

Dated: May 30, 2008
The following is ORDERED:



Jennie D. Latta

Jennie D. Latta
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re
DONETA M. BECKHAM,
Debtor.

Case No. 05-31061-L
Chapter 7

Edward L. Montedonico, Chapter 7 Trustee,
Plaintiff,

v.
Doneta M. Beckham,
Mary Hayes, and Mike Tripp,
Defendants.

Adv. Proc. No. 06-00093

ORDER GRANTING MOTION
FOR PARTIAL SUMMARY JUDGMENT AND DENYING DISCHARGE

BEFORE THE COURT is the motion for partial summary judgment filed by the Plaintiff, Edward L. Montedonico, Chapter 7 Trustee. In support of the motion, the Trustee submitted a memorandum of law, a statement of undisputed facts, and an appendix of documents that he asserts establish that he is entitled to judgment as a matter of law. The Trustee seeks summary judgment as to Counts I and III of the Second Amended Complaint. Count I objects to the entry of discharge

on the basis of assets transferred and/or concealed pursuant to 11 U.S.C. § 727(a)(2)(A) and (B). Count III objects to entry of discharge on the basis of a false oath pursuant to 11 U.S.C. § 727(a)(4)(A) and (D). The Defendants, all represented by the same attorney, submitted an objection to the motion. After carefully reviewing the documents submitted by the Trustee, the Court is of the opinion that the motion should be granted and discharge denied. This is a core proceeding. 28 U.S.C. § 157(b)(2)(J).

I. STANDARD FOR GRANTING SUMMARY JUDGMENT

Pursuant to Federal Rule of Bankruptcy Procedure 7056, incorporating Federal Rule of Civil Procedure 56, the Court must enter summary judgment if there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56; *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). Rule 56(b) of the Federal Rules of Civil Procedure provides that a party against whom a claim is asserted “may, at any time, move with or without supporting affidavits for a summary judgment in the party’s favor as to all or any part thereof.” Fed. R. Civ. P. 56(b). Rule 56(c) further provides that “the judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c).

II. UNDISPUTED FACTS

The Trustee submitted a Statement of Undisputed Facts. The record supports each of the facts contained in the statement. The Debtor has not brought any of the facts listed by the Trustee into dispute. The undisputed facts upon which the Court bases its decision are as follows:

1. The Debtor admits that on July 25, 2005, she filed her Schedules and Statement of Financial Affairs (the “Original Schedules”) which are part of the court’s record at Doc. No. 1.¹ The Debtor declared under penalty of perjury that she had read the answers contained in the Original Schedules and that they were true and correct. (Answer ¶ 8) [TR 000002].²
2. On August 24, 2005, the Debtor signed a sworn statement under penalty of perjury stating the following:
 - (i) “I signed the Petition, Schedules, Statements and related documents filed the Court in this Case.”
 - (ii) “I have read the Petition, Schedules, Statements and related documents before I signed them.”
 - (iii) “I am personally familiar with the information contained in the Petition, Schedules, Statements and related documents filed with the Court in this Case.”
 - (iv) “To the best of my knowledge, the information contained in the Petition, Schedules, Statements and related documents filed with the Court in this Case.”
 - (v) “There are no omissions or errors in the Petition, Schedules, Statements and related documents filed with the Court except as follows: [interlineated] ‘2005 Income is \$5,484.00.’”
 - (vi) “All of my assets are listed in the Schedule herein except: [Blank]. [TR 000017].

¹ This Court may take judicial notice of the record in bankruptcy cases. *See Michigan Bell Telephone v. Strand*, 26 F. Supp. 2d 993, 996 (W.D. Mich. 1997) and *Johnson v. Internal Revenue Service*, 210 B.R. 134, 136 n.1 (Bankr. W.D. Tenn. 1997).

² Bracketed references to “TR 00000” refer to Bates numbered pages of the Appendix of documents attached to the Statement of Undisputed Facts filed by the Trustee.

