

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	
)	
JOSH RICHARDSON,)	
)	
Debtor(s).)	CASE NO. BK06-81538-TJM
<u>RAYMOND & CARRIE STREHLOW,</u>)	A06-8121-TJM
)	
Plaintiffs,)	CH. 7
)	
vs.)	
)	
JOSH RICHARDSON,)	
)	
Defendant.)	

ORDER

This matter is before the court on the plaintiffs’ amended motion for summary judgment (Fil. #30) and resistance by the defendant-debtor (Fil. #31). William Switzer, Jr., represents the debtor, and Dean Jungers represents the plaintiffs. The motion was taken under advisement as submitted without oral arguments.

The motion is denied.

This adversary proceeding was filed under 11 U.S.C. § 727(c) to object to the discharge of the debtor’s debts. Specifically, the plaintiffs allege in their complaint that the debtor made a false oath and account in his bankruptcy petition and schedules by omitting and concealing income and understating the value of an asset.

Summary judgment is appropriate only if the record, when viewed in the light most favorable to the non-moving party, shows there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Fed. R. Civ. P. 56(c) (made applicable to adversary proceedings in bankruptcy by Fed. R. Bankr. P. 7056); *see, e.g., Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249-50 (1986); *Aviation Charter, Inc. v. Aviation Research Group/US*, 416 F.3d 864, 868 (8th Cir. 2005); *Ferris, Baker Watts, Inc. v. Stephenson (In re MJK Clearing, Inc.)*, 371 F.3d 397, 401 (8th Cir. 2004). The party moving for summary judgment has the initial burden of proving there is no genuine issue as to any material fact. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 160 (1970).

The local rules of this court require a motion for summary judgment to be accompanied by supporting evidentiary materials, a brief, and a statement of material facts as to which the movant contends there is no genuine issue. Neb. R. Bankr. P. 7056-1.A. The pending motion is devoid of any supporting evidence or any factual basis for granting it. Therefore, it must be denied.

IT IS ORDERED the defendant-debtor's resistance (Fil. #31) to the amended motion for summary judgment is sustained. The amended motion for summary judgment (Fil. #30) is denied. The case is currently scheduled for trial on the afternoon of September 24, 2007.

DATED: September 17, 2007

BY THE COURT:

Timothy J. Mahoney
Chief Judge

Notice given by the Court to:

William Switzer, Jr.

*Dean Jungers

Thomas Stalnaker

U.S. Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.