered the 9011 Fee Order. That order has never been stayed, reversed or modified on appeal, or otherwise vacated. That order remains in effect.

The record also establishes that the Debtor received notice of all of the subject orders. All of the orders are directed to the Debtor. By voluntarily commencing his Chapter 7

proceeding in this judicial district, Debtor is subject to the jurisdiction of this court and is bound by the orders entered by the court. The Debtor, like any other party subject to the court's jurisdiction, must comply with the applicable orders entered by the court until the orders are reversed, withdrawn, or otherwise vacated. See generally In re Meldrum, 2019 WL 5777652, at *2 (Bankr. D. Nev. Oct. 5, 2019), citing, e.g., Maness v. Meyers, 419 U.S. 449 (1975). See also AAAG-California, LLC v. Kisana, 2021 WL 2383002, at *2 (D. Utah June 10, 2021) ("Simply put, [defendants] cannot 'make private determinations of the law and refuse to obey an order' – let alone multiple orders – issued by this court with impunity."). Section 727(d)(3) specifically contemplates that a Chapter 7 discharge may be revoked as a result of an individual debtor's refusal to obey a lawful order of the court.¹⁷

The record also establishes that the Debtor has not obeyed the subject orders. He did not comply with the 341 Order which led to the 341 Sanctions Order. He did not comply with the Turnover Order which resulted in the Turnover Sanctions Order. He did not withdraw the Removal Motion which led to the 9011 Sanctions Order and 9011 Fee Order. He also did not comply with the 9011 Fee Order. Debtor's evidence in response to the SJ Motion consists only of his testimony that the matters stated in the three exhibits attached to his Opposition are true and correct.¹⁸ Exhibit 1 contains allegations suggesting a variety of misconduct by the Trustee, none of which disputes the Debtor's failure to obey the subject orders or which suggests an inability to comply, inadvertence, or mistake. Exhibit 2 contains allegations suggesting a variety

¹⁷ Any person who refuses to obey a lawful court order also may be subject to contempt sanctions. See generally Int'l Union, UMW v. Bagwell, 512 U.S. 821, 826-830 (1994). For an individual debtor who refuses to obey a bankruptcy court order, Congress has enacted an additional and perhaps more serious sanction in the form of a judgment denying a Chapter 7 discharge. See generally 6 COLLIER ON BANKRUPTCY, ¶ 727.09[1] (Richard Levin and Henry J. Sommer, eds., 16th ed. 2021).

¹⁸ As previously summarized, Debtor alleged in his Answer that he attempted to deliver a \$1,500 cashier's check to the Trustee, requested a 341 Meeting to be scheduled, and that he emailed information to the Trustee. The allegations in the Answer, however, are not supported by admissible evidence that may be considered on a motion for summary judgment. Even if supported by admissible evidence, the allegations suggest no inability of the Debtor to comply with the subject orders, nor the presence of inadvertence or mistake.

1 of actions taken by parties identified as The Moreno Valley Ranch Community Association and
2 Erin A. Maloney, none of which dispute the Debtor's failure to obey the subject orders or which
3 suggests an inability to comply, inadvertence, or mistake. Exhibit 3 contains allegations
4 suggesting a variety of actions taken by an entity identified as Superior Farms, none of which
5 dispute the Debtor's failure to obey the subject orders or which suggests an inability to comply,
6 inadvertence, or mistake. In other words, none of the allegations contained in the Debtor's
7 declaration raise a dispute of fact or law that is material to the outcome of the SJ Motion.¹⁹

8 The record also establishes that the Debtor's failure to obey the subject orders was
9 willful. The record establishes that the Debtor had frequent disagreements with the Trustee and
10 had notice of the 341 Motion and Turnover Motion. The record also establishes that the Debtor
11 knew of the 341 Order and the Turnover Order. Despite his knowledge of the 341 Order and the
12 Turnover Order, the record also establishes that the Debtor did not comply with either order,
13 which resulted in the entry of the 341 Sanctions Order and Turnover Sanctions Order. Despite
14 his knowledge of the 341 Sanctions Order and the Turnover Sanctions Order, the record also
15 establishes that the Debtor has not complied with either order. Despite his knowledge of the
16 9011 Fee Order, the record also establishes that the Debtor has not complied with that order.
17 Debtor's apparently frequent and likely continuing disagreements with the Trustee, as well as
18 many other parties, might explain why the Debtor does not obey the subject orders, but his
19 motive for refusing to comply is immaterial. Nor do his disagreements with the Trustee excuse
20 his refusal to comply even if the Debtor's allegations concerning the Trustee were supported by
21 admissible evidence.

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24 ¹⁹ In addition to the declaration he attached to his response to the SJ Motion, the court has
25 considered the Debtor's allegations that are contained in the Opposition. Similar to the attached
26 exhibits, the Opposition contains a variety of factual assertions that do not dispute the Debtor's
27 failure to obey the subject orders. Debtor does allege, however, that he was not able to pay the
28 341 Sanctions Order, Turnover Sanctions Order, and the 9011 Fee Order because the entity
identified as Superior Farms had not returned \$8,250 that the Debtor had paid after bankruptcy to
purchase certain meat products. See discussion at note 16, supra. While there is no evidence
offered in support of this allegation, Debtor does not dispute that sanctions were ordered because
he did not obey the 341 Order and Turnover Order.