3. The Debtor admits that on August 25, 2005, she filed an Amended Statement of Financial Affairs (the “Amended Statement of Financial Affairs”), which is part of the Court’s record at Doc. No. 6. The Debtor declared under penalty of perjury that she had read the answers contained in the Amended Statement of Financial Affairs and that they were true and correct. (Answer ¶ 11). [TR 000002].
4. The Debtor admits that on December 2, 2005, she filed an Amended Schedule B (the “Amended Schedule B”) which is part of the Court’s record at Doc. No. 28. The Debtor declared under penalty of perjury that she had read the answers contained in the Amended Schedule B and that they were true and correct. (Answer ¶ 13). [TR 000003].
5. The Debtor admits that after a 2004 Examination conducted on December 2, 2005, she filed another amendment to schedules B and C and her Statement of Financial Affairs (the “December 6 Amendments”) which are part of this Court’s record at Doc. No. 30. The Debtor declared under penalty of perjury that she had read the answers contained in the December 6 Amendments and that they were true and correct. (Answer ¶ 15). [TR 000003].
6. The Debtor admits that the Original Schedules, Amended Statement of Financial Affairs, Amended Schedule B and December 6 Amendments all bear the Debtor’s electronic signature stating under penalty of perjury that the answers are true and correct. [Answer ¶ 18) [TR 000003].

7. The Debtor admits she signed all of the papers where indicated. (Tr. 12/2/05 68:1-6). [TR 000157].
8. The Debtor admits that in her Original Schedules she represents that the only real property she owns is the real property located at 9017 E. Holmes Road, Memphis, TN 38125 and that none of the subsequent amendments alters this statement. (Answer ¶ 21) [TR 000003].
9. The Debtor admits that her Original Schedules reflect in response to Statement of Financial Affairs Question 1 that her income was \$33,048 in 2004. (Answer ¶ 25) [TR 000004].
10. The Debtor admits that her 2004 Tax return indicates that she in fact had income of \$111,780. (Answer ¶ 26) [TR 000004].
11. The Debtor admits that her Original Schedules reflect in response to Statement of Financial Affairs Question 1 that her income was \$19,278 in 2005. (Answer ¶ 25) [TR 000004].
12. The Debtor admits that she produced bank statements for the first seven (7) months of 2005 which reflect deposits of \$47,356.33. (Answer ¶ 27) [TR 000004].
13. The Debtor admits that her Original Schedules reflect in response to Statement of Financial Affairs Question 8 that she had no losses from fire, theft, casualty or gambling within one year immediately preceding the filing of the petition and none of the subsequent amendments alters this statement. (Answer ¶ 28) [TR 000004].

14. The Debtor admits that her 2004 tax return indicates that she in fact had gambling losses of at least \$16,201 in 2004. (Answer ¶ 29) [TR000004].
15. The Debtor admits that bank statements which she has produced indicate that she either wrote checks to casinos or withdrew from ATMs in Tunica, Mississippi, in the collective amount of \$37,172. in the year immediately preceding the filing of the petition. (Answer ¶ 30) [TR 000004].
16. The Debtor admits that her Original Schedules reflect in response to Schedule B Question 23 that she owns one 1992 Chevrolet Van and that none of the subsequent amendments alters this statement. (Answer ¶ 31) [TR 000004].
17. The Debtor admits that on the petition date, she was the registered owner of a 2002 Saturn VIN 1G8JW82R2YY674137. (Answer at ¶ 32) [TR 000004].
18. The Debtor admits that her Original Schedules reflect in response to Schedule B Question 5 that she owns no antiques and that none of the subsequent amendments alters this statement. (Answer ¶ 35) [TR 000005].
19. The Debtor admits that bank statements which she has produced indicate that she wrote checks to various antique stores within the one year immediately preceding the filing of the petition which total approximately \$3,664.61. (Answer ¶ 36) [TR 000005].
20. The Debtor admits that her Original Schedules reflect in response to Statement of Financial Affairs Question 10 that she has not transferred any property outside the ordinary course of business within the one (1) year

- immediately preceding the filing of the petition and that none of the subsequent amendments alters this statement. (Answer ¶ 34) [TR 000005].
21. The Debtor admits that her Original Schedules reflect on Schedule G that she is neither a lessee nor a lessor of any property and that none of the subsequent amendments alters this statement. (Answer ¶ 37) [TR 000005].
 22. The Debtor admits that her 2004 tax return indicates that she in fact had rental income from property located in Lawton, Oklahoma in 2004. (Answer ¶ 38) [TR 000005 and TR 000104].
 23. The Debtor admits that her Original Schedules do not disclose the existence of a pending EEOC charge filed by her against her former employer Federal Express. (Answer ¶ 39) [TR 000005].
 24. The Debtor admits that her Amended Schedule B filed on the date of the 2004 examination was the first disclosure of the existence of this cause of action and did not occur until it was apparent to the Debtor that the Trustee was going to examine her under oath concerning her schedules and assets. (Answer ¶ 39) [TR 000005].
 25. The Debtor admits that her Original Schedules reflect in response to Schedule B Question 19 that she holds no contingent or noncontingent interest in the estate of a decedent. (Answer ¶ 40) [TR 000005].
 26. The Debtor admits that it was not until after the commencement of the December 2, 2005 Rule 2004 examination that the Debtor revealed that she

was the Executrix and a beneficiary of the Estate of Alma Haastedt, her deceased mother. (Answer ¶ 40) [TR 000005].

