

CLERK OF COURT
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA

**IN THE UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

2016 NOV 21 AM 9:42

IN RE:)
CHAPTER 7)
CLAUDIO PABLO AVENDANO,) CASE NO. 15-64523-PWB
)
Debtor.)
)

M. RICHARD THOMAS
Anise Mejia

**MEMORANDUM IN SUPPORT OF MOTION TO CONVERT CHAPTER 7 CASE TO A CASE
UNDER CHAPTER 13**

COMES NOW, the above captioned Debtor, in support of Case 16-64523 shows this Honorable Court the Following:

Introduction:

Claudio Avendano the Debtor filed bankruptcy with no unsecured debt and with the hope to cure a default in a loan obligation on a property that housed his business and residence.

The only Creditors were, a first and second mortgage in favor of the Creditors Jerry Austin and Eddie Lawson. The default of this mortgage, and cause of the bankruptcy was produced by a controlled series of events orchestrated by a political group of which the Creditors Jerry Austin and Eddie Lawson are associated with.

The Creditors along with other individuals were motivated to participate with the Debtor's original business in such a manner as to cause it's failure and therefore the default of the underlying mortgage and return of the secured real estate to its original sellers, who are the only Creditors in this bankruptcy.

The following memorandum details these events and the related causes of this bankruptcy, the associations of the participants, and documents an established pattern within a political community to commit acts that are either outside the law or border illegality, for monetary gain.

The pattern applies rigor before compromise to exclude outsiders that may oppose the established political organization. Although it is common that a community protect local business and trade, subversive methods and the interference by a Creditor in the Debtor's business is a tort causing damages that requires consideration.

This memorandum may shed light on

- (a) The aggressive nature of the creditors in this bankruptcy
- (b) The border ethical conduct of the Chapter 7 Trustee now associated with the Creditors and in this bankruptcy action.
- (c) The reason why the Creditors would press for the conversion to Chapter 7, selling the property for less than what it was originally sold for, and below market value, at a time when Debtor was successfully paying obligations under Chapter 13.

1.

On August 21, 2015, the Debtor, by an error precipitated by Creditors wrongful foreclosure, commenced case under chapter 7 of the Bankruptcy Code, by filing a petition which has been assigned No. **15-64523-PWB** in this Court.

2.

This Court has jurisdiction to hear this matter under 28 U.S.C. § 1334, since it arises in that case and is related to it. This proceeding is a core proceeding

3.

In 2008, debtor became involved in with the Republican party in Douglas, Carroll, Cobb counties in Georgia.

4.

In the Presidential convention of 2012 debtor was a delegate of the 13th district, that was nullified by the state for not following proper procedures, and significant violations of rules and regulations. This convention was the only convention that had to be redone by state officials due to unlawful activity.

5.

On or about March of 2012 and via political involvement Debtor is befriended by a retired Los Angeles County Deputy, who shall be called "Retired Deputy".

6.

Debtor became aware of corrupt anomalies of the local republican political organisation. In conversation about these abnormalities with this "Retired Deputy", the Debtor is told that his life may be in danger because of what he knows.

7.

2014 Douglas County District Attorney David McDade, know by defense attorneys as "Teflon D.A.", resigns under grand jury investigation.

8.

In the 2014 election, candidate for solicitor Matthew Krull, defense attorney Ed Napier and individuals from Best Bonds, bail bonds company, take over the Douglas Republican party, Matthew Krull will run for solicitor. It was the opinion of the Debtor that having these co-conspirators in these elected positions would create a conflict for justice in the county.

9.

As you enter Douglas county on I-20 you will see the tallest building in the county, the County Jail. A testament to incarceration as a primary business of the County.

10.

County commissioners propose the Fox Hall project, a proposal to give 40 million dollars to a hunt club in south Douglas county. This transaction is designed to favor the associates of this political cabal in Douglas County.

11.

Debtor built the website for the Douglas Republican party. Worked with Shane Davis in the creation of "River City, a new municipality in Douglas county. Shane Davis, was fired from his employment at "Best Bonds" for involvement in the "River City" project. The "River City" project is abandoned.

12.

