



IT IS ORDERED as set forth below:

Date: December 17, 2012

Mary Grace Diehl

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

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

In re:	:	Case No. 09-71254-MGD
	:	
Swarna L. Thadikamalla,	:	Chapter 7
	:	
Debtor.	:	Judge Mary Grace Diehl
	:	
<u>Robert Trauner, as Chapter 7 Trustee</u>	:	
<u>for the Estate of Swarna L. Thadikamalla,</u>	:	
	:	
Plaintiff,	:	
v.	:	Adversary Proceeding No. 11-05233
	:	
Swarna L. Thadikamalla; Sohini Ayinala;	:	
Anuj Thadikamalla; Thadikamalla	:	
L.L.L.P.; and the Estate of Krisha	:	
Thadikamalla,	:	
	:	
Defendants.	:	
	:	

**ORDER GRANTING CHAPTER 7 TRUSTEE'S MOTION FOR
ENTRY OF FINAL JUDGMENT AGAINST DEFENDANT
SOHINI AYINALA IN THE AMOUNT OF \$26,000.00**

The chapter 7 Trustee moves for entry of a final judgment pursuant to Federal Rule of Civil Procedure 54(b) with respect to Count Eight of the Complaint. (Docket No. 54). Trustee was awarded partial summary judgment, on the September 28, 2012, including judgment in his favor under Count Eight, the avoidance and recovery of a \$26,000.00 post-petition transfer from Debtor to Defendant Sohini Ayinala. (Docket No. 51). Defendant did not oppose Trustee's motion for entry of final judgment.

This matter is a core proceeding under 28 U.S.C. § 157(b)(2) and jurisdiction over this action is set forth in 28 U.S.C. §§ 157(b) and 1334(b).

Ordinarily, an order adjudicating fewer than all the claims in a suit, or adjudicating the rights and liabilities of fewer than all the parties, is not a final judgment. *Lloyd Noland Found., Inc. v. Tenet Health Care Corp.*, 483 F.3d 773, 777 (11th Cir. 2007). However, Federal Rule of Civil Procedure 54(b), made applicable to this proceeding by Federal Rule of Bankruptcy Procedure 7054(a), allows the Court to direct entry of a final judgment as to one or more claims when multiple claims or parties are involved and, otherwise, the adjudication of only a portion of the claims would not constitute a final judgment. FED. R. CIV. P. 54(b).

There is an applicable two-step determination for certifying a claim as a final judgment under Rule 54(b):

First, the court must determine that its final judgment is, in fact, both “final” and a “judgment.” *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 7, 100 S.Ct. 1460, 1464, 64 L.Ed.2d 1 (1980). That is, the court's decision must be “ ‘final’ in the sense that it is ‘an ultimate disposition of an individual claim entered in the course of a multiple claims action,’ ” and a “ ‘judgment’ in the sense that it is a decision upon a cognizable claim for relief.” *Id.* (citing *Sears, Roebuck & Co. v. Mackey*, 351 U.S. 427, 436, 76 S.Ct. 895, 900, 100 L.Ed. 1297 (1956)). Second, having found that the decision was a final judgment, the district court must then determine that there is no

“just reason for delay” in certifying it as final and immediately appealable. *Id.* at 8, 100 S.Ct. at 1465. This inquiry is required because “[n]ot all final judgments on individual claims should be immediately appealable.” *Id.* The district court must act as a “dispatcher” and exercise its discretion in certifying partial judgments in consideration of “judicial administrative interests”-including “ ‘the historic federal policy against piecemeal appeals’ ”-and “the equities involved.” *Id.* (quoting *Sears, Roebuck & Co.*, 351 U.S. at 438, 76 S.Ct. at 901).

Lloyd Noland Found., Inc. v. Tenet Health Care Corp., 483 F.3d 773, 777-78 (11th Cir. 2007).

The bulk of the above-styled action involves the intersection of a dissolved limited liability limited partnership and the operation of a will and trust. However, Count Eight, is a distinct post-petition transfer of cash from Debtor to Defendant, which is separate from any partnership asset. The award of summary judgment to Trustee on County Eight fulfills the first requirement of determining that the decision is “final” and that the award of judgment relates to a cognizable post-petition avoidance and recovery claim. *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. at 7.

The second part of the analysis requires a finding that “there is no just reason for delay.” The nature of this claim, as distinct from the entangled claims regarding the effect of the partnership and will and trust, allow the court to find no reason for delay. Any appeal of this action does not disturb or prejudice the remaining claims, nor does it implicate the Trustee’s legal theory regarding the estate’s interest in the partnership. The simple facts of Count Eight allow the Court to certify the judgment as a final judgment under Rule 54(b). Accordingly, it is

ORDERED that Trustee’s Motion for certification and entry of final order is hereby **GRANTED** as to Count Eight.

Judgment against Defendant Sohini Ayinala will be entered separately.

The Clerk is directed to serve a copy of this Order to the parties on the attached distribution list.

END OF DOCUMENT

Distribution List

Robert Trauner
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