



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

**TRENK, DiPASQUALE, WEBSTER,
DELLA FERA & SODONO, P.C.**
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West Orange, New Jersey 07052
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Attorneys for John M. McDonnell
Chapter 7 Trustee

In re:

PETER IAN CUMMINGS,

Debtor.

Case No. 10-14433 (MBK)

Chapter 7

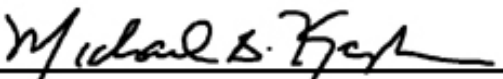
Honorable Michael B. Kaplan

Hearing Date: August 2, 2010 at 2:00 p.m.

**CONSENT ORDER APPROVING SETTLEMENT OF CONTESTED
MATTERS PURSUANT TO FED. R. BANKR. P. 9019(a)**

The relief set forth on the following pages, numbered two (2) through seven (7), is hereby
ORDERED.

DATED: 8/3/2010



Honorable Michael B. Kaplan
United States Bankruptcy Judge

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Debtor: Peter Ian Cummings

Case No.: 10-14433 (MBK)

Caption of Order: Consent Order Approving Settlement of All Contested Matters Pursuant to Fed. R. Bankr. P. 9019

THIS MATTER, having been presented to the Court by John M. McDonnell, Chapter 7 Trustee (the “Trustee”) for debtor Peter Ian Cummings (the “Debtor”), by and through his counsel, Trenk, DiPasquale, Webster, Della Fera & Sodono, P.C., upon the filing of a motion pursuant to Rule 9019(a) of the Federal Rules of Bankruptcy Procedure seeking entry of an order approving a settlement of contested matters (the “Motion”) and granting such other relief as the Court deems just and proper; and notice having been provided to the Office of the United States Trustee, the Privacy Ombudsman appointed in the within proceeding, all creditors and all other parties-in-interest as set forth in the Certification of Service; and the Court having considered the pleadings filed by the Trustee in support of his Motion and opposition thereto, if any; and the Court having further reviewed the Application of the Trustee submitted in further support of the Motion; and for other good cause shown;

IT IS ORDERED that:

1. The settlement agreement executed on July 9, 2010, by and between the Trustee and Peter Larson, Martin Shmagin, XY Residuary Corp. and Innovative Financial Solutions, Ltd. and attached to the Verified Application in Support of the Trustee’s Motion as Exhibit “A” (the “Settlement Agreement”) be and is hereby approved in its entirety, except as provided in paragraphs 2, 3, 4 and 5 hereof.
2. The exclusion to the waiver of claims against the Estate and the Debtor contained in paragraph 2 of the Settlement Agreement shall, on consent of the parties, be stricken and omitted from the Settlement Agreement.

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3. The Trustee's abandonment of the Estate's right, title and interest in the Intellectual Assets (as defined in the Settlement Agreement) to the Debtor pursuant to paragraph 5 of the Settlement Agreement will be limited as follows:
 - a. all of the Intellectual Assets containing personally identifiable information (as defined in 11 U.S.C. § 101(41A) ("PII"), except those assets listed in paragraphs 3(b) and 4 herein, shall not be reproduced or used by the Debtor in any manner and shall be destroyed¹ by, or at the direction of, the Debtor within 14 days of the Debtor's receipt of funds from the Trustee (in accordance with a separate consent order between the Debtor and the Trustee).² Within five (5) business days thereof, the Debtor shall file a Certification with the Bankruptcy Court verifying that all of the personally identifiable information contained in the Intellectual Assets has been destroyed.
 - b. All of the other Intellectual Assets (as defined in the Settlement Agreement), including those items listed in Schedule B-22 of the Debtor's bankruptcy schedules, shall remain the exclusive and exempt property of the Debtor.
4. Notwithstanding the foregoing, Debtor estimates that XY received approximately 400 back-issue orders from 2008 and 2009 that remain unfulfilled. Debtor is

¹ The method of destruction should be by shredding, erasing, or otherwise modifying the PII contained in the Intellectual Assets to make such PII unreadable, undecipherable or non-reconstructable through generally available means.

² To the extent that any of the Intellectual Assets are in the possession of a party other than the Debtor the obligations contained in Paragraph 3 herein apply to that party.

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hereby authorized to retain the last names and back issue names and/or numbers pertaining to those customer orders for the sole purpose of authenticating those customers who contact Debtor to fulfill such back-issue orders. For purposes of clarity, Debtor is prohibited from using this information to contact or locate any customers using this information.

