

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In Re:	:	
Nina Marie Kinard	:	Chapter 7
Debtor	:	
	:	Bankruptcy No. 13-15224-jkf
	:	

TRACY BISHOP and	:	
PAMELA BROOKS and	:	
PEGGY CUNNINGHAM	:	
and NATIVIDAD REYES,	:	Adversary Proceeding No. _____
Plaintiffs	:	
 vs.	:	
	:	
 Nina Marie Kinard	:	
Defendant	:	

**COMPLAINT IN OBJECTION TO DISCHARGE OF DEBTOR
PURSUANT TO 11 U.S.C. § 727**

Jurisdictional Allegations

1. This adversary proceeding arises from and is related to the above-captioned Chapter 7 case pending before the United States Bankruptcy Court for the Eastern District of Pennsylvania. As a result, this Court has subject matter jurisdiction of this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334. The claims and causes of action set forth herein concern the dischargability of the Debtor pursuant to 11 U.S.C. § 727(a) and is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Factual Background

3. This bankruptcy proceeding was commenced by the filing of a voluntary petition under Chapter 7 of Title 11 of the United States Code (the "Bankruptcy Code") on June 13, 2013 (the "Petition Date").
4. On January 17, 2007, Representative Plaintiffs filed a complaint on behalf of themselves and those similarly situated, alleging that Debtor Kinard, as a named individual defendant in *Tracy Bishop v. Lee's Industries, et al.*, Court of Common Pleas, Philadelphia County, Civil Action No.1937 violated the Pennsylvania Minimum Wage Act 43 P.S. §§ 333.10 *et seq.* and the Wage Payment and Collection Law 43 P.S. §§ 260.1 *et seq.*
5. On December 28, 2012, Default Judgment was entered against Debtor Kinard, as a named individual defendant in *Tracy Bishop v. Lee's Industries, et al.*
6. On June 17, 2013, Debtor entered into a Joint Stipulation for Damages Judgment as a named individual defendant in *Tracy Bishop, et al. v. Lee's Industries, et al.*, in the amount of \$2,786,425.57.
7. On July 19, 2013 the Debtor filed her Statements and Schedules, setting forth her assets and liabilities, listing Brodie and Rubinsky, PC, class counsel for the above referenced civil action, as an unsecured creditor.

COUNT I

Objection To Discharge Of Debtor Pursuant To 11 U.S.C. § 727 (a)(2)

8. The allegations set forth in Paragraphs 1 through 7, above, are hereby incorporated by reference as though fully set forth herein.
9. On Debtor's Statement of Financial Affairs, the Debtor lists employment income for the three years prior to the bankruptcy filing as follows: 2011 income \$11,120; 2012 income

\$12,700; and 2013 pre-petition income \$13,755. She lists the source of this income as Wife/
Rental Income.

10. On Debtor' Schedule I, No. 7, she lists regular income from operation of business or profession or farm.
11. As set forth in Debtor's Schedule B. Personal Property, Debtor claims to have no stock or interest in any incorporated or unincorporated business, partnership, or joint venture.
12. Not including the residential real estate scheduled as an asset, Debtor lists assets totaling \$164,613.55 on the Petition Date, which assets include three investment properties, Jewelry, Home Furnishings, a Vehicle, and only \$113.55 in cash.
13. As set forth in Debtor's Schedule J. Current Expenditures of Individual Debtor, Debtor lists her monthly expenses in the amount of \$2,535.00, or approximately \$30,420 per year.
14. Debtor has failed to account for income earned as an Officer, and substantial shareholder of Lee's Industries, Inc.
15. Debtor Kinard acted as an officer and substantial shareholder of Lee's Industries, Inc., Lee's Home Health Services, Inc. and Lee's Companies, Inc. from at least 2007 to 2012.
16. On Debtor's Statement of Financial Affairs, the Debtor lists no income earned as an officer or shareholder of Lee's Industries, Inc., Lee's Home Health Services, Inc. or Lee's Companies, Inc. for the three years prior to the bankruptcy filing.
17. Debtor's Schedule B. Personal Property does not list stock or interest in Lee's Industries, Inc., Lee's Home Health Services, Inc. or Lee's Companies, Inc.
18. Upon information and belief, Debtor Kinard was registered with the state of Pennsylvania as an officer of Cren, Inc. with the title of Secretary.

