

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

1
2 IN THE MATTER OF :

3 RUBLE L. HECK DANCE,

CASE NO. 98-12425 (SEK)

4 DEBTOR

CHAPTER 7

*Filed and
Entered
12/21/00
G. Lopez*



5
6
7 OPINION AND ORDER

8 Before the Court are two motions filed by the Debtor,
9 acting as his own attorney in these matters. These motions
10 ask for a reconversion of this case to one under Chapter 13,
11 and for my recusal based on my having displayed a pattern of
12 bias against this Debtor, and on my having violated Canons 2,
13 3(C) (1) (d) (ii), 3(D) and 3(A) (5) of the Code Of Conduct for
14 United States Judges. For the reasons stated below, we deny
15 Debtor's requests to vacate our order converting this case and
16 recuse myself from continuing to act as the judge in this
17 case.
18

19 With respect to these motions, the record of this second
20 voluntary petition for bankruptcy filed by Mr. Heck under
21 Chapter 13 of the U.S. Bankruptcy Code shows the following.

22 1. I confirmed his second proposed Chapter 13 plan dated
23 February 19, 1999, subject to the outcome of an adversary
24 proceeding which his former Counsel indicated would filed
25 shortly, challenging the secured portion of Isleta Marina's (
26



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(42)

1 Isleta) claim and/or its validity. (See docket entries 15 &
2 16.)

3 2. I confirmed the plan subject to the outcome of the
4 mentioned proceeding, based on the favorable recommendation of
5 the Trustee and an agreement reached with Banco Popular de
6 Puerto Rico. This plan called for Mr. Heck to pay the Trustee
7 \$100.00 for the first four months, \$2,068.00 for the next
8 fifty six months for a base of \$116,252.37, permitting the
9 Trustee to disburse funds paying 100% of the allowed claims,
10 plus 6% interest. Aside from payments of fees to the Trustee
11 and Counsel, and a general statement requiring payment of
12 priorities, the plan provided the Trustee would disburse
13 \$50,000, plus 6% interest to Banco Popular de P.R. (See
14 docket entry 12.)

15 3. Debtor defaulted. By the hearing date he was
16 thirteen months in arrears and had not filed the adversary
17 proceeding challenging Isleta Marina's secured claim number 1.
18 (See docket entries 20, 25 & 26.)

19 4. Isleta Marina then filed a motion to dismiss the
20 case, opposed by the Debtor, and heard on July 19, 2000. (See
21 docket entries 17, 20, 25/ & 26.)

22
23 5. After ascertaining that Mr. Heck was not asking for
24 my recusal, I granted him a cap of sixty days to obtain new
25 counsel, and/or appear pro se to supplement his opposition to
26 the motion to dismiss.

1 6. Instead, he filed a new motion for summary judgment
2 and later on, a memorandum of law. This motion attempted to
3 renew a dismissed adversary proceeding 97-0065 and did not
4 address the question of substantial arrears raised in the
5 pending motion to dismiss.

6 7. I then entered two opinions. One narrated the events
7 which caused me to question on my own the propriety of
8 continuing as a judge in this case, concluding there was no
9 reason in law for me to remove myself. The other one
10 converted this case to one under Chapter 7, based on Mr.
11 Heck's statements during this hearing. (See docket entries 29
12 & 30.)

13 8. Mr. Heck then filed the pending motions.
14 *Mr. Heck's Request that we vacate our Order converting this*
15 *case to one under Chapter 7*

16 Mr. Heck asks us to reconsider and vacate this order for
17 three reasons. First, he denies making the statement cited in
18 our order converting the case during the July 19th hearing.
19 Second, he denies stating that he was a candidate for Chapter
20 7, or that his expressions during the hearing could be
21 construed as a request for conversion. Third, he refers to
22 motion for summary judgment he filed after the hearing as
23 evidence that during the hearing he did not intend us to
24 construe his statements as a request for conversion to Chapter
25 7. This motion was filed instead of the authorized
26

1 supplementation to his opposition of Isleta's motion to
 2 dismiss which the Trustee had joined.¹ The motion seeks to
 3 revive dismissed adversary proceeding 97-0065, which formed
 4 part of the record of dismissed case 97-10919.² The motion
 5 tries to incorporate most of the pleadings in the dismissed
 6 proceeding, which he wants me to use as the basis for ordering
 7 the release of his vessel and awarding him damages.

8 With respect to the first two reasons, we still hold
 9 that: (1) he made the statements quoted in our September 11th
 10 order of conversion, and (2) in view of Mr. Heck's statements
 11 during this hearing, there were only two remedies we could
 12 grant under law: dismissal or conversion of this case to one
 13 under Chapter 7.³ Mr. Heck admitted he had not complied with

14 _____
 15 ¹ See transcript of the hearing at pp. 14-17.

16 ² This case was dismissed because Mr. Heck was not making payment
 17 under his proposed Chapter 13 plan and did not provide evidence of
 18 having a regular income required by section 109(e) to qualify for
 relief under Chapter 13. He was in the business of chartering his
 boats. See docket entry 25 in case number 97-10919.

19 ³ He states the following during the July 19, 2000, hearing.
 20 Well, I'd like to emphasize that the payment plan that was
 approved was contingent. The marina was included in the payment
 plan.

21 ...

22 It was contingent upon the outcome of the adversarial that was
 23 to be filed. This adversarial was... was filed and it was written.

24 It was written and included as an exhibit in the motion, in my
 latest motion. It was never... it was never filed.

25 It was an adversarial complaint against Isleta Marina in excess
 of five hundred thousand dollars for their complete destruction of my
 illegally seized vessel.

26 And for some reason it still hasn't been filed although the

1 the confirmed plan and that he desperately wanted this court
2 to retain jurisdiction so that he could again challenge what
3 he characterized as an illegal seizure of his vessel ordered
4 by the state court and the vessel's subsequent destruction.
5 Under these circumstances, I construed his request as one for
6 conversion, as the only other alternative available under the
7 law was the requested dismissal.

8 Lastly, Mr. Heck states I again misinterpreted him
9 because his motion for summary judgment shows his intention
10 was to continue under Chapter 13 so he could control the suit

11 _____
12 filing fee was paid. I did my part.

13 Now, this payment plan obviously has gone by the waste side.
14 But my conditions are much the same in that I had a lot of assets
15 coming into this, before the illegal seizure.

16 In 1995 my financial statement showed a net worth approaching
17 four hundred thousand dollars. This was t Banco Popular and it was
18 for an SBA loan which was approved... and given.

19 Those assets have dwindled considerably but I still have more
20 assets than I have liabilities and they're currently negotiations in
21 the works that will...will reduce the base filed for 50%.