27. The Debtor admits that she has received rental income for the property included in her mother's estate. (Answer ¶ 43) [TR 000005].
28. The Debtor admits that her Original Schedules reflect in response to Statement of Financial Affairs Question 14 that she is not holding any property for another person. (Answer ¶ 44) [TR 000003].
29. The Debtor admits that on January 26, 2006, at the scheduled hearing on her motion to convert, she produced three documents purporting to describe various items of property located at her E. Holmes Road residence which belong to other persons including her brother, Michael Tripp. (Answer ¶ 45). [TR 000005 and TR 000151-000155].
30. The Debtor admits that prior to the filing of her petition, she was the owner, by virtue of her outright ownership or as a beneficiary under the will of Alma Haastedt, a Kubota Tractor with accompanying accessories of a Great Bend Loader, Tuflin Box Blade and a New Woods Mower (collectively herein referred to as the "Tractor"). (Answer ¶ 46) [TR 000005].
31. The Debtor admits that after the filing of the bankruptcy petition, the Tractor was in her possession and located at her primary residence at 9017 E. Holmes Road, Memphis, Tennessee. (Answer ¶ 47) [TR 000005].

32. The Debtor admits that on or about December 1, 2005, she sold the Tractor to one Dr. R.H. Kay who purchased the Tractor for twelve thousand dollars (\$12,000). (Answer ¶ 49) [TR 000005].
33. The Debtor admits that this transaction was assisted through or alternatively brokered by Dr. Kay's daughter, Antrice Kay, and Fred Tanner, both neighbors of the Debtor. (Answer ¶ 50) [TR 000005].
34. The Debtor admits that the purchase was made by personal check in the amount of twelve thousand dollars (\$12,000) made payable to Antrice Kay and Fred Tanner with the notation of "Tractor/ Dee Beckham Tractor/ wanted cash." (Answer ¶ 51) [TR 000005].

III. LAW AND ARGUMENT

A. Count I, 11 U.S.C. § 727(a)(2)(A) and (B) (Transfers with Intent to Hinder, Delay or Defraud)

Section 727(a)(2)(A) and (B) preclude the Debtor's discharge when the Debtor has, with the intent to hinder, delay or defraud a creditor or officer of the estate charged with custody (a trustee), transferred, removed, destroyed, mutilated or concealed property of the debtor within one year before the filing of the case or property of the estate after the filing of the case. 11 U.S.C. § 727(a)(2)(A) and (B). The record supports the inference that the Debtor concealed from the Trustee various antiques that were purchased by her on the eve of bankruptcy and transferred or concealed property of the estate after the filing of the case consisting of the Kubota tractor and its proceeds.

1. Concealment of Antiques Purchased within the Year Preceding the Filing of the Case

The Debtor admits that her bank statements indicate that she wrote checks to various antique stores within one year immediately preceding the filing of the petition that total approximately

\$3,664.61. (Answer ¶ 36) [TR. 000005]. The Debtor admits that her original Schedules reflect in response to Schedule B Question 5 that she owns no antiques and that none of the subsequent amendments alters this statement. (Answer ¶ 35) [TR. 000005].

The Trustee produced photographs of the Debtor's home showing it to be packed with furniture and collectible items. [TR 000106-TR 000150]. In response, the Debtor produced three lists purportedly identifying numerous articles of personal property being held by her for other persons. [TR 000151-TR 000155]. In her Original Schedules, in response to Statement of Financial Affairs Question 14, the Debtor swore that she was not holding any property for another person. (Answer ¶ 44) [TR 000006]. Similarly, in response to a specific inquiry during her December 2, 2005 Rule 2004 Examination, the Debtor affirmatively stated that, other than items in her Mother's probate estate, she did not hold any property owned by another person. (Tr. 12/2/05 132:16-134:8) [TR 000151-TR 000163].

