

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH DAKOTA  
ROOM 211  
FEDERAL BUILDING AND U.S. POST OFFICE  
225 SOUTH PIERRE STREET  
PIERRE, SOUTH DAKOTA 57501-2463

IRVIN N. HOYT  
BANKRUPTCY JUDGE

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July 1, 2004

Terry J. Sutton, Esq.  
Counsel for Debtors  
Post Office Box 1053  
Watertown, South Dakota 57201

K&J Cycle, Creditor  
Attention: Janet Lohrenz  
428 West Park  
Sheldon, Iowa 51201

Subject: *Scott Peterson v. Wayne Dullerud, et al.*  
(*In re Scott A. Peterson*), Adversary No. 04-1011;  
Chapter 7; Bankr. No. 02-10036

Dear Mr. Sutton and Ms. Lohrenz:

The matter before the Court is the complaint by Debtor Scott Peterson under 11 U.S.C. § 523(a)(3) to have declared discharged certain debts that he failed to list in his bankruptcy schedules and the answer thereto filed by creditor K&J Cycle. This is a core proceeding under 28 U.S.C. § 157(b)(2). This letter decision and accompanying order shall constitute the Court's findings and conclusions under Fed.R.Bankr.P. 7052. As set forth below, a judgment for Debtor will be entered and the subject debts will be declared discharged.

*Summary of material facts.* Scott A. Peterson ("Debtor") filed a Chapter 13 petition in bankruptcy on February 21, 2002. His Chapter 13 case was converted to a Chapter 7 case on January 28, 2003. He received a discharge of debts on April 29, 2003.

On April 20, 2004, Debtor filed a complaint against several creditors, including K&J Cycle. He stated that he owed each of these creditors money before he filed bankruptcy but that he forgot to list them on his schedules of liabilities. Regarding K&J Cycle's claim in particular, he said he owed K&J Cycle \$353.00. Relying on the special provisions set forth at § 523(a)(3) of the Bankruptcy Code (Title 11), Debtor asked the Court to declare these unsecured debts discharged since none of his listed creditors had received any payment of their claims through the bankruptcy process.

K&J Cycle answered the complaint on April 28, 2004. It said that its claim arose from used parts it purchased but never



AT&T  
c/o Fidelity National Credit Services  
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Orange, CA 92857

Anesthesia Physicians  
PO Box 5126  
Sioux Falls, SD 57117

Capital One  
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11013 West Broad St.  
Glenn Allen, VA 23060

Credit Collections Bureau  
PO Box 9490  
Rapid City, SD 57702

Wayne Dullerud  
47420 271st Street  
Sioux Falls, SD 57101

JNR Adjustments  
PO Box 27070  
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K and J Cycle  
428 West Park Street  
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Sioux Valley Hospital  
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