22 I'm at somewhat of a disadvantage in that my file still has not
23 been returned to me by Attorney Cardona. I've requested [it] several
24 times.

25 He has a motion in the Court where he wants to withdraw. He's
26 waiting for orders from this Court to tell him that he can give me my
file back. I still don't have it.

But I do have assets. I'm not a Chapter 7 candidate. I am a
Chapter 13. I qualify under it.

I'm now resigned to the fact that I have to sell off my assets.
That I've been...I've been forced to sell off my assets. I'm forced
to give up business.

All of this is because of the illegal actions of Isleta Marina.
Of course they'd like to go back to the State Courts. They do pretty
good over there.

I am not ready to go back to the State Courts. So, that in a
nutshell is where I stand on this.

Transcript, supra, at pp. 9-10.

1 that had not been filed against Isleta for the illegal seizure
2 and damages, rather than handing this matter over to a Chapter
3 7 trustee. I agree that Mr. Heck wanted to prosecute any suit
4 to recuperate his vessel and damages. However, he could not
5 do so while in Chapter 13, if he did not comply with the terms
6 of his confirmed plan, and did not file the matter as an
7 adversary proceeding invoking Fed. R. Bank. P. 7001⁴. Again,
8 a material default of the confirmed plan calls for a dismissal
9 or conversion of the case. 11 U.S.C. § 1307.

10 Hence, I construed Debtor's statements as requesting the
11 only remedy available to him under the circumstances of his
12 admitted default: a conversion to Chapter 7. This conversion
13 allowed him to defeat the creditor's motion to dismiss this
14 case, it opened the way for challenging the vessel's seizure,
15 destruction and an award of resulting damages. It allowed Mr.
16 Heck to remain within the jurisdiction of the federal courts,
17 and hopefully, have the U.S. Trustee appoint a panel Chapter 7
18 trustee who is also an attorney to prosecute the action on
19 behalf of the estate. It broke the pattern of serial filings
20 which did not solve Debtor's main problem. Lastly, it
21 afforded Mr. Heck an opportunity to obtain a Chapter 7
22 discharge. For these reasons, I construed Mr. Heck's
23

24
25 ⁴ Mr. Heck knows this matter needs to be filed as an adversary
26 proceeding and he did so in his previous bankruptcy case by filing
and prosecuting pro se an adversary complaint number 97-00065.

1 expressions during the July 19th hearing as a request for
2 conversion to Chapter 7. For these same reasons, I deny the
3 pending motion to for reconversion to Chapter 13.

4 *Mr. Heck's request that I recuse myself based on violations*
5 *of the Code of Conduct for United States Judges*

6 *A. A pattern of bias, 28 U.S.C. section 455(b)(1)*

7 Mr. Heck avers I have demonstrated a pattern of bias
8 against him as a pro se debtor by not "giving him a fair
9 shake". He does not elaborate. The law defines bias as "'an
10 attitude toward the petitioner that is significantly
11 different from and more particularized than the normal,
12 general feelings of society at large.'" Wright, Miller &
13 Cooper, Federal Practice and Procedure: Jurisdiction 2d §
14 3542, pp. 557-558. This bias "'must stem from an
15 extrajudicial source and result in an opinion on the merits
16 on some basis other than what the judge learned from his
17 participation in the case.'" Id. at 559. Debtor has not met
18 this standard in his present pleading.

19 Debtor avers the pattern of bias is shown by my entering
20 orders converting this case to Chapter 7 and deciding not to
21 recuse myself on September 11th, rather than waiting another
22 eight days until September 19th, when the 60 day cap granted
23 during the July 19th hearing elapsed. The transcript of that
24 hearing shows Mr. Heck asked for and was granted a sixty day
25 cap for obtaining new counsel who could amend his answer to
26

1 Isleta's motion to dismiss, or he could do so himself within
2 that time. He stated that he intended to do so as soon as
3 possible. Instead, he filed the motion for summary judgment
4 described above. We then ruled on Isleta's motion to dismiss
5 and Mr. Heck's opposition as supplemented by the July 19th
6 hearing. These facts cannot serve as a basis for showing
7 that I have displayed a pattern of bias against Debtor in
8 this case.

9 *B. An appearance on impropriety, 28 U.S.C. section 455*
10 *(a)*

11 Debtor does not elaborate, or explain what he means by
12 this allegation contained in the 10th paragraph of his
13 motion. I have previously examined this matter on my own in
14 my Opinion and Order docketed on September 11, 2000. I have
15 re-read this opinion and find that there is nothing more that
16 I can say, so I incorporate it as my response to this portion
17 of Debtor's motion.

18 *C. "A judge should dispose promptly of the business of*
19 *the Court." Canon 3(A) (5)*

20 Here Debtor alludes to his previously dismissed case no.
21 97-10919 and dismissed adversary proceeding no. 97-0065. I
22 dismissed that case and the adversary proceeding because
23 Debtor did not prove he had a regular income allowing him to
24 qualify for the protection afforded by Chapter 13. In
25 response, I incorporate the docket entries and my rulings
26

1 entered in Mr. Heck's previous case and in the dismissed
2 adversary proceeding. These show I have complied with this
3 Canon.

4 *D. I did not follow the procedure for a waiver during*
5 *the July 19th hearing, 28 U.S.C. section 455(e)*

6 The fifth paragraph of Debtor's motion states I did not
7 give him the option during the July 19th hearing of waiving
8 his right to seek my recusal based on the appearance of
9 impropriety as set forth in section 455(e), Title 28 of the
10 United States Code. Section 455(e) may be followed once the
11 judge determines she should recuse herself based on the
12 appearance on impropriety.

13 The record shows Mr. Heck did not file a motion for my
14 recusal before the July 19th hearing. He did publish an
15 article in our English speaking paper which I asked him
16 during the hearing if it meant he wanted me to recuse myself.
17 When he stated that the article was inaccurate and he did not
18 want me to disqualify myself, I examined the matter on my
19 own, ultimately deciding that there were no grounds for me to
20 recuse myself. See my incorporated September 11th opinion and
21 transcript of that hearing.
22

23 Thus, I did not have to follow section 455(e) procedure
24 during the July 19th hearing.

25 *E. I did not recuse myself even though my son-in-law*
26 *acted as an attorney for a creditor and party in this*

1 case, 28 U.S.C. Section 455 (b) (5) (ii)

2 Debtor does not contradict, nor question my narration of
3 the facts contained in my September 11th opinion. These show
4 Debtor's statements in paragraph seven of his motion
5 concerning my son-in-law are incomplete. This paragraph
6 portrays a distorted picture. Without the distortion, there
7 is no reason for me to recuse myself, as I explained in my
8 incorporated September 11th opinion.

