UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

IN RE:	:	**Case No. 98-5503-CH**
TAMI JO RAMEY,	:	
Debtor.	:	
- -	:	
SNAP-ON CREDIT CORPORATION,	:	**Adv. No. 99-99034**
Plaintiff,	:	
vs.	:	
TAMI JO RAMEY,	:	
Defendant.	:	
_____	:	
IN RE:	:	**Case No. 99-255-CH**
LOREN DAVID ALEXANDER	:	
a/k/a Dave Alexander; Alexander Motor	:	
Sports, LLC, Big Boy Motor Sports East,	:	
Inc., Alexander Service Center,	:	
Debtor.	:	
- -	:	
SNAP-ON CREDIT CORPORATION,	:	**Adv. No. 99-99054**
Plaintiff,	:	
vs.	:	
LOREN DAVID ALEXANDER,	:	
Defendant.	:	
_____	:	

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ORDER—COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT

This matter involves two separate but related cases. Tami Jo Ramey (hereinafter Ramey) filed a Voluntary Petition for Chapter 7 relief under the United States Bankruptcy Code on December 23, 1998. Loren David Alexander (hereinafter Alexander) filed a Voluntary Petition for Chapter 7 relief on January 25, 1999. Plaintiff, Snap-On Credit Corporation (hereinafter Snap-On), commenced adversary proceedings against Ramey on March 12, 1999, and against Alexander on April 16, 1999. Both adversary proceedings were to determine dischargeability of debt. Snap-On filed a motion to consolidate the two proceedings alleging common issues of law and fact which

the court granted by order entered on September 7, 1999. After one continuance, the consolidated matters were set for trial on August 28, 2000.

In the interim, the chapter 7 trustee objected to Alexander's discharge. Trustee filed the objection on September 29, 1999, and then filed a motion for default judgment on November 17, 1999. The court entered an order granting Trustee's motion on December 13, 1999 and denied Alexander a discharge.

The denial of discharge effectively mooted this action by Snap-On against Alexander. Therefore, the only matter before the court is the complaint against Ramey.

Trial was held on Plaintiff's Complaint to Determine Dischargeability of Debt on August 28, 2000. Plaintiff Snap-On was represented by attorney F. Montgomery Brown appearing for Bruce L. Cook; Defendant Ramey was represented by attorney Danielle M. Shelton appearing for Thomas L. Flynn. At the conclusion of the trial, the court took the matter under advisement upon a briefing schedule. Post-trial briefs have been filed, and the court now considers the matter fully submitted.

The court has jurisdiction of this matter pursuant to 28 U.S.C. § 157(b)(1) and § 1334 and by order of the United States District Court for the Southern District of Iowa. This is a core proceeding. 28 U.S.C. § 157(b)(2)(I). The court, upon review of the briefs, pleadings, evidence, and arguments of counsel, now enters its findings and conclusions pursuant to Fed. R. Bankr. P. 7052.

FINDINGS OF FACT

1. This proceeding centers on a business lease for automotive equipment between Snap-On and Cars USA/Alexander Motorsports.

2. Cars USA was an automotive repair business located at 1121 Railroad Avenue, West Des Moines, Iowa. Reed Lucas (hereinafter Lucas) owned the business from 1993 until it terminated operations in 1997. Cars USA was an Iowa corporation, and Lucas was its president. At no time were Ramey or Alexander officers of Cars USA.

3. Alexander Service Center was an automotive repair business located at 1532 Ohio Street, Des Moines, Iowa. Alexander was the owner of the business. He also operated Alexander Motor Sports and Alexander Racing from the same location.

4. During the relevant time period, Ramey did office work for the Alexander entities.

5. Ramey lived and worked with Alexander, and they were married on June 17, 2000.

6. Sometime in 1996, Lucas experienced financial difficulties with the Cars USA operation. Alexander was identified as a person who might help him "turn the business around." Lucas testified that he approached Alexander and discussed the business with both Alexander and Ramey. They discussed the consolidation of the businesses into Big Boys Motor Sports East and West. The Ohio Street location was to be East and the Railroad Avenue location was to be West.

7. Plaintiff offered evidence of Alexander conducting business using the Big Boys Motor Sports name, but it is unclear whether Big Boy Motor Sports East and West ever formally existed. Ramey was designated as the president of the company.