2. Transfer and Concealment of Property of the Estate After the Filing of the Case

The Debtor admits that prior to the filing of her petition, she was the owner of a Kubota tractor with accompanying accessories either by virtue of outright ownership or as a beneficiary under the will of Alma Haastedt. (Answer ¶ 47) [TR 000006]. The Debtor further admits that after the filing of the bankruptcy petition, the tractor was in her possession and located at her residence. (Answer ¶ 47) [TR 000006]. The Debtor admits that on or about December 1, 2005, she sold the Tractor to Dr. R. H. Kay for twelve thousand dollars (\$12,000). (Answer ¶ 49) [TR 000006]. The Debtor admits that this transaction was assisted by Dr. Kay's daughter, Antrice Kay, and Fred Tanner, both neighbors of the Debtor. (Answer ¶ 50) [TR 000006].

The Debtor admits that the purchase was made by personal check in the amount of twelve thousand dollars (\$12,000) made payable to Antrice Kay and Fred Tanner with the notation of “Tractor/Dee Beckham Tractor/wanted cash.” (Answer ¶ 51) [TR 000006]. The deposition of Fred Tanner indicates that the Debtor approached him during the first week of December 2005 stating that she needed to sell her tractor. (Depos. Fred Tanner 12/4/2006 16:4-6 and 10:15-18) [TR 000168 and TR 000165]. Mr. Tanner testified that the Debtor specifically asked for cash. (Tanner Depos. 12:3-9) [TR 000166]. Mr. Tanner testified that he handed the Debtor 120 \$100 bills for the \$12,000 purchase price. (Tanner Depos. 13:1-2) [TR 000167].

The Debtor concealed the proceeds of the sale of the Tractor, which constitute property of the bankruptcy estate either because the Debtor owned the tractor or because the tractor was property the Debtor was entitled to receive under her mother’s will. The Debtor knew that she was in a bankruptcy case when she sold this asset. This transaction took place within days of the Debtor’s December 2, 2006 Rule 2004 Examination. (Answer ¶ 49) [TR 000006] and (Tanner Depos. 16:4-6) [TR 0000168].

The timing and the circumstances surrounding the sale of the Tractor indicate intent to hinder, delay or defraud the Trustee as an officer of the estate entitled to possession of the property.

B. False Oath and Account – 11 U.S.C. § 727(a)(4)(A)

Section 727(a)(4)(A) of the Bankruptcy Code provides that a debtor’s discharge shall be denied if, in connection with the case, the debtor knowingly and fraudulently made a false oath or account. 11 U.S.C. § 727(a)(4)(A). The basis for this provision is founded on the premise that “complete financial disclosure” is a prerequisite to the privilege of discharge. *Peterson v. Scott (In re Scott)*, 172 F.3d 959 (7th Cir. 1999). The Sixth Circuit has set forth the following elements of a claim under § 727(a)(4)(A): (1) the debtor made a statement under oath; (2) the statement was

false; (3) the debtor knew the statement was false; (4) the debtor made the statement with fraudulent intent; and (5) the statement related materially to the bankruptcy case. *Keeney v. Smith (In re Keeney)*, 227 F.3d 679, 685 (6th Cir. 2000) (citing *Beaubouef v. Beaubouef (In re Beaubouef)*, 966 F.2d 174, 178 (5th Cir. 1992).

1. Statements Under Oath

Statements or omissions contained in a debtor's bankruptcy schedules qualify as occurring under oath for purposes of § 727(a)(4)(A). *Hunter v. Sowers (In re Sowers)*, 229 B.R. 151, 158 (Bankr. N.D. Ohio 1998). *See also In re West*, 328 B.R. 736, 749 (Bankr. S.D. Ohio 2004) ("Statements made in a debtor's petition, schedules, and statement of financial affairs are made under oath." (citing *Hamo v. Wilson (In re Hamo)*, 233 B.R. 718, 725 (6th Cir. BAP 1999)). Further, the Debtor admits that she signed all of the papers where indicated. (Tr. 12/2/05 68:1-6; Required Statement by Debtor for 341 Hearing August 24, 2005) [TR 000157 and TR 000017].

2. False Statements

Numerous false statements and omissions are set forth above and in the Trustee's statement of undisputed facts.

