

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

IN RE:
LUIS F. VELAZQUEZ
AMY L. VELAZQUEZ

CASE NO: 6:11-bk-01344-KSJ

Debtor(s).

FINAL JUDGMENT

THIS MATTER came on for hearing on February 7, 2012, upon the Debtors' Motion for Enforcement of the Order Granting Debtors' Verified Motion for Sanctions against ADT SECURITY SYSTEMS, INCORPORATED entered September 2, 2011 (Docket #40). Appearing at the hearing was debtors' counsel, creditor's counsel, and the Chapter 13 Trustee.

The Court finds as follows:

A. The Debtors filed a Chapter 13 Bankruptcy on January 31, 2011.

B. The Debtors attended their §341 Meeting of creditors on March 3, 2011. No one was in attendance for ADT Security Systems, Inc.

C. In the Debtors' schedule "F," the Creditor, ADT Security Services, Inc. (hereafter "ADT") was listed three (3) times. The Creditor ADT was also listed three (3) times in the Debtors' Schedule "G" as executory contracts on a homestead which is to be surrendered and on a business which has ceased to operate.

D. Debtors' counsel on or around March 18, 2011, received a correspondence dated March 16, 2011, from ADT. The address of the correspondence from ADT was the same address listed in the Debtors' Schedule "F."

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E. The correspondence acknowledged "it has come to our attention that the above-referenced Chapter 13 case was commenced on 1/31/2011." The above-referenced refers to the Debtors, Luis and Amy Velazquez.

F. At the §341 meeting of creditors, Debtors complained to Debtors' counsel about still receiving telephone calls from ADT collecting on debts listed in the Chapter 13.

G. The Debtors, pursuant to Debtors' counsel instructions at the §341 meeting, logged that almost five (5) weeks after filing, the Debtors received collection telephone calls on the following dates and times:

March 8, 2011 10:42 a.m.
March 9, 2011 8:43 p.m.
March 10, 2011 11:33 a.m.
March 11, 2011 8:15 p.m.
March 13, 2011 8:45 p.m.

H. The aforementioned calls represent only a small sample of the total calls received post-filing, but are the calls received after the §341 meeting and some thirty-six (36) days after filing and later. Debtors attempted to obtain telephone records from Bright House Networks via subpoena but were unable to obtain the records.

I. On or around February 23, 2011, March 22, 2011, and April 6, 2011, the Debtors received documents titled "billing statement" from ADT, the latest dated April 4, 2011. The bill is addressed to the Debtor, Luis Velazquez.

J. Creditor ADT continued to contact Mr. and Mrs. Velazquez well after they received the Notice of Chapter 13 Bankruptcy Case, acknowledged by the letter of March 16th.

K. The Creditor ADT had knowledge of the bankruptcy and their actions were willful and malicious in total disregard of the United States Bankruptcy rules and the automatic stay 11 U.S.C. §362 (k) in particular.

L. A verified Motion for Sanctions was filed on May 9, 2011. (Docket #23). No response to the Motion was made by ADT

M. An evidentiary hearing on the matter was held on July 20, 2011. The Debtors were in attendance at the hearing. No one was in attendance at the hearing on behalf of ADT Security Systems, Inc. (hereafter "ADT").

N. The Court entered its Order Granting the Debtors' verified Motion for Sanctions on September 2, 2011. (Docket #40). No response or objection was filed by ADT prior to the filing of this motion for enforcement.

O. The Court's order gave ADT thirty (30) days to comply with the Court's order, or until October 2, 2011.

P. During the thirty (30) days, no communication or contact was made to the Debtors or Debtors' counsel by ADT.

Q. On November 20, 2011, the Debtors' filed this Motion for Enforcement. (Docket #50).

R. A response to the Motion was filed by ADT on February 6, 2012.

Accordingly, it is **ORDERED:**

1. The Debtors' motion for enforcement of the Order Granting Debtors' Verified Motion for Sanctions against ADT SECURITY SYSTEMS, INCORPORATED is **GRANTED.**

2. The creditor, ADT Security Services, Inc., is hereby ordered to pay by **February 17, 2012**, damages of \$6000.00 to the Debtor(s).

3. The creditor, ADT SECURITY SERVICES, INC. shall pay by **February 17, 2012**, \$750.00 to the Debtors' counsel for bringing the Motion for Sanctions.

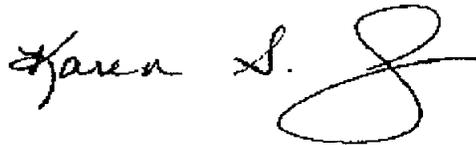
4. ADT is hereby ordered to pay within ten (10) days of entry of this order an additional \$1250.00 to the Debtors' counsel for bringing this enforcement action and the enforcement action in the Grennett Service case (Case Number: 6:10-07982-KSJ), heard on this same date.

5. The damages in this case totaling \$8000.00 shall be tendered to Debtors' counsel via his mailing address:

Michael J. Duggar
Post Office Box 192
Christmas, FL 32709-0192

6. Should the creditor fail to tender the aforementioned damages within ten (10) days of entry of this order, the court reserves jurisdiction to award further sanctions and damages, not the least of which is additional attorney's fees and costs for bringing this additional action.

DONE AND ORDERED on February 15, 2012.



**KAREN S. JENNEMANN
CHIEF UNITED STATES BANKRUPTCY JUDGE
MIDDLE DISTRICT OF FLORIDA**

Copies furnished to:

Debtor(s): 664 John Hancock Lane, W. Melbourne, FL 32904;
Debtor's Att'y.: Michael J. Duggar, P.O. Box 192, Christmas, FL 32709-0192;
United States Trustee's Office, 135 W. Central Blvd., Room 620, Orlando, FL 32801;
Trustee: Laurie K. Weatherford, P.O. Box 3450, Winter Park, FL 32790;
ADT Security Services, Inc., c/o Officer, Agent, Managing Agent, 14200 East Exposition
Avenue, Aurora, CO 80012-2540;
Creditor's counsel: Daniel F. Blanks, Esquire, 50 North Laura Street, Suite 3300,
Jacksonville, FL 32202.

I CERTIFY THE FOREGOING TO BE A TRUE AND
CORRECT COPY OF THE ORIGINAL ON FILE
UNITED STATES BANKRUPTCY COURT
CLERK OF THE COURT

Vivianne Calderin 2/17/12
DEPUTY CLERK