

IN THE UNITED STATES *BANKRUPTCY* COURT
FOR THE *SOUTHERN* DISTRICT OF IOWA
CENTRAL DIVISION

IN RE:)
) Chapter 7
THOUSAND ADVENTURES, INC.,)
) Case No. 97-03618
Debtor.)

CHAPTER 7 TRUSTEE STATUS REPORT

COMES NOW Eric W. Lam, Chapter 7 Trustee, and hereby respectfully submits his status report.

1. Pursuant to this Court's Order, file-stamped March 17, 1998, the debtor was directed to "use his best efforts to file a complete set of schedules, a complete set of statement of financial affairs, and a matrix showing the names and addresses of all creditors." Similarly, the same Order directed the debtor to tender "to the Chapter 7 Trustee a detailed listing of the names and addresses of each and every bank or financial institution at which the debtor maintained a banking (including check writing and wire transfer activities or privileges) relationship." The debtor was directed to accomplish these two tasks by March 25, 1998. As of the date of this report, the debtor has tendered nothing meaningful to the Trustee or his counsel.

2. As a result of the non-compliance by the debtor of this Court's March 17, 1998 Order, the Trustee's counsel has spent many, many, many hours and miles to attempt to track down some of the debtor's financial records. For example, the Trustee's

counsel traveled to Omaha, Nebraska to view and physically copy many of the debtor's financial records. The debtor evidently had some records stored in Nebraska and the Trustee engaged the services of an agent to travel to Nebraska to physically pick up and transport the boxes to a storage location in Ft. Madison, Iowa. Thereafter, the Trustee's counsel spent many hours reviewing the records, and all these efforts were directed to primarily investigating and eventually formulating, drafting, and prosecuting various causes of action that belong to the estate, such as fraudulent conveyances and preferences.

II. Estate Assets

3. The estate receives checks, originally directed at the debtor's post office box in Nebraska, periodically. Most of the checks are from consumer credit counseling agencies and/or Chapter 13 Trustees of account debtors that owe money to the debtor (*i.e.* members who financed the purchase of a membership, and then who filed bankruptcy and/or engaged the services of consumer credit professionals.) As indicated, these checks were originally all mailed to the debtor's post office box in Nebraska, and after the Trustee requested forwarding of the mail from the post office box in Nebraska to him in Cedar Rapids, these checks began to surface. Indeed, some (but not all) of the consumer credit agencies and/or Chapter 13 Trustees have adjusted their computer records such that the checks are directly mailed to the Trustee in Cedar Rapids. In addition, in the Spring of 1999, the Trustee entered into a settlement agreement with the Trustee for the Florida case of *In re: Thousand Adventures of Florida*. The settlement produced for this estate cash in the amount of \$45,000.00, received *circa* April 4, 1999. In exchange this estate will consider paid in full the claim it had filed in the Florida case. According to information and belief, the Florida Trustee was apparently able to generate some funds for that estate by virtue of the sale of membership lists and/or real estate (*albeit* subject to lenders' liens - *i.e.* by way of §506(c) surcharge, in all likelihood). The monies were then paid to some of the members pursuant to the §507(a)(6) \$1,950.00 deposit priority. The

Internal Revenue Service, which holds a large priority claim in the Florida case as well as in this case, apparently has filed an appeal from the ruling determining that some of the members are entitled to a §507(a)(6) priority. As of the date of this status report, this Trustee has no knowledge or information as to the disposition of the Appeal.

4. In addition, via counsel this Trustee has also sought the recovery of preferences for several trade creditors, and approximately forty to fifty such preference actions have been filed by Joseph A. Peiffer, the Trustee's counsel. Most of these preference actions are being settled, and some have been dismissed after the preference Defendants produced evidence of valid defenses. One such preference was set for trial in March 2000, but pursuant to motion from the Defendant, the trial has been continued to July 2000. This is the preference action involving a boat in Florida.

III. Actions Against Lenders

5. In addition to the approximately forty to fifty preference actions against various trade creditors that are being pursued by Attorney Peiffer on behalf of the Trustee, the Trustee's Chicago counsel, Jenner & Block, has filed several adversary complaints sounding mostly in fraudulent conveyances and/or preferences. For example, the Trustee's counsel sued Travel America, Inc., All-State, Western American National Bank, et. al., for various causes of action sounding in §§ 548 and 540. Default Judgment was obtained against Travel America, Inc. Pursuant to non-objection from the Trustee and his counsel, the Default Judgment is being set aside.

6. On or about February 28, 2000, the Trustee and his counsel met with counsel from Princip, Western American National Bank, and All-State in Chicago.¹ The meeting was held as an attempt by the Trustee and his counsel to discuss settlement, as well as in compliance with this Court's Order entered in the adversary proceeding, directing the parties to exchange information. At the meeting, the Trustee's counsel tendered three files of paper and information to the Defendants' counsel. Nothing was tendered by the Defendants counsel the Trustee or his counsel. At the end of the meeting, the Trustee and his counsel tendered a settlement demand, and sought a response from the Defendants by March 14, 2000. On March 14, 2000, the Trustee's counsel met on the telephone with some of the Defendants' counsel and received simply a rejection of the Trustee's February 28, 2000, settlement demand. No counteroffer was tendered at that time.

7. In addition, the Trustee's Chicago counsel has filed an adversary against Filios. The Defendant is represented by Attorney Van of Las Vegas, Nevada. Local counsel has not yet been engaged. The Trustee will make contact with Filios as soon as local counsel is engaged.

¹ Travelers Data's counsel attended via telephone from California.

8. Similarly, the Trustee has personally talked to the counsel for Stump, *et al.* in the adversary complaint against, Stump, First Union, and Panel. The Trustee has also been in contact with counsel for First Union. The Trustee's contacts were directed at an attempt to reach a settlement. A settlement with Stump is likely, subject to notice and hearing and court approval.

9. The Trustee has also personally talked to counsel for Redland Insurance Agency, again as an attempt to settle. An agreement has been reached, subject to notice and hearing and court approval.

IV. Relief Requested

10. 28 U.S.C. §651(b) authorizes a federal district court to adopt alternative dispute resolution, pursuant to local rules. As of the date of this status report, the United States District Court of the Southern District of Iowa is apparently considering the adoption of local rules that would authorize the conduct of alternative dispute resolutions. Even though technically there is not yet a local rule establishing alternative dispute resolutions, the Trustee respectfully submits that this Court, pursuant to 11 U.S.C. §105(a) as well as F.R.B. 7016(a)(5), can and should implement a mediation procedure. A neutral mediator should be appointed by this Court, and the mediator should then meet with the Trustee, his counsel, and the parties as well as their counsel in the Travel America Adversary, The First Union and Pinel Adversary, The Filios Adversary, as well as with Tony Ross, et al. (*i.e.* the representative of the class of members that has filed an intervention/joiner motion to the Trustee's action in Travel America Adversary). The Trustee respectfully submits that a mediation hopefully will generate a negotiated settlement such that trials in the adversaries will not be necessary or will be focused on narrow issues over which the parties have genuine disputes. Bearing in mind that Defendant's counsel have offices in California, New York City, and Chicago, the Trustee suggests that initially this Court should conduct a telephonic status hearing, and then

thereafter direct the conduct of an in-person mediation to be conducted in Des Moines, Iowa, by a neutral mediator.

MOYER & BERGMAN, P.L.C.

//s//

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CHAPTER 7 TRUSTEE

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