8. Late in 1996, Alexander and Ramey came to the Cars USA and began helping with the business. Ramey testified that they thought that they could buy the

business. Ramey performed office work including writing checks and some bookkeeping, which included the payroll and taxes.

9. Lucas and Alexander discussed acquiring Snap-On tools and diagnostic equipment. Ramey was involved in these discussions. Lucas and Alexander eventually agreed to acquire the equipment.

10. Doug Flier (hereinafter Flier) was a Snap-On Field representative from August 1996 to September 1997. Flier visited Cars USA and met with Alexander about purchasing Snap-On equipment. Flier testified that his discussions were primarily with Alexander. He stated that he met both Lucas and Ramey and believed Lucas to be a "silent" partner. Flier did not have business discussions with Ramey.

11. Alexander agreed to purchase Snap-On equipment through Flier. A document titled Application for Business Lease dated December 8, 1996 was completed and submitted to Snap-On Credit Corporation. The business name appearing on the document is 'Cars USA/Alexander Motorsports." Alexander completed this application.

12. Ramey's name appears on the application in four places. In a box beginning with the word corporation, "Tami Ramey V.P." is printed on a line above secretary and follows "D. Alexander / Reed Lucas" on a line above president. Under the caption of Business Contacts, "Tami Rami" is identified as the person to handle payments. Her title is designated as "Secretary V.P." "Tami Ramey" is printed in a box captioned Personal Guarantee. Also, in the box is a signature appearing to be either "Tami Ramey" or "Tami Ramy."

13. Flier testified that Ramey's signature was not originally on the document

and he had to return to Cars USA for her to sign it. There is a conflict of evidence as to whether Ramey actually signed that document.

14. The "Personal Guarantee" section of the application states:

> In the event I personally guarantee the lease transaction, I hereby grant the confidential review of my personal credit from any credit reporting agency, or other company that I am or have been indebted to.

15. Ramey never personally guaranteed the lease transaction.

16. Alexander provided Snap-On Credit with a financial statement for Cars USA. Lucas testified that he did not know how the statement was generated or if the statement was an accurate depiction of the business' financial condition.

17. Alexander signed a sale agreement on behalf of Cars USA dated December 13, 1996. The agreement lists the equipment to be purchased and provides that Snap-On retains a security interest in the equipment and "proceeds thereof."

18. Alexander signed an equipment lease document dated January 21, 1997. Cars USA is listed as the lessee. Alexander indicated that he was president of the company. Ramey's name does not appear on the lease.

19. Snap-On required that leased property be protected from loss by appropriate property insurance coverage. Snap-On offered to obtain this coverage and add the cost to the lease payments. Alexander signed a Leased Property Insurance Disclosure, dated January 9, 1997, stating that he did not want property insurance included in the lease. It further stated that he agreed to obtain property insurance and furnish Snap-On with evidence of the insurance.

20. Sometime in the spring of 1997, Lucas discovered that the equipment

leased from Snap-On, as well as some of his tools, were removed from the Cars USA location and taken to Alexander Service Center.

21. On September 22, 1997, it was reported that property had been removed from Alexander Service Center. Among the items reported as missing was equipment leased from Snap-On. The estimated value of this equipment was $42,000.00.

22. The missing items were covered by an insurance policy issued by Pekin Insurance Co. Alexander obtained the insurance from Justin Doud (hereinafter Doud) under the name Big Boys Motor Sports East.

23. Doud testified that he met Ramey through Alexander. Alexander would have Ramey call to make changes in the insurance coverage. Doud was never directed to include Snap-On as a loss payee.

24. A claims adjuster, Bradley Wright (hereinafter Wright), testified that Pekin Insurance paid between $150,000.00 and $200,000.00 to cover losses from the missing property. Wright made out checks to Big Boy Motor Sports East and Alexander. Lien holders were paid separately. A lien search was conducted, but Snap-On did not appear as a lien holder. Nothing was paid directly to Ramey.

25. After the missing property report, Alexander and Snap-On entered into a substitution of merchandise agreement whereby Snap-On provided new equipment to replace the equipment that was missing. The new equipment became subject to the lease and security agreement. The missing equipment was identified as merchandise to be returned. Snap-On delivered the new equipment to Alexander Motor Sports at the Ohio Street location. Alexander wrote Snap-On a check for approximately $50,000.00 for the

missing equipment. The check was returned for insufficient funds, and Snap-On repossessed the new equipment.