9 Lastly, Mr. Heck is truly mistaken when he claims I
10 should recuse myself because Isleta, through my son-in-law,
11 has "an open line of communication into this Court's Judge's
12 chambers put[ting] debtor at an unfair disadvantage." Mr.
13 Heck was fully aware that Félix was my son-in-law when he
14 sent the August 21st letter. He was aware when he sent the
15 August 21st letter that my son-in-law was not Isleta Marina's
16 counsel of record in this case. Mr. Heck was fully aware in
17 February of 2000, that all matters concerning his vessel
18 should be addressed to Attorney Fúster Martínez who has
19 always been Isleta Marina's counsel of record. Yet, Mr. Heck
20 insists on communicating with my son-in-law on matters
21 concerning the safety of his vessel during the impending
22 hurricane season. By his own actions Mr. Heck seeks to
23 create the illusion that Isleta "has a direct line of
24 communication into this Judge's chambers" by initiating such
25
26

1 contacts. The reasons why I had access to his August 21st
 2 letter is also explained by me in the September 11th Opinion.
 3 In reality, Mr. Heck is trying to manipulate the system so
 4 that I recuse myself because he does not agree with my
 5 rulings. This is not a ground for a lawful recusal, even
 6 though I have no particular desire to remain as the judge in
 7 this case.

8 WHEREFORE, for reasons stated above we deny both of Mr.
 9 Heck's motions.

10 SO ORDERED, in San Juan, Puerto Rico, on December 20,
 11 2000.



SARA DE JESUS
 U.S. Bankruptcy Judge

12
 13 cc: Deloitte
 14 J. H. Cannon
 15 J. Zerbe
 16 U.S. District
 17 Clerk of Court
 18 Manuel Foster
 19 file
 12/21/00

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

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1 IN THE MATTER OF :

2 RUBLE L. HECK DANCE,
3 DEBTOR

FILED & ENTERED
SEP 11 2000
CLERK
BANKRUPTCY COURT
SAN JUAN, PUERTO RICO

CASE NO. 98-12425 (SEK)
CHAPTER 13

4
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6 OPINION AND ORDER

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8 During the hearing held on July 19th, the Court raised the
9 question of recusal *motu proprio* due to Debtor's statements contained
10 in a newspaper article he wrote, published by the San Juan Star on
11 June 19, 2000, and on allegations in his answer to Inversiones Isleta
12 Marina Inc.'s (Isleta) pending motion to dismiss. Debtor's
13 statements suggests this judge might not be able to decide the matter
14 impartially because my son-in-law represents Isleta, a creditor in
15 this case, who before the filing of this and Mr. Heck's previous
16 petition "illegally" attached or arrested Debtor's main asset, a
17 boat, the Indigo. Debtor claims this seizure caused substantial
18 damages for which Isleta should be held liable. As pertinent, the
19 newspaper article states:

20 Felix Roman Carrasquillo: Attorney representing Isleta
21 Marina. He refused to release the 'Indigo' to a
22 prospective buyer who was willing to pay Isleta more than
23 their judgment against the 'Indigo.' Román was verbally
24 abusive and slanderous regarding me. The other significant
fact is that his mother-in-law is the judge presiding over
my case in the U.S. Bankruptcy Court.

Judge Sarah DeJesus: U.S. Bankruptcy Judge who has presided
over this continuing saga since Sept. 25, 1997. I would

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question her judgment in remaining on the case in the light of the fact her son-in-law Félix Román is counsel for Isleta Marina.

1 The U.S. Bankruptcy Court found every reason to void
2 the seizure and return the property to me. Unfortunately,
3 the Bankruptcy Court merely took my Emergency Motion for
4 Release under advisement, held it for eight months without
5 decision and then dismissed my complaint without taking any
6 action.

7 I then filed a new bankruptcy petition five days
8 later, and I'm still there, pending the hearing scheduled
9 for July 19th.

10 Before hearing argument on the pending motion to dismiss we
11 asked Mr. Heck in the presence of his resigning Counsel, if there was
12 anything he wished to add to his allegations seemingly requesting
13 recusal due a conflict of interest leading to partiality. He answered
14 the following:

15 I wanted to say that in the newspaper article that was
16 edited out I said that I had no questions of your
17 integrity.

18 That didn't make it into print but no, I don't have
19 any problems with your integrity and your being able to
20 look at this fairly.

21

22 I don't have anything to add other [than] to say that
23 I think I'll get every opportunity and probably rather than
24 it working against me you're going to hold those people to
25 a higher standard.

26 So, that will be my final word there.

See transcript of the hearing, docket entry 26, pp. 4 & 5.

After examining the record and inquiring about by son-in-law's representation of Isleta in this proceeding, this Court agrees with Mr. Heck's assessment that the published article and his opposition to the motion to dismiss are incomplete and inaccurate.

A. The Record.

1 Mr. Heck filed his first petition under Chapter 13 of the U.S.
2 Bankruptcy Code on October 2, 1997. It was assigned to my docket
3 under case number 97-10919. Shortly thereafter, Mr. Heck appearing
4 *pro se* filed adversary proceeding 97-0065 against Isleta in an
5 attempt to recuperate the Indigo and damages caused by its "illegal"
6 seizure. The docket shows the injunctive relief was resolved
7 promptly. The trial on the remaining causes of action was scheduled
8 for March 18, 1998, and post trial memoranda were submitted by April
9 24th.

10 Meanwhile, Banco Popular de P.R. filed a motion to dismiss the
11 case, subsequently joined by another request for dismissal filed by
12 the Chapter 13 Trustee. The parties asked for and were granted time
13 to settle. When settlement was not forthcoming, we dismissed the
14 case on August 28, 1998, stating Mr. Heck failed to produce evidence
15 of a regular monthly income, or of having paid the Trustee monthly
16 installments due under his proposed plan and thus, did not qualify
17 for Chapter 13 relief under 11 U.S.C. § 109 (e). See docket entry 25
18 in case number 97-10919. This resulted in a dismissal of the pending
19 adversary proceeding.

20 Manuel E. Fuster Martínez, an attorney whose practice is located
21 on the east coast in the town of Guayama, represented Isleta in this
22 case and in the adversary proceeding.

23 On September 2, 1998, Mr. Heck, now represented by counsel
24 Cardona Jiménez, filed his second voluntary petition for bankruptcy
25 under Chapter 13. It was also assigned to my docket. Isleta was
26

once again represented by Mr. Fuster.