19. Upon information and belief, on or about March 15, 2013, Debtor Kinard, acting as President of Cren, Inc., executed a Quit Claim Deed for a property located at 1930 N. 22nd Street, Philadelphia, PA.
20. On Debtor's Statement of Financial Affairs, the Debtor lists no income earned as an officer or shareholder of Cren, Inc. for the three years prior to the bankruptcy filing.
21. Debtor has failed to account for income earned as officer and substantial shareholder of Cren, Inc.
22. Debtor's Schedule B. Personal Property does not list stock or interest in Cren, Inc.
23. Upon information and belief, based upon the documents filed, the Debtor, with intent to hinder, delay or defraud a creditor of the estate, has, or has permitted to be transferred, removed, destroyed, mutilated or concealed, property of the debtor within one year prior to filing the bankruptcy.
24. By reason of the foregoing, the debtor should be denied a discharge under the Bankruptcy Code pursuant to *11 U.S.C. § 727(a)(2)*.

COUNT II

OBJECTION TO DISCHARGE OF DEBTOR PURSUANT TO *11 U.S.C. § 727 (a)(3)*

25. The allegations set forth in Paragraphs 1 through 24, above, are hereby incorporated by reference as though fully set forth herein.
26. Upon information and belief, the Debtor has held the position of officer and substantial shareholder of Lee's Industries, Inc., Lee's Home Health Services, Inc. and Lee's Companies, Inc., as discussed more fully above and incorporated by reference herein.

27. The Debtor has failed to produce any records or documents related to her role as an officer or owner of Lee's Industries, Inc., Lee's Home Health Services, Inc. or Lee's Companies, Inc.
28. Upon information and belief, the Debtor has held the position of officer and substantial shareholder of Cren, Inc, as discussed more fully above and incorporated by reference herein.
29. The Debtor has failed to produce any records or documents related to her role as an officer or owner of Cren, Inc.
30. Upon information and belief, the Debtor has unjustifiably concealed, destroyed, mutilated, or failed to keep or preserve any recorded information, including books, records, documents and papers, from which the Debtor's financial condition may be ascertained.
31. By reason of the foregoing, the debtor should be denied a discharge under the Bankruptcy Code pursuant to *11 U.S.C. § 727(a)(3)*.

COUNT III

OBJECTION TO DISCHARGE OF DEBTOR PURSUANT TO *11 U.S.C. § 727 (a)(4)*

32. The allegations set forth in Paragraphs 1 through 31, above, are hereby incorporated by reference as though fully set forth herein.
33. Upon information and belief, the Debtor has held the position of officer and substantial shareholder of Lee's Industries, Inc., Lee's Home Health Services, Inc. and Lee's Companies, Inc. as discussed more fully above and incorporated by reference herein.
34. Upon information and belief, the Debtor has held the position of officer and substantial shareholder of Cren, Inc, as discussed more fully above and incorporated by reference herein.

35. On Debtor' Schedule I, No. 7, she lists regular income from operation of business or profession or farm.
36. Despite Debtor's listing of income from operation of a business or profession or farm, and her position as an officer and shareholder in two corporations, on Debtor's Statement of Financial Affairs, she answered "None" to Question 18. a.: "*If the debtor is an individual*, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within **six years** immediately preceding the commencement of this case."
37. Upon information and belief, and based upon her failure to disclose stock or interest in any incorporated or unincorporated business, partnership, or joint venture on her Schedule B. Personal Property, and failure to disclose all employment income and business interests on her Debtor's Statement of Financial Affairs, Debtor has knowingly and fraudulently, in or in connection with this case made a false oath or account; presented or used a false claim; and/or withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records, and papers relating to the debtor's property or financial affairs.
38. By reason of the foregoing, the debtor should be denied a discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 727(a)(4).

WHEREFORE, Plaintiffs respectfully requests that judgment be entered in their favor and against Defendant, and that Debtor shall be denied a discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 727(a)(2),(3) and(4).

Respectfully Submitted,

BRODIE & RUBINSKY, P.C.

/s/Amy E. Galer

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