26. Snap-On received over $6,000.00 in lease payments.

27. Ramey admitted that she intended to use her credit to help Alexander's business ventures. On at least one occasion, she personally guaranteed a loan.

28. Ramey scheduled Snap-On on Schedule F, Unsecured Creditors Holding Unsecured Nonpriority Claims. She scheduled the consideration as "Alleged Guaranty of Equipment Purchased." On Schedule H, she scheduled Alexander as co-debtor on all debts except for the real estate mortgage.

29. On Schedule I , Current Income of Individual Debtor, Ramey scheduled her occupation as Dispatcher/Clerk and her employer as Tow Pros. She indicated that she was employed at that firm for 1½ years. Her Statement of Financial Affairs stated that she earned $7,000.00 in 1998, $5,000.00 in 1997, and $5,000.00 in 1996.

30. On a loan application for a real estate mortgage dated January 21, 1997, Ramey stated that her occupation was bookkeeper for big Boys Motor Sports East and West. She listed her income as $3900.00 per month.

31. In her deposition, Ramey denied being an officer of either Cars USA or Alexander Motor Sports. At trial, she stated that she was an officer of Alexander Motor Sports for a short time in 1997. In a security agreement with Union State Bank dated September 15, 1997, Ramey signed as president of Big Boys Motor Sports East D/B/A Alexander Service Center.

DISCUSSION

Snap-On brings this adversary proceeding pursuant to 11 U.S.C.§ 523(a)(2)(A) & (B). In its complaint and throughout preparation for the trial, Snap-On made allegations that sufficiently put Ramey on notice that it was also pursuing a conversion theory that would be appropriate under 11 U.S.C. § 523(a)(6). Snap-On asks the court for a judgment of $64,256.87 plus interest from August 18, 1998, and to except the judgment from discharge. It also asks for costs and reasonable attorney fees in pursuing this matter.

Ramey denies that she obtained any property from Snap-On through misrepresentation. She also denies being a part of a conspiracy to defraud Snap-On or convert its property.

At the outset, the court notes that prior to the hearing, Ramey filed a motion to exclude from evidence certain exhibits offered by Snap-On. Counsel for Ramey stated that she was not presented with the exhibits until the Friday afternoon preceding the Monday trial. She argued that Snap-On failed to comply with Local Bankruptcy Rule 18(d) which requires the parties to exchange exhibits ten days prior to the date of the trial. Rule 18(d) states that "[n]o exhibit (other than one essential to rebuttal or impeachment) which has not been exchanged as required by this section will be admitted into evidence unless good cause for the failure to disclose is established."

The notices and orders for trial of February 22, 2000, and May 5, 2000, specifically provided that exhibits were to be exchanged at least ten days prior to the trial.

Snap-On argued that it had experienced difficulty in receiving the documents

from their custodian. It further argued that it filed a motion for continuance, which was denied, in part to gain more time to acquire and process the documents.

The court granted Ramey's motion. It found that Snap-On did not establish good cause for the failure to timely disclose the exhibits. The court determined that the late production of the exhibits was a result of late preparation by counsel. Accordingly, exhibits 17a-k and 18a were excluded from evidence.

Nondischargeability Under § 523(a)

The Bankruptcy Code provides that discharge under section 727 does not discharge an individual from certain debts. 11 U.S.C. § 523. Section 523(a)(2) provides in relevant part that a debtor is not discharged from any debt:

> (2) for money, property, services, or an extension, renewal, or other refinancing of credit, to the extent obtained by–
> (A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition;
> (B) use of a statement in writing–
> (i) that is materially false;
> (ii) respecting the debtor's or an insider's financial condition;
> (iii) on which the creditor to whom the debtor is liable for such money, property, services, or credit reasonably relied; and
> (iv) that the debtor caused to be made or published with the intent to deceive…

11 U.S.C. § 523(a)(2)(A) & (B).

"Since [§523(a)(2)(B)] covers only statements 'respecting a debtor's …financial condition' and subsection (A) excludes such statements, the subdivisions 'are … expressly mutually exclusive."' First National Bank of Olathe, Kansas v. Pontow, 111 F.3d 604, 608 (8th Cir. 1997)(citing Barclays American/Business Credit, Inc. v. Long (In re Long, 774 F.2d 875, 877, n. 1 (8th Cir. 1985)). Unwritten misrepresentations of

financial condition do not provide a basis for nondischargeability under §523(a)(2)(A). Alden State Bank v. Anderson (In re Anderson), 29 B.R. 184, 189 (Bankr. N.D. Iowa 1983) ("False statements concerning the debtor's or an insider's financial condition will be analyzed under 11 U.S.C. §523(a)(2)(B); representations which do not deal with the debtor's or an insider's financial condition will be analyzed under 11 U.S.C. §523(a)(2)(A)").