1 Mr. Heck proffered four plans. The last one dated February 15,
2 1999, was favorably recommended by the Trustee and we confirmed it by
3 order entered on February 25, 1999. This plan does not provide for
4 the sale of the Indigo, nor does it require the Court to retain
5 jurisdiction over any estate asset. We confirmed this plan subject
6 to the outcome of an adversary proceeding which Debtor stated would
7 be filed, challenging the secured portion of Isleta's claim. The
8 adversary proceeding has not been filed.

9 Isleta filed a motion to dismiss the case joined by the Trustee,
10 because Debtor is not paying his monthly installments as required by
11 the confirmed plan. Mr. Heck opposed the motion and it was scheduled
12 for hearing on July 19th. We held the hearing and the matter is under
13 advisement for sixty days as per agreement reached in open Court with
14 Mr. Heck, Isleta and the Trustee. See transcript of the July 19th
15 hearing, docket entry 26.

16 B. The Inquiry.

17 Despite Mr. Heck's expressions of confidence in this judge's
18 impartiality and ability to decide the matter fairly, the Code of
19 Judicial Ethics requires a judge to recuse himself when a family
20 member related by blood or marriage within the third degree,
21 intervenes in the proceeding under consideration, has some interest
22 (financial or otherwise) that could be substantially affected by the
23 proceeding's outcome, or is faced with a situation in which the
24 judge's impartiality might reasonably be questioned. Hence, I needed
25 to corroborate Mr. Heck's statements concerning my son-in-law's
26

1 involvement in these proceedings, as thus far I knew of no
2 involvement by Félix in this case, in the former case and its
3 adversary proceeding, with Isleta, or with Mr. Heck and the Indigo.
4 This inquiry shows my son-in-law has not participated in cases
5 numbers 97-10919, 98-12425 or in adversary proceeding 97-00065.

6 Isleta hired Félix in March of 1999, to evict Mr. Felipe
7 Espinal, operator of the marina's parking area. On or about October
8 4, 1999, Mr. Heck visited the marina claiming he had procured a buyer
9 for the boat. Isleta's personnel referred him to Félix. Mr. Heck
10 called Félix who answered he had no knowledge of the case and could
11 not help him. The next day Mr. Heck sent him a fax informing him of
12 his transactions with the local Marshals and of his attempts to
13 recuperate the vessel. Félix relayed this information to Isleta's
14 principals who responded he was not to worry about this matter that
15 was being handled by attorney Manuel Fuster.

16 On October 19, 1999, Mr. Heck sent Félix a second fax because
17 hurricane José was expected to hit the Island, he was worried about
18 his boat's safety. He indicated he intended to hold Isleta liable
19 for any damages caused by the hurricane unless Isleta agreed to
20 release the boat placing it in his custody.

21 Félix did not hear from Mr. Heck again until some time in late
22 December, 1999, or early January, 2000, when attorney José Antonio
23 Tulla contacted him on behalf of Mr. Heck stating that there was a
24 potential buyer and that they should agree to sell the vessel as it
25 was deteriorating. Félix answered that he could not help him as Mr.
26 Heck was in bankruptcy, referring him to Mr. Fuster. Mr. Tulla

1 responded that Mr. Heck informed him he was no longer in bankruptcy
2 and asked for copies of Isleta's statements of Mr. Heck's account.
3 Félix answered he would send him copy of the statements, verify
4 whether Mr. Heck was in bankruptcy, and relay the information to
5 Isleta. He mailed the statements to Mr. Tulla on February 14, 2000,
6 obtaining a copy of the docket of case number 97-10919 the next day.
7 It showed that case was indeed dismissed and closed. He was unaware
8 of Mr. Heck's second case number 98-12425 pending before this judge.

9 On February 23rd, Félix called Mr. Tulla indicating Isleta
10 wanted to settle and would require a full release. Atty. Tulla
11 answered that Mr. Heck would not agree to a full release. Isleta
12 then instructed Félix to contact Mr. Fuster, inform him of the
13 situation so that Mr. Fuster could proceed with the case pending in
14 the state courts. Félix complied. At this moment attorney Fuster
15 informs him of Mr. Heck's second petition for bankruptcy pending in
16 this court. Félix relays this news to Mr. Tulla, adding that
17 settlement options remained open until the end of February, and
18 advising him this matter should be channeled through Atty. Fuster who
19 was handling Isleta's representation in the bankruptcy case.

20 Mr. Heck sent Félix yet another letter dated August 21, 2000 due
21 to the forecasted impact of hurricane Debbie, similar in content and
22 in tone to his October 19, 1998 letter. Félix sent a copy of this
23 letter by FAX to this judge and has taken no action.

24 The issue is whether Mr. Heck's article published in the
25 newspaper and the information this judge obtained from her *ex parte*
26 inquiry call for a disqualification under 28 U.S.C. § 455(a) & (b).

28 U.S.C. § 455(a) (b) (1) (4)&(5) (ii) state:

(a) Any justice, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

....

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

....

(ii) Is acting as a lawyer in the proceeding.

Hence, the law requires a judge to disqualify himself when there is an appearances of impartiality, as well as when there are situations the law specifies as events of partiality.

C. Recusal Due to Partiality Under Subsection 455 (b).

First, both the record and the inquiry show my son-in-law did not and has not acted as a lawyer in either one of Mr. Heck's bankruptcy two cases and in the adversary proceeding assigned to my docket. Isleta has been represented by other counsel during all phases of both cases. Mr. Heck's continued attempts to contact my son-in-law concerning the safety or sale of his boat and Félix'

responses do not qualify as "acting as lawyer in the proceeding".¹
Diversifoods, Inc. v. Diversifoods, Inc., 595 F. Supp. 133, 137
(D.C.N.D. Ill. E.D. 1984).

Second, one could argue Félix has an interest in this case because as a young, sole practitioner, every client, including Isleta, is meaningful and is a potential source of income. However, both the record and the "The Inquiry" show that Félix was retained by Isleta to handle other matters, not Mr. Heck's case. His ability to retain Isleta as a client and his remuneration will depend on his work and the results he obtains in those other matters, and are not be affected by the outcome of this case. There is no evidence he received any remuneration from Isleta stemming from his responses to Mr. Heck's continuous attempts to contact him concerning the Indigo. In sum, Félix represents Isleta in other matters, and this Court does not consider this representation, nor his responses to Mr. Heck's contacts, as his having a pecuniary or substantial nonpecuniary interest in this case requiring my disqualification.

Third, this Court also concludes the record of these cases and "The Inquiry" do not point to a bias or prejudice on my part requiring disqualification. Knowledge obtained from dismissed or current judicial proceedings do not constitute bias within the meaning of the statute. Liteky v. U.S., 510 U.S. 540, 114 S. Ct. 1147, 127 L. Ed.2d 474 (1994). The outcome of Isleta's pending motion to dismiss will depend on Mr. Heck's compliance with the

¹ When hurricane Debbie threatened the Island, Mr. Heck again sent a letter by FAX to my son-in-law along the same lines and tone as the October 19th letter described above in "The Inquiry".

