

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

CASE NO. 3:06-bk-02474-GLP
CHAPTER 7

E-Z PAY SERVICES, INC., aka
E-Z PAY HEALTH CARE aka
E-Z PAY DENTAL aka E-Z PAY MEDICAL

Debtor,

ROBERT ALTMAN in his Capacity as the Chapter 7
Trustee of the E-Z Pay Services, Inc. Bankruptcy Estate,

Adversary No.:

Plaintiff.

vs.

DEBRA DISTLER,

Defendant,

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiff, ROBERT ALTMAN, in his capacity as the duly-appointed Chapter 7 Trustee (the "Trustee") for E-Z Pay Services, Inc., a/k/a E-Z Pay Health Care, a/k/a E-Z Pay Dental, a/k/a E-Z Pay Medical (the "EZ-Pay"), by and through his undersigned attorney, files this Complaint against the Defendant, Debra Distler ("Distler"), and states:

GENERAL ALLEGATIONS

1. On August 16, 2006, E-Z Pay Services, Inc., d/b/a E-Z Pay Dental and E-Z Pay Medical ("E-Z Pay") filed a voluntary Chapter 7 pursuant to Title 11 of the United States Code.

2. Subsequent to the voluntary Chapter 7 filing, Robert Altman was duly appointed as Trustee.

3. Defendant is the former president and Chief Executive Officer of E-Z Pay.

4. Jurisdiction is proper before this Court pursuant to 28 U.S.C. § 1409.

5. E-Z Pay was engaged in the business of financing various medical services by entering into financing contracts with individual patients.

6. E-Z Pay, in connection with the financing of various medical services, also entered into separate agreements with medical providers for payments due to them from the amounts it collected from patients.

7. Alternative Debt Portfolios, L.P. and/or Alternative Debt Portfolios, LLC (collectively "ADP") is a private investment fund which invests primarily in consumer chattel paper. It purchases debt instruments, such as accounts receivable, credit sale contracts, etc. from the prior owners at a discount, which instruments ADP then holds and services.

8. Beginning in June of 2005, E-Z Pay and ADP purportedly entered into a purchase agreement for the acquisition of dental financing contracts originated by E-Z Pay. That purchase agreement has been hotly disputed pre-petition and post-petition by EZ-Pay and ADP.

9. The Trustee and ADP entered into an agreement whereby ADP would continue collections on the E-Z Pay accounts subject to future litigation and determination of the right, title and interest of E-Z Pay and ADP *vis a vis* the patient contracts.

10. On or about January 24, 2007, the Trustee initiated an adversary proceeding against ADP in connection with the E-Z Pay patient contracts under various counts, including an action to determine the validity of lien, an action for fraudulent transfers, declaratory judgment,

fraud, negligent misrepresentation, breach of fiduciary duty (usurpation of corporate opportunities), conversion of accounts, turnover, and accounting.

11. ADP and E-Z Pay, prepetition, were engaged in heated litigation over the purported sale of the patient accounts from E-Z Pay to ADP. That litigation included, but was not limited to, a complaint being filed in Nevada by ADP against E-Z Pay and Debra Distler captioned as follows: “In the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, Case No. CV06-01688, Alternative Debt Portfolios, LLC, a Nevada limited liability company, and Alternative Debt Portfolios, L.P., a Delaware limited partnership, Plaintiffs, vs. E-Z Pay Services, Inc. dba E-Z Pay Dental and E-Z Pay Medical, a Nevada corporation; Debra Distler, an individual; MYDDS.COM, a Nevada corporation; and DOES I-V, Defendants” (the “Nevada ADP State Court Complaint”).

12. The Nevada ADP State Court Complaint sought injunctive relief and damages against Debra Distler for the threat of and actual carrying out of the contacting of patients and interfering with the collection of accounts.

13. In connection with the Nevada ADP State Court Complaint, an *Ex-Parte* Temporary Restraining Order was entered prohibiting the Defendants, including Debra Distler, from among other things contacting the patients obligated to pay under the subject contracts; contacting and directing the dentists; taking any actions whatsoever to make changes to the balances of the existing contracts, etc.

14. Debra Distler, through counsel, agreed to an extension of the temporary restraining order in the Nevada ADP State Court action when it was removed to the United States Bankruptcy Court for the District of Nevada. That action has now been transferred to this Court.