Debtor builds a specialized website to assist republican Ann Guider incumbent against a republican challenger. She is the only commissioner to oppose the Fox Hall proposal, Ann Guider wins the election by 28 votes.

13. 2016, Douglas County coroner Randy Daniel admits offering money to his opponent: "I'll give you money if you drop out." Coincidentally a local resident of the County, Gregory Daniel is the first bidder for the auction to sell the Debtor's property.

14.

It is the general opinion by those knowledgeable of Douglas county government that there is a large clandestine network of individuals involved in the manipulation of the Douglas political agenda.

15.

Clandestine organisations involving several persons are difficult to document, yet, they can control County business to the benefit of this few and exclusion of all others.

16.

Organisations such as these work in a variety of forms that are quasi-legal. One of these methods is the contingent sale of property that is then caused to return to the seller to be resold again.

17.

Type of organisation prevents outsiders from entering the political or business community that is controlled by such a group.

18.

Eddie Lawson and Jerry Austin the only creditors in this action, are long time members of the Douglas community. Both have done well in local business activities and have been central in the Douglas socio/political environment.

19.

On November 6, 2013 Debtor purchased property located on 155 Liberty Road, from Jerry Austin seller and Eddie Lawson realty. Paid \$595,000.00 for two acres and 7,200 sq/ft building. Jerry Austin and Eddie Lawson provide first and second mortgages , Austin \$497,000.00 and Lawson \$22,6000.00.

20.

Building was purchased as the home of the Debtor's business and to develop, and lease. It will provide space for the Debtor to conduct business as a tailor/retailer and start-up company that builds database driven software as social media collaborative technology.

21.

November 23/2013 a friend of the "Retired Deputy" comes and expresses desire to become involved with the project at Liberty Road and she suggests that it be a flea market. The flea market proposal grows and she promotes and produces a flea market venue. Although permitted, the City of Villa Rica objects to our market without proper cause. After the first opening, she the initiant and all participants abandon the proposal. Debtor then converts the venue into a Consignment Store .

First Flea Market emails <http://metroecho.com/market>

22.

The friend of the "Retired Deputy" (April 29, 2014) who began the Flea Market, offered items for sale on consignment. She comes to remove her items and is met there by Eddie Lawson (Creditor) who is the realtor and associated with the friend of the "Retired Deputy". This friend of the "Retired Deputy" is persuaded to leave her items for consignment.

Codes and new venue <http://metroecho.com/change>

23.

A second group of individuals, led by Angilea O'Neil who was invited to the original flea market opening by it's founders begin to express an interest in leasing space. This new group will now promote and I build a larger venue for shopping.

Angela strta the second wave April 2014 <http://metroecho.com/group2>

24.

In order to further develop the Liberty Road property. On July 11, 2014, Creditor Jerry Austin provided a short term loan of \$55,000.00 at 15% interest rate, including \$4,272.00 in points, origination fees and settlement charges. This note was secured by Debtor's personal residence at 3540 Lawrell Springs Cove, Villa Rica, Georgia and payable on August 1, 2016

25.

Because of the poor economic conditions of that time, Debtor offers tenants who can show real business prospects, the ability to start a business within a plan where rental will commence once they are open. A rental amount that is based on sales revenue.

26.

By October of 2015, almost all available space has been taken by 12 prospective tenants. Toastmasters, womens clothing, mens clothing, antiques and other services plan to open this month.

Video from concept to close <http://www.metroecho.com/libertyhaus>

27.

In October 2014, two local realtors Mark Olson and Philip Walthrop, with business relations to Creditors call and ask if Debtor would be interested in selling the property. Since there is a full house of shops, Debtor declines the offer.

28.

Within a week of the purchase offer, all tenants either move out or become unresponsive, the shopping venue halts just before the Christmas shopping season. After Christmas, prospective tenants come to remove merchandise, this venue shuts down.

29.

Two persons associated with the group of vendors ask to lease the building but wish to remove all interior construction, in preparation for another use. One of these persons with ties to Gregory Daniel, the first person to offer to purchase Debtor,s property at auction.

30.