1 monthly payments to the Trustee under the confirmed plan. The plan
2 does not state these payments are contingent upon Mr. Heck's being
3 able to recuperate the Indigo, or on any damage award due to its
4 illegal seizure. It does not call for the sale of the vessel.
5 Hence, Mr. Heck's allegations against Isleta and his contacts with my
6 son-in-law cannot affect the outcome of Isleta's motion to dismiss.
7 Therefore, any knowledge this judge obtained from her inquiry does
8 not constitute "knowledge of evidentiary facts concerning the
9 proceeding" requiring recusal from this case.

10 D. Recusal Due to an Appearance of Partiality Under Subsection
11 455 (a).

12 After the opinion of Liljeberg v. Health Services Acquisition
13 Corp., 486 U.S. 847, 856, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988),
14 it is clear that "...§ 455 (a) can be violated based on an appearance
15 of partiality , even though the judge was not conscious of the
16 circumstances creating the appearance of impropriety...". It is
17 enough that the public might reasonably believe the judge knew of
18 facts creating an appearance of impropriety. Liljeberg, 486 U.S. at
19 860. This is so because "the goal of section 455 (a) is to avoid
20 even the appearance of partiality". Liljeberg, Id. Thus, "under
21 section 455 (a)...recusal is required even when a judge lacks actual
22 knowledge of the facts indicating his interest or bias in the case if
23 a reasonable person, knowing all the circumstances, would expect that
24 the judge would have actual knowledge". Liljeberg, 486 U.S. at 860-
25 861.

26 However, the decision to recuse oneself due to an appearance of

1 impartiality requires a judge to strike a delicate balance between
2 upholding the policy of appearance of impartiality thereby promoting
3 public confidence in the federal judiciary, and the use of this
4 section as a "tactical weapon" triggered by those who seek to
5 manipulate the system to obtain a judge which they feel would be more
6 favorable. In re Cargill, Inc., 66 F. 3d 1256 (1st Cir. 1995); In re
7 United States, 158 F. 3d 26 (1st Cir. 1998); In re Allied-Signal,
8 Inc., 891 F. 2d 967 (1st Cir. 1989).

9 As the Senate Judiciary Committee explained when recommending
10 the adoption of this section²:

11 '[In] assessing the reasonableness of a challenge to his
12 impartiality, each judge must be alert to avoid the
13 possibility that those who would question his impartiality
14 are in fact seeking to avoid the consequences of his
15 expected adverse decision. Disqualification for lack of
16 impartiality must have a reasonable basis. Nothing in
17 [§ 455(a)] should be read to warrant the transformation of
18 a litigant's fear that a judge may decide a question
19 against him into a "reasonable fear" that the judge will
20 not be impartial. Litigants ought not have to face a judge
21 where there is a reasonable question of impartiality, but
22 they are not entitled to judges of their own choice.'

23 In re Kansas Public Employees Retirement System, 85 F. 3d 1353, 1358-
24 1359 (8th Cir. 1996) (quoting 13A Wright, Miller & Cooper, Federal
25 Practice and Procedure: Juris 2d § 3549, at 623-24).

26 The issue came to public view when the San Juan Star published
the newspaper article penned by Mr. Heck. While publicly questioning
the propriety of this judge continuing to preside over the case, Mr.
Heck has not supplied any new information. Thus, his charge is not

² S. Rep. No. 93-419, 93d Cong., 1st Sess. 5 (1973) (quoted in 13A
Wright, Miller & Cooper, Federal Practice and Procedure: Juris
2d § 3549. at 623-24).

1 supported by a factual basis, but is based on incomplete and
2 incorrect information, and on innuendos that might be derived
3 therefrom.

4 "Second, disqualification is appropriate only if the facts
5 provide what an objective, knowledgeable member of the public would
6 find to be a reasonable basis for doubting the judge's impartiality.
7 Were less required, a judge could abdicate in difficult cases at the
8 mere sound of controversy or a litigant could avoid adverse decisions
9 by alleging the slightest of factual bases for bias." In re United
10 States of America, 666 F. 2d 690, 695 (1st Cir. 1981). An objective
11 and knowledgeable member of the public would readily see that Isleta's
12 motion to dismiss is not related to Mr. Heck's allegations concerning
13 the Indigo. The reason for the requested dismissal is lack of
14 payments. These payments were never tied to Mr. Heck's prosecution
15 of a suit against Isleta, or the recuperation or sale of the Indigo.
16 There is no evidence to show that a knowledgeable, reasonable man
17 would find this judge would "jettison h[er] impartiality ...[or]
18 violate h[er] deepest professional and ethical commitments as a
19 judge" to favor her son-in-law. Id. at 696. There are but
20 suspicions, based on erroneous information published as fact by a
21 newspaper. Disqualification based on appearance of partiality is not
22 judged by the standard of "Caesar's wife", the standard of mere
23 suspicion. In re Allied-Signal, 891 F. 2d at 970. Although a
24 reasonable person may not always be fair or accurate, a reasonable
25 person knowing the facts now available would conclude Mr. Heck was
26 attempting to manipulate the system for strategic reasons, mentioned

in his colloquy during the July 19th hearing: " I don't have anything to add other than to say that I think I'll get every opportunity and probably rather than it working against me you're going to hold those people to a higher standard." See transcript at 5.

This judge has no desire to cling to this case involving an angry debtor who represents himself without being a lawyer and who has accused almost everyone involved with his case or the Indigo of committing improprieties. But, the standards requiring a recusal have simply not been met. Therefore, this judge agrees with Mr. Heck's conclusion and finds disqualification is not necessary given the record and the inquiry.

SO ORDERED, in San Juan, Puerto Rico, on September 7, 2000.

cc: *Deata*
Carri
Justice
Clerk
Windy

SJA
SARA DE JESUS
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

1 IN THE MATTER OF :

2
3 RUBLE L. HECK DANCE,
4 DEBTOR

FILED & ENTERED

SEP 11 2000

CASE NO. 98-12425 (SEK)
CHAPTER 13

**U.S. BANKRUPTCY COURT
DISTRICT OF PUERTO RICO**

7 ORDER DENYING A MOTION TO DISMISS AND
8 GRANTING DEBTOR'S REQUEST TO CONVERT
9 THIS CASE FILED UNDER CHAPTER 13
10 TO A CASE UNDER CHAPTER 7

11 Inversiones Isleta Marina, Inc. filed a motion to dismiss
12 because Debtor was not paying his monthly installments due to the
13 Chapter 13 Trustee under the confirmed plan. The Trustee joined the
14 motion during the July 19th hearing. At that hearing, this pro
15 Debtor admitted his default. He also stated he was "...now resigned
16 to the fact that I have to sell off my assets. That I've been.. I've
17 been forced to sell off assets. I'm forced to give up business.
18 See Transcript, docket entry 26 at pp. 10-11.

