

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Andrei Leon Gill, Sr.,

Chapter 7

Debtor.

**Bankruptcy No.
12-33419**

**UNITED STATES TRUSTEE'S NOTICE OF HEARING AND
MOTION TO APPROVE SETTLEMENT OF DISMISSAL OF CHAPTER 7 CASE WITH
PREJUDICE**

COMES NOW the United States Trustee through his undersigned attorney, Colin Kreuziger, and moves the Bankruptcy Court to approve the following In support of his motion, he states the following:

1. The Court will hold a hearing on this motion at 11:30 a.m. on December 4, 2012, before the United States Bankruptcy Court, Courtroom 2A, U.S. Courthouse, 316 N. Robert St. Saint Paul, Minnesota.

2. Any response to this motion must be filed and delivered not later than November 29, 2012, which is five days before the time set for the hearing. Local Bankruptcy Rule 9006-1. UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

3. This motion is filed pursuant to Fed. R. Bankr. P. 2002(a) and 9014, and Local Bankruptcy Rule 5005-1. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 1334 and 157(a), Fed. R. Bankr. P. 5005, and Local Rule 1070-1. This proceeding is a core proceeding. The debtor filed a chapter 7 petition on June 5, 2012. The United States Trustee now requests that the Court approve the attached stipulation of dismissal of chapter 7 case with prejudice, pursuant to 11 U.S.C. § 707(a). (See Ex. 1.)

4. The Bankruptcy Code provides: “The court may dismiss a case under this chapter only after notice and a hearing and only for cause.” 11 U.S.C. § 707(a). Fed. R. Bankr. P. 2002(a) provides that, in a chapter 7 case, the debtor, the trustee and all creditors are entitled to at least 21 days’ notice of “the hearing on the dismissal of the case.”

5. The proposed stipulation of dismissal of chapter 7 case with prejudice sets forth the underlying facts. The stipulation resolves anticipated litigation without further proceedings. In addition, it relieves the debtor of the burden of appearing for a Rule 2004 examination and complying with the United States Trustee’s subpoena *duces tecum*. The stipulation is in the best interest of creditors because the debtor will not receive a discharge of his debts, and creditors will be able to resume collection efforts, if they choose, upon dismissal of this case. The United States Trustee believes that the stipulation constitutes ample cause to dismiss this bankruptcy case. In addition, on information and belief, Christensen Law Office, PLLC, which filed an adversary proceeding against the debtor, has no objection to the proposed stipulation. This motion and the accompanying stipulation have been served on the debtor, the chapter 7 trustee, and all creditors. Under these circumstances, it is appropriate to grant the motion to approve the settlement and dismiss this case with prejudice.

WHEREFORE, the United States Trustee requests that the Bankruptcy Court approve the stipulation of dismissal with prejudice and enter the proposed order filed with the Court.

Dated:

November 8, 2012
DANIEL M. MCDERMOTT,
UNITED STATES TRUSTEE
Region 12

/e/ Colin Kreuziger
Colin Kreuziger
Trial Attorney
MN Atty # 0386834
Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Andrei Leon Gill, Sr.,

Chapter 7

Debtor.

Bankruptcy No. 12-33419

STIPULATION OF DISMISSAL OF CHAPTER 7 CASE WITH PREJUDICE

The debtor and the United States Trustee, enter into the following stipulation:

RECITALS

1. The debtor filed a voluntary chapter 7 petition on June 5, 2012.
2. On August 27, 2012, Christensen Law Office, PLLC filed an adversary complaint against the debtor. The complaint alleges that the debtor received \$98,497.61 from Darlla Gravdal, a vulnerable adult, in March of 2006. In addition, the complaint alleges that Mr. Gill received \$99,100 when he refinanced the property located at 4328 Irving Avenue North in June of 2007.
3. The United States Trustee filed a motion to extend time to object to discharge and file motion to dismiss on September 4, 2012. The United States Trustee filed an application to examine the debtor pursuant to Fed. R. Bankr. P. 2004 on September 13, 2012. The Court approved the application on September 14, 2012. On September 18, 2012, the Court issued an order extending the deadline for the United States Trustee to object to discharge and file a motion to dismiss to November 5, 2012.
4. The United States Trustee issued a subpoena *duces tecum* in connection with a Rule 2004 examination that was scheduled for October 16, 2012. The debtor requested additional time to comply with the subpoena *duces tecum*. The debtor and the United States

Trustee agreed that the Rule 2004 examination could be rescheduled to a later date. On October 18, 2012, the parties filed a stipulation to extend time to object to discharge and file motion to dismiss. On October 19, 2012, the Court entered an order extending the deadline for the United States Trustee to object to discharge and file a motion to dismiss to December 5, 2012.

5. The parties seek to avoid further litigation related to the United States Trustee's investigation of the debtor's financial affairs, including actions pursuant to § 727(a) or § 707(a) and (b). In addition, the debtor seeks to avoid appearing for a Rule 2004 examination and producing documents pursuant to the subpoena *duces tecum* served by the United States Trustee. The parties have entered into the following agreement, which the parties believe is fair and reasonable.

AGREEMENT

The parties agree:

1. That this case shall be dismissed upon the granting of a motion to approve this stipulation of dismissal of chapter 7 case with prejudice.
2. That the debtor shall not file another chapter 7 bankruptcy petition for one year following the entry of the order dismissing this case.