First, the Debtor substantially understated her income in her Statement of Financial Affairs. The Debtor elected not to disclose her income for 2003, reported income of \$33,048 in 2004, and \$19,278 for the year 2005.³ The Debtor's tax return reflected income of \$111,780 for 2004. (Answer ¶ 26) [TR 000004]. The Debtor has admitted that during the year 2004 she had gross monthly income of \$8,500 (or (\$102,000 annually) from disability (2004 Exam. Tr. 12/6/05 76:16-77:1) [TR 000158-000159]. Further she admits that she cashed in an insurance policy of \$5,000

³ The Original Schedules reflect the \$19,278 figure for 2005; however, the Amended Statement of Financial Affairs and the December 6 Amendments reflect only \$5,400 in income for 2005.

(2004 Exam Tr. 12/6/05 77:17-20) [TR 000159]. Finally, the Debtor admits that she took at least \$90,000 from her mother's probate estate comprised of \$70,000 cash and \$20,000 in stocks. (2004 Exam. Tr. 12/6/05 79:10-17) [TR 000160]. Thus, all told, it appears that the Debtor had gross income of approximately \$197,000 for the year 2004.⁴ The Debtor understated her income for the year 2004 by more than \$163,952. The Debtor also admits that she made deposits into her bank accounts for the first seven (7) months of 2005 that totaled \$47,356.33. (Answer ¶ 27) [TR 000004]. Nevertheless, she asserts that she received at most \$19,278.

Second, the Debtor failed to list any gambling losses in response to Question 8 in her Statement of Financial Affairs. (Answer ¶ 28) [TR 000004]. The Debtor admits that she in fact had gambling losses of at least \$16,201 in 2004. (Answer ¶ 29) [TR 000004]. The bank statements the Debtor produced indicate checks to or ATM transactions at or near casinos totaling over \$35,000 in the year preceding the filing of her case. (Summary of Bank Records [TR 000015-000016]).

Third, the Debtor failed to list any antiques in her Original Schedules or any amendments thereto. She admits, however, that she wrote checks totaling \$3,664.61 to various antique stores in the year preceding the filing of her case. Nearly \$800 of these purchases occurred within 45 days of the filing of her case. (Summary of Bank Records [TR 000015-000016]). The Trustee discovered the Debtor's home to be filled with furniture and collectible items. [TR 000106-TR 000150]. When confronted about the numerous items of personal property located at her residence and after numerous attempts to have the Debtor produce documents, the Debtor produced three lists purportedly identifying numerous articles of personal property being held by her for other persons. [TR 000151-TR 000155]. The Debtor stated in her Original Schedules, however, that she was not

⁴ This figure is arrived at as follows: $\$8,500 \times 12 = \$102,000 + \$5,000$ insurance policy + \$90,000 in cash and stocks from probate estate = \$197,000.

holding any property for another person. (Answer ¶ 44) [TR 000006]. In the December 2, 2005 Rule 2004 Examination, the Debtor also affirmatively stated that, other than items in her mother's probate estate, she did not hold any property owned by another person. [Tr. 12/2/05 132:16-134:8) [TR 000151-TR 000163]. The Debtor filed amended Schedules B and C and an amended Statement of Financial Affairs four days later, but made no disclosure concerning property held for another. (Answer ¶ 15) [TR 000003].

Fourth, the Debtor failed to disclose her ownership of or interest in the Kubota tractor even though she wrote a check to U-Haul to rent a trailer to "move tractor" on August 12 (less than 2 weeks before her first amendments to her Schedules).

Fifth, the Debtor failed to disclose her interest in real property in Lawton, Oklahoma, despite the fact that her 2004 tax return indicates that she in fact had rental income from that property in 2004. (Answer ¶ 38) [TR 000005 and TR 000104].

Sixth, the Debtor listed ownership of only one motor vehicle, a 1992 Chevrolet Van, when in fact she was the registered owner of a 2002 Saturn (Answer ¶ 32) [TR 000004].

3. Knowingly False

A statement is knowingly false when it is a material representation that the debtor knows to be false or an omission that the debtor knows will create an erroneous impression. *In re Keeney*, 227 F.3d at 686. Demonstrating that the debtor knew the truth but nonetheless failed to give information or gave contradictory information may satisfy the requirement that the debtor know that his statements or omissions were false. *In re Sowers*, 229 B.R. at 158-59 (citing *Pigott v. Cline (In re Cline)*, 48 B.R. 581 (Bankr. E.D. Tenn. 1985)).

