



IT IS ORDERED as set forth below:

Date: February 28, 2011

Mary Grace Diehl

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

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

In re:	:	LEAD CASE NO. 08-64060-MGD
	:	
CM VAUGHN, LLC,	:	CHAPTER 7
	:	
Debtor.	:	
	:	
<hr/>	:	
In re:	:	CASE NO. 08-64071-MGD
	:	
CHARLES MICHAEL VAUGHN,	:	CHAPTER 7
	:	
Debtor.	:	
	:	
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NEIL C. GORDON,	:	
as Chapter 7 Trustee for the Estates of	:	
CM Vaughn, LLC and Charles	:	
Michael Vaughn,	:	
	:	
Plaintiff,	:	
	:	
v.	:	ADVERSARY CASE NUMBER
	:	10-6106-MGD
	:	
JOHN R. MARTINSON JR. and	:	
KATHY MARTINSON,	:	
	:	
Defendants.	:	
	:	
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ORDER GRANTING TRUSTEE'S MOTION FOR DEFAULT JUDGMENT

This matter is before the Court on the Motion for Entry of Default Judgment Against Kathy F. Martinson (“Motion”) filed by Neil C. Gordon, Chapter 7 Trustee (“Trustee”) for the substantively consolidated estates of CM Vaughn, LLC and Charles Michael Vaughn. (Docket No. 13). On March 2, 2010, Trustee filed a complaint in the above-styled adversary proceeding for avoidance and recovery of an alleged preferential and fraudulent transfers from Defendants John R. Martinson and Kathy Martinson pursuant to 11 U.S.C. §§ 544, 547(b), 548 and 550. A summons was issued commanding Defendants to file and serve an answer to the complaint. (Docket No. 2). According to the certificate of service, Defendants were served the summons and complaint by first class mail on March 3, 2009 in accordance with Rule 7004(b) of the Federal Rules of Bankruptcy Procedure. (Docket No. 3). On March 19, 2010, an alias summons was issued, and on March 23, 2010, Defendant John R. Martinson was served with the alias summons and complaint at a different address. (Docket No. 6). 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.” On April 15, 2010, Defendant John R. Martinson, filed and served an answer on his own behalf. To date, no answer or response has been filed by Defendant Kathy Martinson, and Defendant Kathy Martinson has failed to appear.

Entry of Default was made against Kathy Martinson on August 17, 2010, and Trustee thereafter filed the Motion. Plaintiff’s Motion seeks a default judgment against Defendant Kathy Martinson in the amount of \$10,000.00. Trustee seeks to avoid and recover two \$5,000.00 transfers from Debtors to Defendants made on December 14, 2007 and January 10, 2008. The transfers were a result of Debtors purported role as Defendants’ securities broker. However, the Trustee alleges

that CM Vaughn, LLC, through Charles Michael Vaughn, never engaged in a legitimate business. Instead, after acquired investments were allegedly used to pay returns to existing investors. In this action, the timing of these transfers is relevant in two ways. First, the transfers occurred before Debtors bankruptcy filing on March 3, 2008, comporting with the requisite timeframes for an avoidable preference and fraudulent transfer. 11 U.S.C. §§ 547(b)(4) & 548(a)(1). Second, these transfers were received by Defendants after the filing of their own Chapter 7 case in this district, Case No. 07-79356-PWB. Defendants' Chapter 7 discharge does not impact the Trustee's actions to avoid these transfers since the transfers did not involve any scheduled, or otherwise owing, personal liability existing at the time of Defendants' filed Chapter 7 on November 19, 2007. *See generally* § 727(b). Trustee's complaint and supporting affidavit allege specific facts to support judgment in favor of Trustee. Defendant Kathy Martinson has not sought to reopen the default, and Defendant does not appear to be an infant or incompetent person, or in the military service of the United States. Therefore, judgment against Defendant Kathy Martinson is warranted. Accordingly, it is

ORDERED that the Trustee's Motion for Default Judgment Against Kathy Martinson is hereby **GRANTED**.

The Clerk's Office is directed to serve a copy of this Order upon Trustee, his attorney, and Defendant.

A separate judgment in favor of Trustee will be entered contemporaneously with this Order.

END OF DOCUMENT