



IT IS ORDERED as set forth below:

Date: June 02, 2010

Mary Grace Diehl

**Mary Grace Diehl
U.S. Bankruptcy Court Judge**

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

In Re:	:	Chapter 7
	:	
TONETTE HEARD,	:	Case Number: 09-95011-MGD
	:	
Debtor,	:	Judge Mary Grace Diehl
_____	:	
	:	
DONALD F. WALTON, United States	:	
Trustee for Region 21,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Adversary Proceeding Number: 10-06079
	:	
TONETTE HEARD,	:	
	:	
Defendant.	:	
_____	:	

ORDER GRANTING PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT

This case is before the Court on Plaintiff’s Motion for Default Judgment (“Motion”) (Docket No. 5). Donald F. Walton, acting U.S. Trustee for Region 21, (“Plaintiff”) commenced the underlying adversary proceeding against Tonette Heard (“Defendant”) on April 2, 2010, objecting

to Defendant's discharge pursuant to 11 U.S.C. § 727(a)(8). According to the facts cited in the complaint, Defendant filed her underlying bankruptcy case under Chapter 7 of the Bankruptcy Code on December 14, 2009. (Complaint, ¶8). Defendant previously filed a Chapter 7 petition on February 28, 2002, Case No. 02-92127-SWC, and received a discharge on June 26, 2002. (Complaint, ¶¶ 9-10). Plaintiff's unanswered complaint avers that because Defendant received a discharge in 2002, Defendant is prohibited from receiving a discharge in this case pursuant to § 727(a)(8). (Complaint, ¶ 11).

On February 16, 2010, a summons was issued commanding Defendant to file and serve an answer to the Complaint. The same day, Plaintiff served a summons and copy of the complaint on Defendant and the Chapter 7 Trustee by first class mail postage pre-paid pursuant to Rule 7004(b) of the Federal Rules of Bankruptcy Procedure. Rule 7012 of the Federal Rules of Bankruptcy Procedure requires a defendant to "serve an answer within 30 days after the issuance of the summons." Defendant failed to answer or otherwise respond to the summons. Defendant's default constitutes admissions of the complaint's material facts under Rule 8(b)(6) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Rule 7008 of the Federal Rules of Bankruptcy Procedure. Defendant also failed to respond to the Motion for Default Judgment. Consequently, the Motion for Default Judgment is deemed unopposed pursuant to Bankruptcy Local Rule 7007-1(c) for the Northern District of Georgia. Accordingly, it is

ORDERED that Plaintiff's Motion for Default Judgment is hereby **GRANTED**. Judgment by Default shall be entered against Defendant by separate order.

The Clerk's Office is directed to serve a copy of this Order upon Plaintiff's counsel, Defendant, the Chapter 7 Trustee, and all creditors and parties in interest.

END OF DOCUMENT