15. On or about February 25, 2007, Defendant Debra Distler disseminated to doctors associated with E-Z Pay an e-mail (the "e-mail"). A copy of that e-mail is attached as Exhibit "A".

16. The e-mail purports to explain the legal effect of the rejection of executory contracts under the Bankruptcy Code. The information contained in the e-mail is incorrect and directs the dentists to contact patients subject to the E-Z Pay contracts and for the dentists to attempt to collect money from patients directly.

17. The e-mail intentionally misleads the dentists with the statement, "The Bankruptcy Trustee returned the accounts to the doctors on October 4, 2006." It goes on to state, "For those of you able to access the legal filings, please see our motion to dismiss the Chapter 7 bankruptcy and have the doctor contracts returned to the doctors. It was filed today! But you do not need to wait for the hearing on this matter, before you act, because the Trustee rejected the contracts as a matter of law on October 4, 2006."

18. Numerous dentists have contacted the Trustee with questions concerning the e-mail.

19. Knowing what effect this would have on collections by ADP, Debra Distler sent an e-mail to Eric Gangloff, an officer of ADP. A copy of that correspondence is attached "B".

20. Distler's actions in contacting the dentists subject to contractual relations with E-Z Pay is wrongful, unlawful, malicious, and in direct defiance of a previous restraining order entered against her and with full knowledge of its effect on this bankruptcy case.

21. Distler's e-mail to dentists directing them to contact patients subject to an E-Z Pay contract was without any basis in law or fact, wrongful, unlawful, malicious, and made in an attempt to damage the estate of the Debtor, E-Z Pay.

22. If Distler continues to contact dentists (and/or patients), the bankruptcy estate of E-Z Pay will suffer immediate and irreparable harm due to her interference with the collection of patient contracts.

23. Compensatory damages to the E-Z Pay estate will not be ascertainable and would in any event be inadequate.

24. The Trustee has a substantial likelihood of success on the merits.

25. The Trustee is entitled to a temporary restraining order, for preliminary and permanent injunction, directing Debra Distler and/or any agent or person working on her behalf as follows:

(a) prohibiting contacting the patients who are obligated to pay under the contracts subject to dispute between E-Z Pay and ADP in any manner whatsoever for any reason whatsoever, and specifically to prevent any direction of payment under those contracts redirected to any other party;

(b) prohibiting contacting the dentists, associated in any way by contract or otherwise with E-Z Pay; and

(c) directing Distler to send a corrective letter to all dentists (or others contacted), informing them of the erroneous nature of her e-mail, said corrective letter to be approved by the Trustee.

27. The Trustee has been required to retain the services of counsel to pursue this action, and should be granted reasonable attorneys fees and costs.

WHEREFORE, the Trustee prays for the following relief:

1. A preliminary and permanent injunction to preclude Distler and any agent or person acting on her behalf from contacting the patients and/or dentists subject to contracts with E-Z Pay;

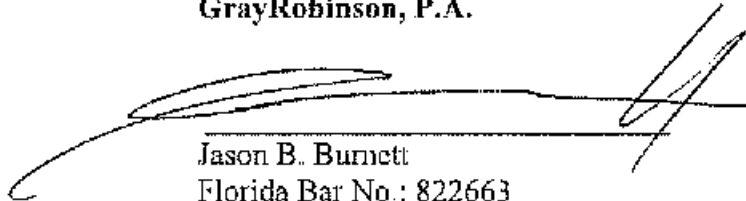
2. A judgment for damages against Distler, including punitive damages in an amount to be proven at trial;

3. An award of reasonable attorneys' fees and costs;

4. Further and additional relief the Court deems just and proper.

Dated this 28th day of February.

GrayRobinson, P.A.



