

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE**

In re:

Bk. No. 03-13878-MWV
Chapter 7

Bob Desmond,

Debtor

Robert Wolfe Associates, P.C.,

Plaintiff

v.

Adv. No. 04-1112-MWV

Robert M. Desmond,
ASR Acquisition Corp.
and Alfred Ross,

Defendants

Edmond J. Ford, Esq.
FORD, WEAVER & McDONALD, P.A.
Attorney for Plaintiff

William S. Gannon, Esq.
WILLIAM S. GANNON PLLC
Attorney for Debtor/Defendant

William B. Pribis, Esq.
CLEVELAND, WATERS & BASS
Attorney for Defendants ASR Acquisition Corp.
and Alfred Ross

MEMORANDUM OPINION AND ORDER

The Court has before it the Plaintiff's Motion for Partial Summary Judgment seeking a determination that the claims of ASR under the Consolidated, Amended and Restated Promissory Note dated December 31, 1996, be disallowed; that the claims of ASR resulting from the assignment of Eastern Bank claims be disallowed; and that the amounts owed ASR under the Weaver Cove note be disallowed.

This Court has jurisdiction of the subject matter and the parties pursuant to 28 U.S.C. §§ 1334 and 157(a) and the "Standing Order of Referral of Title 11 Proceedings to the United States Bankruptcy

Court for the District of New Hampshire,” dated January 18, 1994 (DiClerico, C.J.). This is a core proceeding in accordance with 28 U.S.C. § 157(b).

In accordance with Federal Rule of Bankruptcy Procedure 7052, the Court will rule on the Motion for Partial Summary Judgment without making its own findings of fact and rulings of law. Instead, the Court adopts the Defendant’s arguments in its Opposition to Partial Motion for Summary Judgment. The Motion for Partial Summary Judgment is denied. The Court finds that the obligations remaining on the consolidated note and the Eastern Bank obligations have not been satisfied by virtue of the mortgage discharge under Massachusetts law.

The Court further finds that material questions of fact exist as to all obligations, and denial of partial summary judgment is also warranted on these grounds.

DONE and ORDERED this 2nd day of March, 2006, at Manchester, New Hampshire.

/s/ Mark W. Vaughn
Mark W. Vaughn
Chief Judge