November 18, 2014 Debtor's home was sold to pay off \$55,000.00 mortgage to Jerry Austin (creditor)

31.

Debtor moved into commercial property 155 Liberty Road. This along with the Timmons Circle property became the Debtors residence and place of business.

32.

The manner and behavior of the participants of this business venture gives the impression that they infact are a group under a certain leadership. That these participants of this retail venture acted as a group to cause Debtor to default in his mortgage obligations, in preparation for a new buyer, or foreclosure to return the property to the seller. .

33.

November 2014 Debtor prepares to convert business to a consignment/storage type business model.

<http://storeitorsellit.com/>

34.

November 11 2014, in order to access additional income, Debtor commences to prepare and market properties in Chile, to pay mortgage and other related obligations.

Marketing site <http://metroecho.com/at/cl/la-serena/>

Promotional site <http://puntachoros.com/>

35.

June 29, 2015, Creditor Jerry Austin filed a wrongful foreclosure against the Debtor by not providing the 30 day period prior to comply as required by the promissory note. "That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means." (Finlay v. Oxford Const. Co., 138 Ga.App. 49, 225 S.E.2d 495). "While the due that stated in the second security deed does indicate a conflict with the due date in the note, **the terms of the note must govern.** "

Foreclosure documentation <http://metroecho.com/foreclosure>

36.

Attorney Victor Harrison, was called and made aware of this the wrongful nature of the foreclosure prior to the sale scheduled at the courthouse and stated he did not care and would proceed nonetheless.

37.

On August 3, 2015, due to the Creditors initial wrongful foreclosure, Debtor, looked for but had insufficient time to find counsel, **and incorrectly filed, pro se**, a petition for relief under Chapter 7 of the Bankruptcy code.

38.

Attorney Richard Valdijulli was retained and the case was converted to Chapter 13 by order entered on December 16, 2015, whereupon a fast track approach was requested by this court to cure the default.

39.

Debtor promptly complied, with a combination of income, and property sales in Chile and timely paid all requested obligations by this court. The Debtor was poised to close on additional pending sales, that would have paid off all obligations due to creditors.

Between March and July of 2016 Debtor made all payments required by the court, totalling to the amounts of \$17,674.75 directly to the Creditors and \$4,375.00 to the Chapter 13 Plan.

40.

On June 23, 2016 Arnall Golden Gregory LLP ("AGG"), Jerry E. Austin and Lawson Realty, Inc. file objections to the Chapter 13 plan. (Doc 84 Filed 06/23/16) An Objection is also filed by Chapter 7 Trustee, Neil Gordon employed by W Arnall Golden Gregory LLP ("AGG").

41.

The aggressive stance of the objection, lead with misleading statements presented to the Court, was further assisted by the Debtor's attorney's failure to timely file documentation. The Chapter 13 plan was not confirmed. The Case was converted to Chapter 7 on July 13, 2016 [Doc. No. 91], and Trustee was re-appointed on July 18, 2016 [Doc. No. 93]

42.

The nature of the flaws of the Chapter 13 plan, can be remedied. This is a case where the Debtor has far more assets than debt on the table and can "cure by sale" the default with the Creditors.

The collusion of these Creditors with the law firm of and the Chapter 7 Trustee Neil Gordon, has financial benefits and political benefits to the Chapter 7 Trustee and Creditors.

(A). The administration of the estate by a Chapter 7 Trustee, if managed to favor legal fees can provide years of income for the Trustee and his Law Firm Arnall Golden Gregory LLP.

(B). In the event these Creditors are part of the aforementioned cabal in Douglas county, the upcoming acts will serve as punishment to the Debtor for his involvement in political matters.

(C). If an internal sale can be conducted with the aid of the Chapter 7 Trustee, through an agent of the Creditor, the Creditor could manipulate a "straw buyer" and get his property back, which now has a far higher value than when sold previously to the Debtor.

(D). Creditors sold this property during difficult economic times. Part and parcel to the sales price they provided a 5% mortgage. Since Debtor weathered these difficult times and now interest rates are rising, it is to the advantage of the Creditors to push for any events that might prevent the Debtor from paying obligations and thereby curing the debt.