Dated: November 8, 2012

The Law Office of Rosalind R. Sullivan

DANIEL M. MCDERMOTT,
UNITED STATES TRUSTEE
Region 12

/e/ Rosalind R. Sullivan

Rosalind R. Sullivan, Atty No. 0305753
1022 Oliver Ave N
Minneapolis, MN 55411
ATTORNEYS FOR DEBTOR

/e/ Colin Kreuziger

Colin Kreuziger, MN Atty. No. 0386834
Trial Attorney
Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 334-1350

Minneapolis, MN 55415
(612) 334-1350

VERIFICATION

I, Colin Kreuziger, trial attorney for the United States Trustee, the movant named in the foregoing motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: November 8, 2012

Signed: /e/ Colin Kreuziger
Colin Kreuziger
Trial Attorney

**UNITED STATES BANKRUPTCY COURT
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Chapter 7

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MEMORANDUM OF LAW

The United States Trustee through his undersigned attorney, Colin Kreuziger, files this Memorandum of Law in support of his motion to approve stipulation of dismissal of chapter 7 case with prejudice.

The Bankruptcy Code provides: “The court may dismiss a case under this chapter only after notice and a hearing and only for cause.” 11 U.S.C. § 707(a). Fed. R. Bankr. P. 2002(a) provides that, in a chapter 7 case, the debtor, the trustee and all creditors are entitled to at least 21 days’ notice of “the hearing on the dismissal of the case.”

As discussed in the motion accompanying this memorandum, the proposed stipulation of dismissal of chapter 7 case with prejudice sets forth the underlying facts. The stipulation resolves anticipated litigation without further proceedings. It represents a reasonable compromise between the United States Trustee, who believes that an objection to the debtor’s discharge pursuant to 11 U.S.C. § 727(a) would be successful, and the debtor, who seeks to avoid such litigation. In addition, the stipulation relieves the debtor of the burden of appearing for a Rule 2004 examination and complying with the United States Trustee’s subpoena *duces tecum*. The stipulation is in the best interest of creditors because the debtor will not receive a discharge of his debts, and creditors will be able to resume collection efforts if they choose upon dismissal of this

case. The United States Trustee believes that the stipulation constitutes ample cause to dismiss this bankruptcy case. In addition, on information and belief, Christensen Law Office, PLLC, which filed an adversary proceeding against the debtor, has no objection to the proposed stipulation. This motion and the accompanying stipulation have been properly served on the debtor, the chapter 7 trustee, and all creditors, in compliance with Fed. R. Bankr. P. 2002. Under these circumstances, it is appropriate to grant the motion to approve the settlement and dismiss this case with prejudice.

Dated:

November 8, 2012
DANIEL M. MCDERMOTT
UNITED STATES TRUSTEE
Region 12

/e/ Colin Kreuziger
Colin Kreuziger
Trial Attorney
MN Atty # 0386834
Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
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UNSWORN CERTIFICATE OF SERVICE

The undersigned states under penalty of perjury that on November 8, 2012, she electronically filed the United States Trustee's Notice of Hearing and Motion to Approve Stipulation of Dismissal of Chapter 7 Case with Prejudice, Exhibits, Verification, Memorandum of Law, and proposed Order, thereby causing electronic service on the debtor's counsel and the chapter 7 trustee. She also served the following entities by first class mail postage prepaid to the addresses listed below:

Addressee(s):

Andrei Leon Gill, Sr.
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Minneapolis, MN 55411

Stewart Title Guaranty Company
c/o Brian W. Varland
Coleman, Hull & van Vliet, PLLP
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ASC
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Des Moines IA 50368

AT&T
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Aurora IL 60572-8212

ATG Credit LLC
PO Box 14895
Chicago IL 60614

Allied American Credit, LLC
P.O. Box 3766
Spokane WA 99220-3766

America's Lending Group
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Minneapolis MN 55430

America's Lending Group, Inc.
6713 Colfax Ave N
Minneapolis MN 55430

America's Lending Group, Inc.
6713 Colfax Ave N
Minneapolis MN 55430-1515

American Accounts and Advisers
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Cottage Grove MN 55016

American Express
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Los Angeles CA 90096

Americas Lending

Appraisals by Zora
52602 190th Place
McGregor MN 55760

Arrow Financial
5996 West Touhy Ave
Niles IL 60714

Bank of America
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Wilmington DE 19886-5726

Bank of America
PO Box 15710
Wilmington DE 19886

Bank of America Card Services
P.O. Box 982234
El Paso TX 79998-2234

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Carol Stream IL 60188

Bottled Culligan Water Condi
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Rosemount IL 60018

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Centerpoint Energy
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Minneapolis MN 55440

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The Lakes NV 88901-6028

Citibank-Sears Card
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GE Money Bank-JC Penney
P.O. Box 960090
Orlando FL 32896-0090

HSBC Bank Nevada NA
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Carol Stream IL 60197

HSBC Bank Nevada NA - Menards
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Carol Stream IL 60197

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Portfolio Recovery Associates
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Spire Federal Credit Union
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World Wide Management

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/e/ Audrey Williams
Office of the United States Trustee
Audrey Williams

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Andrei Leon Gill, Sr.,

Debtor.

Chapter 7

**Bankruptcy No.
12-33419**

ORDER

The debtor and the United States Trustee have entered into a Stipulation of Dismissal of Chapter 7 Case with Prejudice. Based on the stipulation,

IT IS ORDERED:

1. The Stipulation of Dismissal with Prejudice is approved.
2. This case shall be dismissed.
3. The debtor shall not file another chapter 7 bankruptcy petition for one year following the entry of this order.

Dated:

Gregory F. Kishel
Chief United States Bankruptcy Judge