In *Sowers*, the court found it "incredulous" that the debtors failed to remember that they had recently obtained three hundred thousand dollars (\$300,000) from the sale of assets and therefore

found that the debtors did knowingly make a false statement. *Id.* at 159. Likewise, the Court finds it incredulous that Ms. Beckham failed to recall and disclose that she received funds of approximately \$197,000 the year immediately preceding the filing of her bankruptcy case when that figure is almost six times more than the figure she listed.

Additionally, the Debtor spent nearly \$800 at antique stores in the 45 days immediately before the filing of her case, but failed to disclose that she owned any antiques. The Debtor also wrote a check to U-Haul to rent a trailer to “move tractor” on August 12 (less than 2 weeks before her first amendments to her Schedules), yet she failed to list a tractor anywhere in her schedules.

Finally, the Debtor’s production of lists of property allegedly held for third persons contravenes any assertion of memory loss. The list allegedly created by Mrs. Ella DuBose indicates that the listed items were delivered to the Debtor in April 2005. [TR 000155]. Thus, if believed at all, the Debtor received the items within 90 days before the filing of her case in July of 2005.

These misrepresentations and their timing, like those in *Sowers*, lead to the conclusion that the Debtor’s contention that she did know or remember the truth is simply incredible.

4. Fraudulent Intent

Intent to defraud may be shown by a debtor’s reckless disregard for the truth or falsehood of a representation. The court may deduce that intent from all the facts and circumstances of a case. *In re Keeney*, 227 F.3d at 685. “As such, an always important consideration in an analysis under § 727(a)(4)(A) is whether there exists a pattern of errors and omissions.” *Id.* at 685 (citing *Overly v. Guthrie (In re Guthrie)* 265 B.R. 253, 263 (Bankr. M.D. Ala. 2001)). Specifically, a long string of deficiencies becomes impossible to ignore. *In re Keeney*, 227 F.3d at 686. A Chapter 7 debtor’s multiple inaccuracies in her petition and schedules, taken cumulatively, evidences a cavalier disregard for the truth serious enough to supply the necessary fraudulent intent required to deny a

debtor's discharge. *Seeds v. Eigsti (In re Eigsti)*, 323 B.R. 778, 785 (Bankr. M.D. Fla. 2005). When circumstances indicate a pattern of repeated errors, there simply is no possibility that the Debtor can offer a sufficient and reasonable explanation for the amount of misinformation and omissions contained in their bankruptcy schedules. *In re Sowers*, 229 B.R. at 160.

Here the Debtor's fraudulent intent is demonstrated by her (i) gross omissions of income and funds received in prior years; (ii) failure to disclose real and personal property; and (iii) intentional misrepresentations regarding substantial gambling losses in prior years. The Debtor has clearly and repeatedly misrepresented her prior and present financial situation in this bankruptcy case through multiple omissions and misrepresentations. The undisputed facts demonstrate intent to defraud.

5. Material Relation

The subject of a false oath is legally material if it “bears a relationship to the bankrupt's business transactions or estate, or concerns the discovery of assets, business dealings, or the existence and disposition of his property.” *In re Keeney*, 227 F.3d at 685 (quoting *Beaubouef v. Beaubouef (In re Beaubouef)*, 966 F.2d 174, 178 (5th Cir. 1992)). The Debtor's sole argument in opposition to the Trustee's motion was that the errors and omissions in her prior statements were simply immaterial. The sheer number of errors belies this assertion. Further, the Debtor's numerous omissions of income and misrepresentations of assets and their value relate to her former business, business dealings, and disposition of her property and are, therefore, legally material.

IV. CONCLUSION

Despite the Court's prior order of default, the Debtor was given an opportunity to rebut any of the facts contained in the record supplied by the Trustee and was given an opportunity to argue that summary judgment should not be entered against her. Despite these liberalities, the Debtor failed to raise any genuine issue of material fact and failed to put forward any persuasive legal

argument in her favor. The record established by the Trustee demonstrates that the Debtor concealed her own property and property of the estate both before and after the filing of her case, and that the Debtor knowingly and fraudulently made false oaths in connection with her case. Accordingly, the Trustee's motion for partial summary judgment is **GRANTED**. The Debtor's discharge is **DENIED** pursuant to 11 U.S.C. §§ 727(a)(2)(A) and (B) and (a)(4).

cc: Debtor
Attorney for Debtor
Plaintiff
Attorney for Plaintiff
Defendants
Attorney for Defendants
United States Trustee