19 We consider this as a request to convert this case to one under
20 Chapter 7, grant it, and find Isleta's and the Trustee's motions to
21 dismiss moot. 11 U.S.C. Section 1307.

22 We suggest the U.S. Trustee appoint a trustee who is an
23 attorney, given Debtor's statements that he cannot afford to hire
24 counsel and his allegations against Inversiones Isleta Marina, Inc
25 contained in a motion for summary judgment filed on August 30th
26 docket entry 26 which we refer to the Chapter 7 trustee.

The Chapter 13 Trustee shall give notice to all parties in interest. See General Order 94-8.

By: *Allysan McGuire*
Deputy U.S. Trustee

Carson

9-11-00
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1 The Clerk shall notify this order and schedule a statu
2 conference within five of the first meeting of creditors, as th:
3 case appears to be an asset case.

4 SO ORDERED, in San Juan, Puerto Rico, on September 7, 2000.

SARA DE JESUS
U.S. Bankruptcy Judge

5
6 cc : *mt*
7 *Jesus*
8 *Sierra*
9 *Carmona*
10 *Justice Martinez*

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

00 JUL 20 PM 3:01

In re:

RUBLE L. HECK DANCE

CASE NO.: 98-12425(SEK)

RECEIVED
AND FILED

San Juan, Puerto Rico
July 19, 2000

MOTION TO DISMISS

HEARING

BEFORE THE HONORABLE SARA DE JESUS
UNITED STATES BANKRUPTCY COURT JUDGE
FEDERAL BUILDING, HATO REY, PUERTO RICO

APPEARANCES:

For the Ch. 13 Trustee:

For the Debtor:

Ruble Heck Dance, pro se
J. Rodríguez, Esq.

For the Creditors:

Manuel Fuster, Esq.

Court Recorder:

Rafael Calderon

Proceedings recorded by electronic sound recording.

Transcript produced by transcription service.

JAMES ROHAN REPORTERS
P.O. BOX 16062
SAN JUAN, P.R. 00908
TEL: 725-2273 / FAX: 725-7203

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P R O C E E D I N G S

MR. FUSTER: Good morning, Your Honor.

For the record, Manuel Fuster Martínez on behalf of Isleta Marina.

MR. RODRÍGUEZ: Good morning, Your Honor.

Jorge Rodríguez substituting Brother Counsel Cardona Jiménez who has submitted a motion for resignation to this... in this case.

THE COURT: I understand.

MR. HECK DANCE: Good morning, Your Honor.

I'm Ruble Heck.

THE COURT: Okay.

I think that the first thing that I ought to do before I do anything else is to hear Mr. Ruble Heck on his allegations of conflict of interest.

MR. HECK DANCE: On allegations of?

THE COURT: Conflict of interest.

MR. HECK DANCE: I'm not prepared to get into that.

This is something that obviously came out in the...

THE COURT: Well, I can't... I can't decide the case...

MR. HECK DANCE: ... newspaper article and I didn't have any conflict of interest.

1 THE COURT: No, it's not you. It's me.

2 MR. HECK DANCE: You have conflict of
3 interest?

4 THE COURT: Uh, huh.

5 MR. HECK DANCE: I have the...

6 THE COURT: I think you believe that I have a
7 conflict of interest. So, I better hear you out because
8 I have to decide that under the Judicial Code of Ethics
9 before I do anything with the case.

10 MR. HECK DANCE: Well, the problem that I had
11 that did come up later on into this was that there's close
12 family involved and the obvious referral is to a newspaper
13 article that didn't give the whole complete thing.

14 THE COURT: Well, I think you also mention it
15 in your motion to dismiss.

16 MR. HECK DANCE: Quite possibly that was
17 mentioned, yes. Yes, it was mentioned.

18 THE COURT: What I need to know is do you
19 have anything else to add to what you've already stated,
20 both in the newspaper article which I think we're all aware
21 of, and...

22 MR. HECK DANCE: Okay.

23 Well, the...

24 THE COURT: Excuse me, just a minute.

25 MR. HECK DANCE: Okay.

1 THE COURT: And in the motion to dismiss and
2 I'll make specific reference to the portion of it so that
3 if you have it there you know what I'm talking about.

4 MR. HECK DANCE: I did have it and it is...

5 THE COURT: Okay. Give me a second.

6 (Short pause is taken.)

7 THE COURT: I think that it begins on...

8 MR. HECK DANCE: No, I'm sorry.

9 THE COURT: ... Paragraph 9.

10 MR. HECK DANCE: There was no mention. I
11 don't think there was any mention of family ties in this.

12 THE COURT: Okay.

13 MR. HECK DANCE: Because at that time I
14 wasn't aware of it.

15 THE COURT: All right.

16 Now, what do you want... do you want to say
17 anything else to me?

18 MR. HECK DANCE: I wanted to say that in the
19 newspaper article that was edited out I said that I had no
20 questions of your integrity.

21 That didn't make it into print but no, I don't
22 have any problems with your integrity and your being able
23 to look at this fairly.

24 THE COURT: Do you have anything else to add
25 at all?

1 MR. HECK DANCE: Concerning?

2 I have a lot to add to the whole thing.

3 THE COURT: Concerning anything with respect
4 to the conflict of interest? That I've got to do first,
5 Mr. Heck.

6 MR. HECK DANCE: No.

7 I don't have anything to add other to say that I
8 think that I'll get every opportunity and probably rather
9 than it working against me you're going to hold those
10 people to a higher standard.

11 So, that will be my final word there.

12 THE COURT: Am I to understand you don't want
13 me to recuse myself?

14 MR. HECK DANCE: No, I do not.

15 THE COURT: Okay.

16 ~~MR. HECK DANCE:~~ Let me ask you this.

17 Do you mind if I go back and again look at my
18 Code of Ethics and then come back and try to resolve this,
19 if I can, a little bit later?

20 I'd like to think about it a minute and I have a
21 real full courtroom. What I'd like to do would be able to
22 call it, I think by eleven o'clock we can decide this.

23 Is there any problem with that?

24 MR. FUSTER: No problem whatsoever.

25 THE COURT: Mr. Heck?

1 MR. HECK DANCE: No. No problem.

2 THE COURT: Okay.

3 Then, that's what I'll do. Thank you. Call
4 the next one, please.

5 (Other cases are called and the instant case is
6 recalled and continues as follows.)