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Exhibit “A”

From: D D [mailto:angel4wise@ureach.com]
Sent: Sun 2/25/2007 5:37 PM
To: Eric Gangloff
Subject: Motion Attached

Dear Doctors,

We just found out the trustee only had until October 4, 2006 to assume or reject the patient contracts. In order to assume the contracts he would have requested a hearing and approval from the court. The law provides that if the trustee does not assume the contracts within 60 days of the bankruptcy filing, which he clearly did not do, then rejection as defined by the US Bankruptcy code is automatic, and the contracts revert back to the doctors. We believe the trustee intentionally chose to not assume the contracts legally because the contracts, as defined by the US bankruptcy code are considered personal Services Executory contracts requiring special skills. In other words the trustee would be required to be a doctor in order to assume them. In addition he did not assume the contracts because assumption would mean that the trustee would be required to pay the doctors what they are owed to date, as well as prove he can pay all of you in the future. In addition the law provides that the trustee is not allowed what is called, "partial assumption". If he assumes the contracts then he must also give you the same patient account guarantee you had with the contract. As of October 4, 2005 the accounts were rejected by the trustee by default. So what does this mean to you? Here is what it means: All of the doctors can now contact their patients and direct the patients to pay them directly. If you are a doctor who had a TRO in place and your funds have been placed with the court, then you can now request the court to turn those funds over to you. You do not need any documents from the trustee to do this because rejection does not require court approval. However, your attorney or you can file a notice with the court indicating that since the contracts have been rejected by default and not assumed by the trustee, you will now be taking possession of your accounts. Then you can give a copy of this to the judge when you file the TRO or Cease and Desist order. Only assumption requires court approval. You will tell the Judge that the rejection of the accounts was by default and the default date was October 4, 2006. If you want to be sure you will have no problems with ADP trying to collect from your patients then spend a couple hundred dollars and have your attorney file a "Cease & Desist" or TRO" emergency order with your local court. The order will simply ask the judge to order ADP to stop billing and collecting from your patients, demand that ADP turn any money they have collected on behalf of your patients over to you immediately, and order ADP to not effect your patient's credit reports. The Judge will issue this order on the spot because when you make the request to the court you will tell the court that you have never had a contract with ADP and that you have no direct relationship with ADP. In other words you never hired ADP or Duvera to collect money from your patients or on your behalf. Furthermore your order will tell the court that ADP was contracted with your billing service company, E-Z pay Services, Inc., and that the contracts were part of the E-Z Pay bankruptcy and on October 4, 2006, the trustee rejected the executory contracts back to you for your own servicing. Make sure the Judge issues the order to ADP and to Duvera. If ADP wants to fight you they will be required to show up in your court...not theirs and they will be required to show they have a contract with you, which they do not. ADP was contracted with E-Z Pay. E-Z Pay bankrupted. The bankruptcy trustee returned the accounts to the doctors on October 4, 2006. If you have any questions, you may call me directly, 800-798-4049 ext. 1. For those of you able to access the legal filings please see our motion to dismiss the chapter 7 bankruptcy and to have the doctor contracts returned to the doctors. It was filed today! But you do not need to wait for the hearing on this matter, before you act, because the trustee rejected the contracts as a matter of law on October 4, 2006. If you have an attorney make sure he files for you right away. Make sure you ask for all of the money ADP ever collected on your accounts, not just since the bankruptcy was filed, because

ADP collected a lot more than you were paid. Also, as part of the motion filed today we are asking the Judge to order ADP to return your accounts and the money collected to you. We cannot predict what the Judge will do about ADP, but the law is clear that the trustee failed to assume the executory contracts between you and E-Z Pay. If Duvera or ADP gives you any grief, you can tell them to call me directly. I may show up dead like Shapero...but they can't steal my soul! Sincerely, Debbie Distler 800-798-4049 ext. 1.

Exhibit “B”

From: debbie [mailto:angel4wise2@spamarrest.com]

Sent: Monday, February 26, 2007 8:50 AM

To: Eric Gangloff

Subject: God is GREAT!

Dear Eric,

Today I was told by the trustee you complained because I contacted you regarding a possible settlement, so the doctors could be paid.

The trustee asked me to not to speak to you because that was not helping things. So is Altman your attorney? I thought he was the trustee. Hey, maybe I am confused.

Anyway, the executory contracts were not assumed by the trustee, so we have filed a motion letting the court know that the trustee cannot sue you for the contracts since the trustee failed to assume them. They belong to the doctors again! Thank God! I know you are happy to hear that! Good thing we did not try to settle.

Now my doctors get their accounts back, and you get what you deserve, a claim filed in the bankruptcy you so desperately wanted.

Okay, have a great day, and when you are ready to do more than complain to your sweetheart Altman, you just let me know. I have a real attorney. He knows he works for me. I wonder how Altman got so confused about who he works for? Maybe you helped him like you did Griffith? What a lucky guy!

Have a nice day! I have calls to make.

Debbie