The standard of proof under § 523 is a preponderance of the evidence. Grogan v. Garner, 498 U.S. 279, 286-287 (1991). It "is the evidence which, when weighed with that opposed to it, has more convincing force and is more probably true and accurate." Smith v. United States, 557 F. Supp. 42, 51 (W.D. Ark. 1982) aff'd, 726 F.2d 428 (8th Cir.1984). The party with the burden of proof must provide evidence to prove his or her position is reasonably probable, not merely possible. Sherman v. Lawless, 298 F.2d 899, 902 (8th Cir. 1962). If the proven facts equally support each party's position, "the judgment must go against the party upon whom rests the burden of proof." Id.

The Eighth Circuit has adopted a five-part test to determine whether a debt will be excepted from discharge under § 523(a)(2)(A). The court asks whether: (1) the debtor made false representations; (2) the debtor knew these representations were false at the time they were made; (3) the debtor made these representations with the intention and purpose of deceiving the creditor; (4) the creditor justifiably relied on the representations; and, (5) the creditor sustained the alleged injury as a proximate result of the

representations having been made. Caspers v. Van Horne (In re Van Horne), 823 F.2d 1285, 1287 (8th Cir. 1987) as modified by Field v. Mans, 516 U.S. 59, 74-75 (1995).[1]

The plaintiff must prove each element of his § 523 (a)(2)(A) claim or the debt is not excepted from discharge. Id. Likewise, the plaintiff must prove each element of § 523(a)(2)(B) to prevail. Valley National Bank v. Bush (In re Bush), 696 F.2d 640, 644 n. 4 (8th Cir. 1983).

Both Code sections require the plaintiff to prove that the debtor made a false representation with the intent to deceive. Because direct proof of debtor's state of mind is "nearly impossible to obtain," the requisite intent may be inferred from circumstantial evidence. In re Van Horne, 823 F.2d at 1287.

In this case, it is apparent that Snap-On cannot prevail under § 523(a)(2)(B). The only written statement purportedly made by Ramey is the Application for Business lease. Ramey's signature appears in the box captioned "Personal Guarantee." This section states: "In the event I personally guarantee the lease transaction, I hereby grant the confidential review of my personal credit from any credit reporting agency, or other company that I am or have been indebted to." Clearly, this section is an authorization by Ramey for Snap-On to contact credit reporting agencies or other companies concerning her credit worthiness in the event that she guarantees the lease transaction. It contains no statement of her financial situation nor does it bind her to guarantee the lease. Therefore,

[1] In Van Horne, the Eighth Circuit originally held that the plaintiff must prove that his or her reliance was reasonable, however, the United States Supreme Court in Fields determined that the proper standard under 11 USC § 523(a)(2)(A) is "justifiable reliance." Additionally, Van Horne held that the plaintiff had the burden of proving the debtor's deceit by clear and convincing evidence. In Grogan, the United States Supreme Court held the proper standard to be by the preponderance of the evidence. The balance of Van Horne remains good law.

the court finds that Snap-On failed to present evidence of a materially false written statement of the debtor's financial condition. 11 U.S.C. 523(a)(2)(B)(i) & (ii); Pontow, 111 F.3d at 608.

Likewise, Snap-On's § 523(a)(2)(A) action must fail. Snap-On's argument centers on the representation that Ramey was an officer of Cars USA. Snap-On credit manager, Chris Webb, testified that Snap-On would not have extended the lease to Cars, USA had it known Ramey was not an officer of the corporation. He stated that the application must be completed by an officer of the company requesting the lease.

On cross-examination, Webb testified that it was company policy to do a Dunn and Bradstreet check on the corporation. This check would include the names of the corporate officers, and in this case Ramey would not have been identified as such an officer. Webb testified that the check was completed, although the file on Cars USA was not available at the hearing. Webb further testified that no check was made on Alexander Motor Sports even though the company was named on the application. Webb admitted that nothing on the application indicated that Ramey was an officer of Cars USA and not Alexander Motor Sports. Webb conceded that there was nothing false about the application.