7 THE COURT: What I thought I would do would
8 be the following, since you're already here and I think you
9 have at least by the expressions that I've received from
10 your various motions, you're in a hurry to try to get this
11 matter resolved.

12 But quite frankly the decision of whether or not
13 to recuse myself is mine and mine alone and it deals with
14 specific readings of the Code of Judicial Ethics,
15 regardless of what you have to say.

16 And the last thing that I'd like to say is that
17 I'm not prepared to make this off the bat right now because
18 it's an important matter.

19 So, what I thought I could do would be the
20 following:

21 Number one, I'll hear you with respect to your
22 motion to dismiss and anything else that you want to say
23 with respect to the recusal.

24 I'll hear the Creditor and then if I do indeed
25 decide to recuse myself you'll have a transcript and I'll

1 refer it to the Judge who takes it up immediately.

2 If I do not decide to recuse myself I'll decide.

3 Anything else? Is that satisfactory?

4 MR. HECK DANCE: Yes.

5 That's satisfactory.

6 THE COURT: Okay.

7 Mr. Heck, I'll hear you with respect to... first
8 of all, anything else that you need to add with respect to
9 the conflict of interest and this is an important matter
10 and it really makes no difference to me because, look, I've
11 got 10,000 cases.

12 So, one less is easier for me but there's two
13 things you must keep in mind.

14 Number one, Federal Judicial Officers take these
15 matters very seriously.

16 Two, it not only deals with an actual conflict
17 but with the appearance of a conflict. There's two
18 matters that are involved here.

19 And three, if there's anything else that you have
20 to say please tell me because, like I said to you, I want
21 to try to give you a very fair try, a very fair Judge, and
22 that's what you're entitled to and that's what I think you
23 should get.

24 Is there anything else that you need to add to
25 that, to what I already know?

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MR. HECK DANCE: No, I'm comfortable.

THE COURT: All right.

Then, how about with respect to the motion to dismiss, let me begin first with the Movant which I believe is Isleta Marina represented by Mr. Fuster and then you'll have your turn to respond.

MR. FUSTER: Yes.

For the record, Manuel Fuster Martínez representing Isleta Marina.

Your Honor, we filed a motion to dismiss because as of February of 2000 the Debtor has only paid four thousand dollars, four thousand four hundred thirty seven, out of twenty seven two hundred and ninety four.

THE COURT: That's what's in your motion. Do you have anything to add?

MR. FUSTER: Yes, Your Honor.

The Debtor has filed an answer to the motion to dismiss which I understand is a complaint of some supposed damages caused to his person.

We understand that this is another adversary. This is a reproduction of an adversary that he filed on Case #97-10919, but it does not provide how is he going to pay the arrears to the Trustee.

On that case he also... that case was also dismissed because he didn't pay any arrears. We

1 understand that...

2 THE COURT: I'm sorry.

3 It was not dismissed because he didn't pay any
4 arrears. The record is quite clear as to why I dismissed
5 #97-10919, but you may proceed.

6 MR. FUSTER: Yes, Your Honor.

7 But there were some arrears also to the Trustee.
8 You remember, yes, that there were some documents that were
9 requested from the Debtor and he does not provide.

10 He also states on his motion that his Plan is
11 submitted to a contingent of one adversary which has not
12 been filed and we don't see on the Plan any... any... any
13 provision to pay our claim.

14 Or either to fund the Plan based on the complaint
15 that duly filed against our client.

16 THE COURT: Okay.

17 MR. FUSTER: That's basically what...

18 THE COURT: Mr. Heck, I have your read your
19 motion, obviously.

20 Is there anything that you care to add to it or
21 have to or want to emphasize?

22 MR. HECK DANCE: Well, I'd like to emphasize
23 that the payment plan that was approved was contingent.
24 The marina was included in the payment plan.

25 THE COURT: It was contingent?

1 MR. HECK DANCE: It was contingent upon the
2 outcome of the adversarial that was to be filed. This
3 adversarial was... was filed and it was written.

4 It was written and included as an exhibit in the
5 motion, in my latest motion. It was never... it was never
6 filed.

7 It was an adversarial complaint against Isleta
8 Marina in excess of five hundred thousand dollars for their
9 complete destruction of my illegally seized vessel.

10 And for some reason it still hasn't been filed
11 although the filing fee was paid. I did my part.

12 Now, this payment plan obviously has gone by the
13 waste side. But my conditions are much the same and that
14 I had a lot of assets coming in to this, before the illegal
15 seizure.

16 In 1995 my financial statement showed a net worth
17 approaching four hundred thousand dollars. This was to
18 Banco Popular and it was for an SBA loan which was approved
19 and... and given.

20 Those assets have dwindled considerably but I
21 still have more assets than I have liabilities and they're
22 currently negotiations in the works that will... will
23 reduce the base filed for 50%.

24 I'm at somewhat of a disadvantage in that my file
25 still has not been returned to me by Attorney Cardona.

1 I've requested several times.

2 He has a motion in the Court where he wants to
3 withdraw. He's waiting for orders from this Court to tell
4 him that he can give me my file back. I still don't have
5 it.

6 But I do have assets. I'm not... I'm not a
7 Chapter 7 candidate. I am a Chapter 13. I qualify under
8 it.

9 I'm now resigned to the fact that I have to sell
10 off my assets. That I've been... I've been forced to sell
11 off assets. I'm forced to give up business.

12 All of this is because of the illegal actions of
13 Isleta Marina. Of course they'd like to go back to the
14 State Courts. They do pretty good over there.

15 I'm not ready to go back to the State Courts.
16 So, that in a nutshell is where I stand on this.

17 THE COURT: Counsel?

18 MR. RODRÍGUEZ: Well, Your Honor, in the
19 motion requesting the resignation we indicated... I'm
20 addressing only the issue of the file since it was
21 indicated by Brother Counsel Cardona that the file would be
22 kept in the office at the disposition of the Debtor once
23 the Court grants the resignation of Brother Counsel Cardona
24 to the case.

25 THE COURT: I haven't granted the resignation

1 yet.

2 MR. RODRÍGUEZ: You haven't granted the
3 resignation.

4 THE COURT: No, I haven't.

5 MR. RODRÍGUEZ: The thing is that as to what is
6 being stated by Mr. Ruble, in the motion he indicates that
7 Cardona has done everything to get the proper
8 representation to Mr. Ruble on the action that was supposed
9 to be taken back in the marina.

10 The motion is self explanatory, the one that we
11 got on the motion to withdraw as counsel. As a matter of
12 fact, he contacted Gustavo Martínez Tristani to... to be a
13 special counsel to Mr. Ruble on that matter.