5. The specific Domain Names (as defined in the Settlement Agreement) that will be transferred pursuant to paragraph 4 of the Settlement Agreement are: “xy.com”, “xymag.com”, “xydoc.com”, and “xypost.com”. The domain names “xypeter.com”³ and “xysearch.org”⁴ as well as the email address xypeter@aol.com, and those domain names set forth on Exhibit A hereto (“Non-XY Domain Names”), will NOT be transferred as part of the within settlement and will remain the exempt property of the Debtor. Exhibit A containing the Non-XY Domain Names will not be filed with the Bankruptcy Court but is hereby incorporated herein by reference. The following parties have been provided with

³ Debtor will not represent himself as being XY. Any site developed at the address “xypeter.com” will carry a disclaimer in bold letters on the first page of the site that will be seen by all those who log on to the “xypeter.com” site. The disclaimer must state: “Peter Ian Cummings is no longer associated with XY Magazine or XY.com in any manner whatsoever. If you wish to contact XY Magazine or XY.com please visit (hyperlink to xy.com). If your inquiry pertains to an unfulfilled back issue of XY Magazine, please go to (hyperlink to xysearch.org).”

⁴ Debtor has registered the currently undeveloped domain name “xysearch.org” for the sole purpose of searching for customers who believe they have unfulfilled orders for back issues of the magazine. All parties consent that the Debtor may post a website at “xysearch.org” solely to receive notices from parties requesting their missing orders. Such website must be used only for this purpose and must contain a disclaimer on the front page of the site stating in bold letters that the project to search for and fulfill such orders for back issues of the magazine is a voluntary project of Debtor, and is not connected with the current owners of XY Magazine.

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a copy of Exhibit A: the Court, the Debtor, the Trustee, the Trustee's counsel, the Ombudsman, Peter Larson, Martin Shmagin, and Bonnie Pollack, Esq. These parties are not permitted to share, verbally or in writing, the contents of Exhibit A with any person or entity other than the Court, the Debtor, the Trustee, the Trustee's counsel, the Ombudsman, Peter Larson, Martin Shmagin, and Bonnie Pollack, Esq. The Debtor will provide the Court with a certification to be filed on the docket of the Debtor's case that the domain names set forth on Exhibit A do not relate to XY magazine's business.

6. The Debtor, as confirmed on the record at the hearing on the Motion, hereby agrees to and hereby does withdraw his objection to approval of the Settlement Agreement (as amended herein) as if the same had not been filed.
 7. The Debtor, as acknowledged on the record at the hearing on the Motion, does not object to the Trustee taking all actions required by the Settlement Agreement as modified by the within Consent Order.
 8. The Debtor, as acknowledged on the record at the hearing on the Motion, hereby acknowledges that upon entry of this Consent Order, the Debtor will have no further right, title and interest in and to the Domain Names (as modified by paragraph 5 herein), the Trademarks (including without limitation any statutory or common law Trademarks), and the Debtor's stock interest in XY Residuary (as all such terms are defined in the Settlement Agreement).
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9. Upon the within Consent Order becoming a Final Order, Peter Larson, Martin Shmagin, XY Residuary Corp. and Innovative Financial Solutions, Ltd. withdraw all objections to the Debtor receiving a discharge in accordance with 11 U.S.C. § 727. The Trustee does not object to the Debtor receiving a discharge in accordance with 11 U.S.C. § 727. Therefore, at such time as is otherwise applicable under the United States Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, the Debtor shall receive a Discharge Order in accordance with Form 18 published by this Court.
10. The Trustee is hereby authorized to take any and all action in furtherance of discharging his obligations pursuant to the Settlement Agreement.

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CONSENTS APPENDED HERETO:

***WE HEREBY CONSENT TO THE FORM,
CONTENT AND ENTRY OF THE WITHIN ORDER:***

**TRENK, DiPASQUALE, WEBSTER
DELLA FERA & SODONO, P.C.**

Counsel for John M. McDonnell, Chapter 7 Trustee

By: /s/ Shoshana Schiff
SHOSHANA SCHIFF

Dated: August 2, 2010

CULLEN AND DYKMAN LLP
*Counsel for Peter Larson, Martin Shmagin,
XY Residuary Corp. and Innovative Financial Services*

By: /s/ Bonnie Pollack
BONNIE POLLACK

Dated: August 2, 2010

PETER CUMMINGS
Pro Se Debtor

By: /s/ Peter Cummings
PETER CUMMINGS

Dated: August 2, 2010

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