43.

Debtor was stopped from the performance of his business in Chile and of paying Creditors by the Creditors extraordinary action to re-convert to Chapter 7.

DEBTORS ATTEMPT TO NEGOTIATE, WITHDRAWAL OF DEBTOR'S ATTORNEY AND CURRENT PRO SE STATUS.

44.

After re-conversion to Chapter 7, Debtor is given permission to speak and negotiate directly with Chapter 7 trustee.

45.

On August 17, 2016 Debtor calls Creditor's attorney, Victor Harrison to see what accommodations can be reached to settle this case. Debtor is informed that he can not negotiate with him since Richard Valdejuli is counsel of record in this case.

46.

In the morning of August 18 2016, Debtor sends email to the principal Creditor Jerry Austin, email gives stating various reasons why it would be best to settle this case rather than to continue litigation. Jerry Austin calls the debtor Claudio Avendano that same day, and tells Creditor to contact his attorney Victor Harrison to see what accommodations can be reached.

47.

This same day August 18, 2016 in the afternoon, Neil Gordon sends an urgent email to Richard Valdejuli, where he falsely claims he is unable to contact Debtor. The email states that he, Neil Gordon will be coming on Tuesday, with Victor Harrison, and Victor's Harrison's agent Mike Patterson to change the locks on the property at, 155 Liberty Road, used as a residence by the Debtor.

In a phone conversation with the Debtor Pamela Brickland, paralegal of the Chapter 7 Trustee claims they have the right to take over Debtor's business, and will proceed despite the Debtor's objections. No such request had been filed with this Court.

48.

Tuesday August 23, 2016, over the objections of the Debtor, 4 persons arrive at 155 Liberty Road to change locks. Neil Gordon (Chapter 7 trustee), Pamela Bicknell (Assistant to Neil Gordon), Victor Harrison (Attorney for the Creditors), and Mike Patterson (Agent of Victor Harrison) are present. At this time Debtor has the first opportunity to speak with Victor Harrison and again is told he can not negotiate with Debtor unless the attorney of record withdraws. Debtor explains to Victor Harrison that he will withdraw his council first thing in the morning.

The following day August 24, 2016 Debtor travels into Atlanta to sign documents for the withdrawal of counsel, Richard Valdejuli .

50.

On August 31, 2016 Debtor made several phone calls and sent several emails to both Jerry Austin (principal creditor) and Victor Harrison (attorney) in the hopes to establish some form of negotiated settlement. Creditor's attorney refused to negotiate any settlement of this case.

51.

It is the Debtor's opinion that this sudden action was precipitated by the call made to the Creditor by the Debtor to settle this matter. This was a show of force instigated by the Creditor's attorney and carried out by the Chapter 7 Trustee to serve as intimidation, as the realtor was never presented to the Court as the means or agent for sale of the Liberty Road property .

CHAPTER 7 TRUSTEE, IN COLLABORATION WITH THE CREDITORS, IS PRODUCING CONDITIONS TO COMPLICATE DEBTOR'S INCOME, AND HIS ABILITY TO PROPERLY ATTEND TO HIS LEGAL RIGHTS IN THIS CASE.

52. On August 9, 2016, Neil Gordon (Chapter 7 trustee), filed MOTION FOR AUTHORITY TO SELL, two of the Debtor's properties in Villa Rica, Georgia by a farm equipment auction house in Moultrie, Georgia. One these properties is used for the residential needs of the Debtor.

A quick sale without proper evaluation will harm the estate.

53.

On August 23, 2016, over the objections of the Debtor, Neil Gordon (Chapter 7 trustee), Pamela Bicknell (Assistant to Neil Gordon), Victor Harrison (Attorney for the Creditors), and Mike Patterson (Agent of Victor Harrison), come to 155 Liberty Road to change locks, and take control of the Debtor's business without the Court's approval. THIS ACTION CAUSED DEBTOR TO LOSE ONE TENANT.

54.