1 Having concluded that the Debtor has refused to obey the lawful orders of the court
2 within the meaning of Section 727(a)(6), the court also considers whether revocation of the
3 Chapter 7 Discharge is appropriate under Section 727(d)(3). Under the circumstances of this
4 Chapter 7 proceeding, the court concludes that revocation is warranted.

5 From an evidentiary standpoint, the Debtor has not provided any basis to infer that his
6 failures to obey were the product of inadvertence, mistake or inability to comply. He offers no
7 admissible evidence inferring that he complied with the 341 Order or the Turnover Order. He
8 offers no admissible evidence inferring that he paid any of the sanctions ordered after he failed to
9 comply with those orders. Even his assertion that certain funds were wrongfully retained by
10 Superior Farms does not address whether the same funds would have been available to satisfy
11 the 341 Sanctions Order, Turnover Sanctions Order, or even the 9011 Fee Order.

12 From a legal standpoint, the Debtor has not demonstrated a basis to excuse his
13 compliance with the subject orders. Debtor opposed the 341 Motion and had notice of entry of
14 the 341 Order. Instead of appealing the order or seeking interlocutory review or even
15 reconsideration of the order, he did not comply.²⁰ Debtor opposed the Turnover Motion and had
16 notice of entry of the Turnover Order. Instead of appealing the order or seeking interlocutory
17 review or even reconsideration of the order, he did not comply. Debtor opposed the 9011
18 Sanctions Motion and had notice of entry of the 9011 Fee Order. Instead of appealing or seeking
19 interlocutory review or even reconsideration of the order, he has not complied.

20 As previously mentioned, the Debtor has been declared a vexatious litigant based on the
21 record presented in connection with the VL Motion. The court found that the Debtor already had
22 been declared a vexatious litigant in numerous proceedings and in numerous courts, see VL
23 Order at 8:6 through 10:7, had commenced multiple adversary proceedings during the current
24 Chapter 7 proceeding that violated the automatic stay, see id. at 10:11 to 11:20, and had filed
25

26 ²⁰ As previously mentioned, Debtor appealed the Sale Order but the appeal subsequently
27 was dismissed because he did not comply with the appellate court's warning to timely file an
28 opening brief and excerpts of record. It appears from the record that the Debtor is aware of the
opportunity to appeal or seek review of judicial decisions.

multiple documents unrelated to matters before the court. Id. at 12:14 to 14:3. Based on the record, the court found that the Debtor had engaged in frivolousness or harassment in his own Chapter 7 case that was potentially harmful to the bankruptcy estate and the Trustee. Id. at 14:8-21. The resulting VL Order imposed restrictions on the Debtor that require him to seek advance permission before he is allowed to filing pleadings and documents. Id. at 15:12 to 16:5. In accordance with the pre-filing approval requirements of the VL Order, Debtor has submitted several written requests to file adversary complaints in this Chapter 7 proceeding. Copies of those requests were submitted by the Debtor as his three exhibits attached to the Opposition.²¹ Consideration of the Debtor's own exhibits, however, demonstrate that he is capable of understanding and obeying this court's orders when he decides to do so.

Debtor's willful failure to obey the subject orders also is not mitigated by subsequent offers to comply. Offers of belated compliance to avoid the consequences of multiple failures is hardly voluntary. See, e.g., In re Vaughan, 2016 WL 878308, at *9 (Chapter 7 debtors' "belated compliance was far from voluntary, but rather mandated by the order granting Trustee's motion to compel, which directed Debtors to appear under threat of further sanctions."). Voluntary bankruptcy proceedings are intended to provide a fresh start to the "honest but unfortunate debtor," see Grogan v. Garner, 498 U.S. at 287, but individuals who create their own misfortune during their case may lose the very relief they seek. The record establishes that the Debtor, for whatever reason, has willfully refused to obey several lawful orders of the court.

Based on the foregoing, the court concludes that the Debtor's refusal to obey the 341 Order and Turnover Order warrant revocation of the Chapter 7 Discharge under Section 727(d)(3). The court also concludes that the Debtor's additional refusal to obey the 341 Sanction Order, Turnover Sanction Order, and 9011 Fee Order, separately and independently warrant revocation of the Chapter 7 Discharge.

IT IS THEREFORE ORDERED that the Motion for Summary Judgment Revoking Debtor's Discharge (11 U.S.C. §727(d)(3) and §727(a)(6)(A)), brought by Shelley D. Krohn,

²¹ As previously mentioned, each of those requests were denied by written orders entered by the court.

Chapter 7 trustee, Adversary Docket No. 11, be, and the same hereby is, **GRANTED**.

IT IS FURTHER ORDERED that a judgment shall be entered revoking the Chapter 7 Discharge in this bankruptcy proceeding.

IT IS FURTHER ORDERED that the scheduling conference set for October 14, 2021, is **VACATED**.

IT IS FURTHER ORDERED that the requirements of the (Amended) Order on Motion to Declare Debtor Anshu Pathak a Vexatious Litigant, Case Docket No. 206, do not apply to any appeal of the instant order or the separate judgment entered contemporaneously herewith.

Copies sent via CM/ECF ELECTRONIC FILING

Copies sent via BNC to:

ANSHU PATHAK
7745 BOULDER AVE, #125
HIGHLAND, CA 92346

ANSHU PATHAK
5615 CAMERON STREET, SUITE 7
LAS VEGAS, NV 89118

ANSHU PATHAK
26230 ORANGE AVE.
PERRIS, CA 92571

ANSHU PATHAK
71 E. AGATE AVE, #208
LAS VEGAS, NV 89123

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