The court finds that Snap-On has not sustained its burden. There is insufficient evidence that Ramey represented herself as an officer of Cars USA. Flier testified that he met Ramey at the Cars USA location and he believed that Ramey had a hand in the business. However, he did not testify that Ramey ever held herself out as an officer of Cars USA or anything other than an office worker. He did not indicate that she attended

the demonstration of the equipment or engaged in any of the sales discussions. All of his negotiations were with Alexander.

Flier testified that Ramey signed the application in his presence. The court finds that Flier is more credible than Ramey who disputes signing the document. Nonetheless, the court does not find the document to be a representation that Ramey was an officer of Cars USA. While the court finds that the signature is more likely than not Ramey's, the rest of the document is not written in the same hand. In one place, Ramey is spelled R-a-m-i. Flier testified that Alexander filed out the application. Ramey merely signed the Personal Guarantee section which the court previously addressed. Therefore, the court finds that Ramey did not make false representations with the intent to deceive Snap-On. Further, because Ramey did not guarantee the lease transaction, and Snap-On never investigated her credit record, the court finds that Snap-On did not justifiably rely on a representation by Ramey.

Conspiracy Theory and Aiding and Abetting

As alternative theories, Snap-On argues that Ramey "conspired with … Alexander in fraudulent misrepresentation in the inducement of credit" and "conspired in the conversion of proceeds of theft loss of property owned by Snap-On and merely leased by Alexander." Snap-On also alleges that Ramey aided and abetted Alexander in both pursuits. Snap-On seeks to hold Ramey vicariously liable for Alexander's actions.

Conspiracy and aiding and abetting theories of civil liability are included under the general heading of "concerted tortious action." Halberstam v. Welch, 705 F.2d 472,

476 (D.C. Cir. 1983). However, as legal concepts the two can be distinguished. Id. at 477.

In order to prove a civil conspiracy, plaintiffs must show five elements: 1) two or more persons; 2) an object to be accomplished; 3) a meeting of the minds on the object or course of action to be taken; 4) the commission of one or more unlawful overt acts; and 5) damages as the proximate result of the conspiracy. In re Temporomandibular Joint (TMJ) Implants Prod. Liab. Litig., Temporomandibular Joint (TMJ) Implant Recipients v. Dow Chem. Co., 113 F.3d 1484, 1498 (8th Cir. 1997). The plaintiff must provide evidence of specific facts showing an agreement or a meeting of the minds and concerted action. Id. However, unlike criminal conspiracy, "the focal point of the law of civil conspiracy is the act done in furtherance of the conspiracy, not the conspiracy itself." West v. Carson, 49 F.3d 433, 436 (8th Cir. 1995).

In order to establish aiding and abetting liability, the plaintiff must establish that the primary actor committed a wrongful act that caused an injury; the aider and abettor was generally aware of his or her role in the overall wrongful activity at the time assistance was provided; and the aider and abettor knowingly and substantially assisted the wrongful act. TMJ Implant Litig., 113 F.3d at 1495. The awareness and substantial assistance prongs are considered in tandem. Id. The stronger the evidence of general awareness of the tortuous acts, the less evidence of substantial assistance is required and the converse being true as well. Id. Substantial assistance may be determined from the following factors: "' the nature of the act encouraged, the amount of assistance given by the defendant, his [or her] presence or absence at the time of the tort, his [or her] relation

to the other and his [or her] state of mind,'" and the duration of the assistance provided. Id. "Finally, the alleged substantial assistance must be the proximate cause of plaintiff's harm." Id.

In this case, Snap-On argues that Ramey should be held liable for Alexander's tortuous acts. Snap-On argues that Alexander obtained the business lease, credit, and equipment through fraudulent misrepresentation and that he wrongfully converted the insurance proceeds for the theft of the equipment. Snap-On further argues that Ramey conspired with Alexander in the misrepresentation and conversion or that she aided and abetted him in the misrepresentation and conversion. To prevail on either theory, Snap-On must first prove that a wrongful act was committed.

