

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 13
)
NARVAL ROY MANGAL,) CASE NO. 08-69918 - MHM
)
Debtor.)

LARRY COHRAN,)
)
Movant,)
v.) **CONTESTED MATTER**
)
NARVAL ROY MANGAL and ADAM)
GOODMAN, Chapter 13 Trustee,)
)
Respondents.)

**ORDER TO TRUSTEE TO DISBURSE
FUNDS PER GARNISHMENT SUMMONS**

Debtor filed this Chapter 13 May 29, 2008 and filed a voluntary dismissal July 27, 2009 [Doc. No. 71], pursuant to which this case was dismissed by order entered July 28, 2009 [Doc. No. 72] ("Dismissal"). Upon Dismissal, the Standing Chapter 13 Trustee ("Trustee") held \$14,438.87, of which \$10,519.36 remained after payment of attorneys fees pursuant to the confirmed Plan and deduction of Trustee's compensation as provided in 28 U.S.C. §586(e) (the "Net Funds").

Larry Cohran ("Cohran") obtained a judgment for \$50,000.00 against Debtor May 27, 2008 in the Superior Court of Rockdale County, Georgia, Case No. 2005-CV-1613N ("Judgment"), obtained a *Writ of Fiera Facias* May 28, 2009, filed a garnishment proceeding August 7, 2009, in the Superior Court of Fulton County, Georgia ("State


Court”), No. 09GR050697HX (the “Garnishment”), and obtained a summons of garnishment in the amount of \$54,876.96, which Cohran served upon Trustee. On August 7, 2009, Cohran also filed a *motion for turnover of funds*, to require Trustee to respond to the Garnishment [Doc. No. 74], and hearing was set for September 25, 2009 (the “Hearing”). Trustee filed a response August 20, 2009, requesting determination whether the Net Funds should be disbursed to Debtor or to the State Court in response to the Garnishment [Doc. No. 78].

At the hearing, Debtor, Trustee and Cohran appeared and were heard. After full and complete review of the parties’ arguments, it appears that, given the circumstances of the facts in this case – *i.e.*, that the case has been dismissed so that the Net Funds in Trustee’s possession are returnable to Debtor – and application of the authority of *In re Brickell*, 142 Fed. Appx. 385 (11th Cir. 2005), Trustee should remit the Net Funds in his possession to the State Court by Answer pursuant to the summons of Garnishment. Accordingly, it is hereby

ORDERED that Trustee is directed to deliver the Net Funds, in the amount of \$10,519.36, to the State Court in the Garnishment.

The Clerk of Court shall serve this order upon Debtor, Debtor’s Attorney, Trustee and Cohran.

IT IS SO ORDERED, this the 16th day of October, 2009.



MARGARET A. MURPHY
UNITED STATES BANKRUPTCY JUDGE