

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT**

IN RE:

Kristina Lynn Buckner,
Debtor.

Bankruptcy Case No. 08-59690-R
Hon. Steven W. Rhodes
Chapter 7

Gene R. Kohut,

Plaintiff.

v.

Adversary Case No.

J Hass Group, a business entity, and
Jason Hass, individually,
Jointly and Severally,

Defendant.

COMPLAINT TO AVOID FRAUDULENT CONVEYANCE

NOW COMES the Trustee, Gene R. Kohut, by and through his counsel, GENE R. KOHUT, P.C., and for his Complaint to Avoid Fraudulent Conveyance states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 & 157.
2. This matter is a core proceeding under 28 U.S.C. §157(b)(2)(A), (F) & (H).
3. Venue properly lies in this judicial district pursuant to 28 U.S.C. §§ 1408 and 1409.

4. This adversary proceeding is brought pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure, to seek relief in accordance with 11 U.S.C. §548.

FACTS

5. On August 13, 2008, Kristina Lynn Buckner (the "Debtor"), filed a voluntary petition under Chapter 7 of the Bankruptcy Code.

6. Subsequently, Gene R. Kohut (the "Trustee") was appointed the duly qualified and acting Trustee in the matter.

7. Upon information and belief, Jason Hass (the "Defendant") is an individual with a mailing address of 7590 E. Gray Road, Suite 204, Scottsdale, AZ, 85260.

8. Upon information and belief, the Defendant is an Arizona attorney who provides debt settlement services via a company called the J.Hass Group.

9. From January through June of 2008, the Debtor paid the sum of \$4,500.00 to Jason Hass at the rate of \$750.00 per month, for debt reduction services.

10. The Trustee has investigated the Debtor's pre-petition actions and financial condition, and has concluded that the Defendant received an avoidable fraudulent conveyance from the Debtor, and now brings this action to recover such conveyance.

COUNT I – AVOIDANCE OF FRAUDULENT CONVEYANCE PURSUANT TO 11 U.S.C. §548

11. Trustee re-alleges and reincorporates paragraphs 1 through 10 as though fully set forth herein.

12. 11 U.S.C. § 548 of the Bankruptcy Code provides, in relevant part:

“(a)(1) The trustee may avoid any transfer (including any transfer to or for the benefit of an insider under an employment contract) of an interest of the debtor in property, or any obligation (including any obligation to or for the benefit of an insider under an employment contract) incurred by the debtor, that was made or incurred on or within two years before the date of the filing of the petition, if the debtor voluntarily or in voluntarily –

(A) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made or such obligation was incurred, indebted; or

(B) (i) received less than a reasonably equivalent value in exchange for such transfer or obligation; and

(ii) (I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;

(II) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital;

(III) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor’s ability to pay as such debts matured; or

(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

13. The Debtor’s payment of \$4,500.00 to the Defendant was a Transfer of the Debtor’s interest in property.

14. The Transfer to the Defendant was made within two (2) years prior to the commencement of the Debtor’s bankruptcy case.

15. Upon information and belief, less than a reasonably equivalent value was given by the Defendant in exchange for the Transfer.

16. The Transfer to the Defendant was made when the Debtor was insolvent, or rendered the Debtor insolvent.

17. The Trustee may avoid the Transfer as a fraudulent conveyance pursuant to 11 U.S.C. § 548.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court enter a Judgment in the Plaintiff's favor avoiding the Transfer in its entirety as a fraudulent conveyance under 11 U.S.C. § 548, ordering the Defendant to reimburse the Plaintiff for costs, interest, and attorneys fees, and granting the Plaintiff such other and further relief as this Court deems just and proper under the circumstances.

**COUNT II – RECOVERY OF AVOIDABLE TRANSFERS
PURSUANT TO 11 U.S.C. § 550(a)**

18. Plaintiff re-alleges and reincorporates paragraphs 1 through 17 as though fully set forth herein.

19. Pursuant to Section 550(a) of the Bankruptcy Code, to the extent that a transfer is avoided under Section 548 of the Bankruptcy Code, the Trustee may seek to recover, for the benefit of the estate, the property transferred or the value of the property from the initial transferee of the transfer or the entity for whose benefit the transfer was made, or any immediate or mediate transferee of such initial transferee.

20. The Defendant is the initial transferee of the avoidable Transfer or the immediate or mediate transferee of such initial transferees or the persons for whose benefit the avoidable transfer was made.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court enter a Judgment in the Plaintiff's favor against the Defendant under 11 U.S.C. §550(a) of the

Bankruptcy Code in the amount of \$4,500.00, representing the interest of the Debtor in the Transfer and granting the Plaintiff such other and further relief, at law or in equity, as the Court may deem just and proper.

**COUNT III – PRESERVATION OF AVOIDED TRANSFER
PURSUANT TO 11 U.S.C. § 551**

21. Plaintiff re-alleges and reincorporates paragraphs 1 through 20 of this Complaint as though fully set forth herein.

22. Pursuant to Section 551 of the Bankruptcy Code, any transfer avoided under Section 548 is automatically preserved for the benefit of the estate.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court enter a Judgment in the Plaintiff's favor against the Defendant under 11 U.S.C. §551 of the Bankruptcy Code, preserving the avoided Transfer for the benefit of the estate and granting the Plaintiff such other and further relief, at law or in equity, as the Court may deem just and proper.

COUNT IV – DISALLOWANCE OF CLAIMS PURSUANT TO 11 U.S.C. § 502(d)

23. Plaintiff re-alleges and reincorporates paragraphs 1 through 22 as though fully set forth herein.

24. The Defendant was the initial transferee of the avoidable Transfers or the immediate or mediate transferee of such initial transferee or the person for whose benefit the avoidable Transfer was made.

25. Pursuant to Section 502(d) of the Bankruptcy Code, any claim of the Defendant against the Debtor must be disallowed until such time as the Defendant satisfies the requirements under the statute.

WHEREFORE, the Plaintiff requests this Honorable Court enter a Judgment in the Plaintiff's favor against the Defendant under 11 U.S.C. §502(d) of the Bankruptcy Code, disallowing any claim of the Defendant against the Debtor and granting the Plaintiff such other and further relief, at law or in equity, as the Court may deem just and proper.

Respectfully submitted,

GENE R. KOHUT, P.C.

/s/ Gene R. Kohut
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Dated: January 20, 2009