Because the court granted Snap-On's motion to consolidate, both cases and files were before the court at trial. Along with its complaint in the Alexander adversary, Snap-On attached a judgment that it received against Alexander in the Iowa District Court for Polk County. At the time the adversaries were filed, Ramey and Alexander retained the same counsel, and therefore, counsel was aware of the judgment against Alexander. The judgment was entered in default and found that Alexander fraudulently misrepresented his corporate status and induced Snap-On to extend credit. Further, the district court found that Alexander wrongfully converted the insurance proceeds from payments for coverage from the burglary.

At trial or in brief, neither party addressed whether the district court judgment satisfied the requirements for excepting a debt from discharge under the Bankruptcy Code, nor did they address whether the decision was binding on this court. In his answer

to the complaint, Alexander argued that because he did not defend the action and the elements for nondischargeability under the Bankruptcy Code were not specifically addressed, the judgment was not determinative in the immediate action.

This court is wary of accepting a default judgment in order to place liability on a third party. However, even if the court accepted the judgment as evidence of a wrongful act to satisfy that element of its theories of liability, Snap-On still would not prevail.

First, as to conspiracy under §523(a)(2), the court finds that Snap-On has not met its burden in proving that there was a meeting of the minds as to a course of tortuous action. Ramey has admitted that she intended to use her credit to assist in funding Alexander's business. Evidence was presented that on at least one occasion Ramey personally guaranteed a loan for funds to be used in the business. That alone is not tortuous conduct. As stated earlier, Webb acknowledged that there was no misrepresentation on the business lease application. Therefore, the court finds that Ramey did not conspire with Alexander to obtain the credit, lease, or equipment by fraudulent misrepresentation.

Further, the damages that Snap-On incurred were not proximately caused by Alexander and Ramey's representations. Alexander made payments totaling over $6,000.00 pursuant to the lease. The lease remained in effect after the property was reported as missing. Snap-On and Alexander executed a substitution of merchandise agreement that continued the lease until Snap-On exercised its right to terminate the lease when Alexander's check was returned for insufficient funds. Therefore, any damages incurred by Snap-On must arise from the report of the missing equipment and the

conversion of the insurance proceeds. The same analysis holds true for the aiding and abetting theory under § 523(a)(2). Because the representations are not the proximate cause of the loss, Ramey cannot be held liable under § 523(a)(2).

Second, Snap-On has not carried its burden in proving that Ramey conspired with Alexander to convert the insurance proceeds. There is insufficient evidence in the record for the court to infer that Ramey conspired with Alexander to convert the insurance proceeds. Doud testified that Alexander bought the insurance policy covering the business. Wright testified that the insurance proceeds were paid to Alexander.

The court is mindful that Alexander and Ramey were romantically involved during the time when the events occurred. However, as Ramey correctly points out, such a relationship is not determinative when extending liability for a debt. See Walker v. Citizens State Bank of Maryville (In re Walker), 726 F.2d 452 (8th Cir. 1984). The court agrees with Snap-On that Ramey is less than a credible witness. That she represents herself in the light most favorable for the given situation is evidenced by a variety of exhibits and deposition testimony not the least of which is her statement of financial affairs. There is no question that Ramey does not come to court with clean hands. Nonetheless, the court determines that Snap-On has not carried its burden in proving that Ramey and Alexander had a common plan in converting Snap-On's property. The court is not satisfied that sufficient evidence was admitted to prove a "meeting of the minds" to convert the property.

Finally, the court finds that Snap-On has not provided sufficient evidence to prove that Ramey aided and abetted Alexander in converting the insurance proceeds. It is

unclear as to how Ramey substantially assisted Alexander in the conversion. Snap-On provided no evidence that Ramey received any of the insurance proceeds or that she spent any of the proceeds. Ramey did not acquire the insurance in the first instance. There is no contention that she had a duty to list Snap-On as a loss payee on the policy. Snap-On's argument is based mainly on Ramey's close personal relationship with Alexander and the fact that she worked at his businesses. Snap-On has provided no corroborating evidence that would prove Ramey to be more than the unknowing employee that she claims to be.

Accordingly, the court will deny Snap-On's request for judgment against Ramey and claim that the debt is not excepted from discharge.

ORDER

IT IS THEREFORE ORDERED that the debt claimed by the plaintiff Snap-On Credit Corporation is not excepted from discharge, and the defendant Tami Jo Ramey shall have judgment against the plaintiff dismissing the complaint.

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RUSSELL J. HILL, CHIEF JUDGE
U.S. BANKRUPTCY COURT