14 And that for some reason they didn't agree on the
15 representation and then came over this situation that was
16 brought by Mr. Ruble as to the representation on the
17 Bankruptcy Court and that's what motivated the resignation
18 of brother counsel.

19 THE COURT: Okay.

20 So, what do you want me to do?

21 MR. RODRÍGUEZ: Okay.

22 Well, Your Honor, we just request that we be
23 relieved from the representation of Mr. Ruble and to be
24 granted the 30 days in order for him to secure further
25 counsel, new counsel.

1 THE COURT: With respect to the resignation
2 of Mr. Cardona are you in agreement with that, Mr. Ruble
3 Heck?

4 MR. HECK DANCE: Okay.

5 As far as I'm concerned, he resigned well over a
6 year ago. I...

7 THE COURT: So, the answer is yes?

8 MR. HECK DANCE: He's been completely
9 unavailable to me.

10 THE COURT: The answer is yes, is that
11 correct?

12 MR. HECK DANCE: Yes, it is.

13 THE COURT: Now, this second request is that
14 you be given an additional 30 days to request the
15 appointment of new counsel.

16 Do you want that?

17 MR. HECK DANCE: If my illegally seized
18 vessel were released I wouldn't need to be hiring counsel
19 and I wouldn't need to be in this Court but that is yes,
20 too.

21 THE COURT: I understand all that. Yes,
22 too?

23 MR. HECK DANCE: Yes.

24 THE COURT: Okay.

25 And how about the business of the file. What

1 are we going to do about that?

2 MR. RODRÍGUEZ: Your Honor, we have indicated
3 in the motion that the file is available in our offices as
4 soon as the Court releases the representation it will be
5 available.

6 THE COURT: What do you mean by the file is
7 available in your office, specifically?

8 MR. RODRÍGUEZ: It is there for him to...

9 THE COURT: Is there any reason why you can't
10 make a copy and give the original to him?

11 MR. RODRÍGUEZ: I don't see of any reason it
12 can't be done.

13 THE COURT: Okay.
14 Can we settle it that way? Would that be
15 amicable?

16 MR. RODRÍGUEZ: Yes, Your Honor.

17 THE COURT: Is there anything else that needs
18 to be said?

19 (No response.)

20 THE COURT: Now, Mr. Heck, if you're going to
21 have an additional 30 days to obtain new counsel does that
22 mean that you would also make available your answer and
23 whatever modification would be required to your answer to
24 the motion to dismiss through this new counsel, is that
25 what you want?

1 Or do you want me to consider your answer as
2 the final one, regardless of what you're do with new
3 counsel?

4 MR. HECK DANCE: I wouldn't want that to be
5 my final answer.

6 THE COURT: All right.

7 MR. HECK DANCE: I would want the option of
8 adding to.

9 THE COURT: Well, okay.

10 I understand. How long after 30 days do you
11 want for any adding to, so we know when to pull files and
12 so forth?

13 MR. HECK DANCE: My concern is we're in the
14 middle of the hurricane season and I have a vessel that
15 still has value...

16 THE COURT: That's why...

17 MR. HECK DANCE: ... and I'm...

18 THE COURT: That's what I'm asking you.
19 It's up to you. I understand your concerns. That's why
20 I'm asking, because of time.

21 MR. HECK DANCE: I would like to answer that
22 by motion, if I might?

23 THE COURT: Okay.

24 What period of time do you need? We're going
25 to be... just a minute. We're going to be open and

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closed. The Clerk's Office has a particular... because we're moving to Old San Juan but I think we will be receiving filings at the drop box.

But I want you to understand that our systems are going to be disconnected on the 21st, on Thursday, Thursday evening.

And it won't come back for full use until Wednesday.

MR. HECK DANCE: Well, I wouldn't do anything that fast.

THE COURT: Okay.

Yes, Trustee?

UNIDENTIFIED COUNSEL: Yes, Your Honor.

For the record, we would like to join Isleta Marina's motion to dismiss. We have 13 months in arrears as to the second amended Plan in this case.

THE COURT: Well, I think you better put it in writing.

UNIDENTIFIED COUNSEL: I will.

THE COURT: If he's going to get counsel he's entitled to, you know. Okay.

Mr. Heck, in the event that I do decide to continue or whichever Judge is going to take your case we need to have sort of like a cutoff date to pull the file, to bring the filed down and have everything set up.

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Now, I'm giving you the option of what period of time do you want us to use for this?

It's up to you.

MR. HECK DANCE: Okay.

THE COURT: It would be like a cap. You know, if you come here before we'll pull it down.

MR. HECK DANCE: If we could put a 60 day cap on it and I can do it in 10 days, I can do it in 10 days.

THE COURT: All right.

We'll put a cap of 60 days on it.

MR. HECK DANCE: Okay.

THE COURT: Okay?

MR. HECK DANCE: Okay.

THE COURT: And then that would be the ultimate but however, we're hereby notifying the Clerk's Office that we have to have the matter referred as soon as it's filed.

Okay?

MR. HECK DANCE: Okay.

THE COURT: Is there anything else?

(No response.)

THE COURT: The matter is taken under advisement.

Thank you. Now, I need a transcript of both hearings, of both statements heard today. I need it on an

1 expedited basis and referred immediately to me, which means
2 24 hours.

3 Anything else?

4 (No response.)

5 THE COURT: Thank you.

6 You may be excused.

7 MR. FUSTER: Your Honor, for the record,
8 Manuel Fuster Martínez.

9 We would like to request that Mr. Ruble Heck, the
10 Debtor, send us a copy of whatever he files because we
11 haven't received any copy of any...

12 THE COURT: Give him your card.

13 MR. FUSTER: Yes.

14 THE COURT: Give him your card.

15 MR. FUSTER: Yes.

16 (This is done.)

17 THE COURT: And the answer is yes, okay?

18 MR. HECK DANCE: Yes.

19 I have his address.

20 THE COURT: Okay.

21 Anything else?

22 MR. FUSTER: No, Your Honor.

23 THE COURT: Okay.

24 MR. FUSTER: Thank you.

25 (Whereupon, the hearing in the above-entitled

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matter was terminated.)

CERTIFICATE OF COURT REPORTER

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I, JAMES ROHAN, Certified Professional
Stenographer, DO HEREBY CERTIFY:

That the foregoing is a full, true, and correct
transcript of the aforesaid hearing which was taken down by
electronic recording and, thereafter, reduced to
typewriting under my direction.

I FURTHER CERTIFY that I am not attorney for nor
counsel to either or any of the parties in interest, nor in
any way interested in the outcome of the cause named in
said action.

WITNESS MY HAND this 20th day of the month of
July, 2000 in San Juan, Puerto Rico.



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