On August 26, 2016 Neil Gorgon, Chapter 7 Trustee, proposes to sell the property at, 155 Liberty Road, Villa Rica, Douglas County, Georgia, the Debtors residence and place of business. The proposed sale is all cash sale price of \$415,000.00 ,with \$350,000.00 distributed to Jerry E. Lawson in partial payment of his mortgage note, with the balance of net sale proceeds held in reserve by the Estate.

This sale will...

- (A). Permanently shut down the debtor business, his work, and income.
- (B). Create unsecured creditors in a case where there are none, thereby giving justification to further actions by the Chapter 7 Trustee.

55.

This sale comes from unknown sources, and to a Douglas County resident Gregory M. Daniel, a potential agent of the Creditor to working to convert the interest of the property back to the Creditor.

56.

It is unclear if the purchaser Gregory M. Daniel is related to Randy Daniel, the Douglas County coroner that offered to pay his opponent to abandon her political challenge. A relation here through the political clan of this county would potentially lead back to the Creditor.

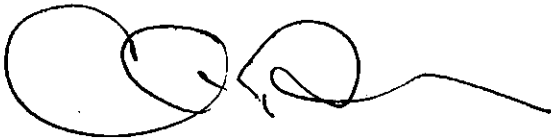
In summary, it is the general manner of this local group to apply rigor before compromise. That there is an established history of profiting through strong arm tactics via the violation of ethics, and law.

Regardless if the Creditors are part of a larger political conspiracy to defraud the Debtor or not, the actions after the re-conversion of the Chapter 7 Trustee working along with the Creditor appear to point to subversion to profit either by the sale of property of the Debtors estate to fund the Creditor wish to eliminate a low interest mortgage and get paid as well. or creating work and income for the Chapter 7 Trustee, and his law firm to profit via legal fees.

The Chapter 7 Trustee presented at the conversion hearing that he was able to sell the properties in Chile with ease. He has rater taken the exact course to disable the Debtor's income abilities and attempt to create a state of homelessness for the Debtor with the sale of all the United States properties without first attending to the sale of property in Chile. The Chapter 7 Trustee has not even taken the consideration of of returning Debtors various emails regarding pending sales in Chile.

Debtor prays this court re-converts this case to Chapter 13 and permits the Creditor to follow the just course of action, permitting the Debtor to continue to operate his business at 155 Liberty Road and in Chile and to pay obligations to his Creditors.

Debtor hopes that this Court note that the Creditors having pushed for this Chapter 7 and this below market value sale, be held responsible for damages thereby caused to the Debtor's business and estate.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Certificate of Service

I, Claudio Avendano, certify that I served a copy of this..

DEBTOR'S OPPOSITION TO TRUSTEE'S MOTION FOR (I) APPROVAL OF BIDDING AND AUCTION PROCEDURES, (II) AUTHORITY TO (A) SELL REAL PROPERTY OF THE ESTATE FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, AND (B) DISBURSE CERTAIN PROCEEDS AT CLOSING, AND (III) TURNOVER OF COMMERCIAL PROPERTY PRIOR TO CLOSING OF PROPOSED SALE

by First Class United States Mail, with adequate postage prepaid, to the following persons or entities at the addresses stated:

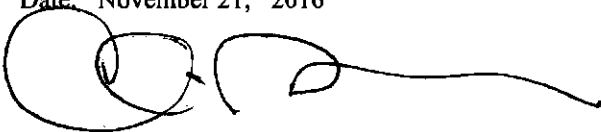
Office of the United States Trustee
362 Richard B. Russell Bldg.
75 Ted Turner Drive, SW
Atlanta, Georgia 30303

Neil Gordon, Chapter 7 Trustee
Arnall Golden Gregory, LLP
171 17th Street, Suite 2100
Atlanta, Georgia 30363

Jerry E. Lawson and Lawson Realty, LLC
C/o Victor J. Harrison Harrison & Horan, P.C.
3150 Golf Ridge Boulevard Suite 101
Douglasville, GA 30135

I certify the foregoing is true and correct

Date: November 21, 2016

A handwritten signature in black ink, appearing to read 'Claudio Avendano', with a long horizontal flourish extending to the right.

Claudio Avendano (Debtor) 404 520 3333
PO Box 401 Winston, Georgia 30187