JUL 2 2007

ORDERED in the Southern District of Florida on _____

A. Jay Cristol, Chief Judge Emeritus
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

LORRAINE BROOKE ASSOCIATES, INC.,

Debtor.
_____/

Case No. 07-12641-BKC-AJC
Chapter 7

ORDER OVERRULING DEBTOR'S OBJECTION TO CLAIM OF FREDRIC GOLDMAN AND ALLOWING CLAIM IN FULL AS FILED

This matter came before the Court for an evidentiary hearing on June 15, 2007 at 10:00 a.m. on (i) the Objection of Debtor ("Objection") Lorraine Brooke Associates, Inc. ("Debtor" or "LBA") (C.P. #49) to Claim No. 1.1 of Fredric Goldman, as amended by Claim No. 1.2 (collectively, the "Goldman Claim"), (ii) the Response to Debtor's Objection to Claim, dated May 16, 2007 (C.P. 82)(the "Initial Response"), and (iii) Creditor Fredric Goldman's Supplemental Response to Debtor's Objection to Claim, dated June 12, 2007 (C.P. 118)(the "Supplemental Response")(the Initial Response and the Supplemental Response are hereinafter

referred to collectively as the "Response"). The Court, upon reviewing the Motion and the Response, upon reviewing the testimony adduced at the hearing and the documents entered into evidence at the hearing, upon hearing argument of counsel, upon the review of the entire record in this case, and otherwise being fully advised in the premises, makes the following findings of fact and conclusions of law:

Procedural History

A. On Friday, April 13, 2007, the Debtor filed a voluntary chapter 7 petition in this Court. Immediately thereafter, Drew Dillworth was appointed the chapter 7 trustee (the "Trustee").

B. On April 18, 2007, Goldman filed the Goldman Claim as a secured claim against the Debtor's estate in the amount of $38,250,060.90, which Goldman Claim was amended on June 7, 2007.

C. On May 4, 2007, the Debtor filed the Objection to the Goldman Claim, which Objection asserted four grounds upon which the Debtor alleged that the Goldman Claim should be disallowed in its entirety.

D. On May 16, 2007, Goldman filed his Initial Response to the Objection, and on June 12, 2007, Goldman filed his Supplemental Response to the Objection.

Substantive Background Facts

E. On February 19, 1997, Goldman obtained a judgment (the "Judgment") against Orenthal James Simpson a/k/a OJ Simpson ("Simpson") in a lawsuit styled *Fredric Goldman, an individual, and as personal representative of the Estate of Ronald Lyle Goldman, Deceased, vs. Orenthal James Simpson*, pending in the Los Angeles County Superior Court (Santa Monica Courthouse), Case No. SC 036340. The Judgment was properly renewed by Goldman under

applicable non-bankruptcy law. The amount of the Judgment, as reflected in the Goldman Claim is in excess of $38,250,060.90.

F. The Debtor was formed on March 22, 2006 as a Florida corporation. The stock in the Debtor is owned equally by Simpson's four (4) children. Arnelle Simpson is the Debtor's president.

G. The key items of evidence in this case are (i) that certain contract, dated May 8, 2006, between the Debtor and HarperCollins Publishers, Inc. ("HarperCollins")(the "HC Contract") concerning the publication of that certain book ultimately titled "If I Did It" (the "Book") concerning the murders of Nicole Brown Simpson and Ronald Lyle Goldman, (ii) that certain letter attached as Exhibit A to the HC Contract executed by Simpson (the "Simpson Letter"), which Simpson Letter explicitly states that Simpson is the writer of the Book, that the Book constitutes "his story," and that Simpson is personally responsible for the Debtor's performance under the HC Contract, and (iii) the trail of money which was paid by HarperCollins under the HC Contract through an agent, then to and through the Debtor to Simpson, or for Simpson's benefit, including to pay his mortgage with Washington Mutual Bank and his tax obligations to the Internal Revenue Service.

H. In addition, pursuant to the HC Contract, the Simpson Letter and that certain License Agreement – Non-Exclusive, dated April 11, 2006, by and between the Debtor and Simpson (the "License Agreement"), Simpson transferred to the Debtor, and thereafter the Debtor owned, all right, title and interest in and to the Book and all related rights, including without limitation, the right to utilize Simpson's intellectual property rights, consisting of Simpson's name, facsimile signature, nickname, likeness, life story, right of publicity and auto biographical sketch on or in connection with the writing and publishing of the Book.

I. Other than the HC Contract, the Simpson Letter and the License Agreement, the Debtor had and has no business operations or source of income or revenue.

J. From at least May 22, 2006 through November 16, 2006, Harper Collins paid at least $780,000 under the HC Contract to Transactional Marketing Partners ("TMP") in five payments as follows: $95,000 on May 22, 2006, $95,000 on July 14, 2006, $95,000 on August 22, 2006 and $95,000 on November 10, 2006 and $400,000 on November 16, 2006. In turn, TMP deducted a 15% commission from each such payment and transferred the balance of each such payment ($663,000 in the aggregate) to the Debtor.

K. Upon receipt of each such payment under the HC Contract from TMP, the Debtor almost immediately transferred the substantial majority of each such payment (totaling $630,000) to or for the benefit of Simpson, including $340,000 on November 16, 2006.

L. According to Arnelle Simpson, the Debtor's president, (i) Simpson negotiated his own deal with HarperCollins and needed to get his money upfront, (ii) the Debtor did not pay anything to anyone in exchange for the Book or the rights purportedly granted to it under the HC Contract, and (iii) the Debtor had no investment whatsoever in the Book.

M. Arnelle Simpson also testified that she was aware of the Goldman Judgment and the efforts by Goldman to collect on the Judgment against Simpson before and after the creation of LBA.

N. Upon learning of the existence of the Book, Goldman sought and obtained in the Superior Court for the State of California (the "California State Court") (i) an Assignment Order and Restraining Order, dated March 13, 2007 (the "Assignment Order"), and (ii) an Order Declaring Lorraine Brooke Associates, Inc. a Surrogate of Orenthal James Simpson, dated March 23, 2007 (the "Surrogate Order").

O. Pursuant to the Assignment Order, the California State Court ordered that the following rights to payment be and are assigned to Goldman: "any and all monies, accounts receivable, royalty rights and all other rights to payment in favor of ORENTHAL JAMES SIMPSON or held in the name of any surrogate or nominee for the benefit of SIMPSON, his children or any third party, etc., including, but not limited to Lorraine Brooke Associates, Inc., arising from the HarperCollins Publishers Agreement, dated May 8, 2006. This order shall include, but not be limited to, any copyright acquired or option exercised under said Agreement."

P. Thereafter, pursuant to the Surrogate Order, the California State Court clarified that "Lorraine Brooke Associates, Inc. be and the same is deemed, adjudicated, and held to be a surrogate of ORENTHAL JAMES SIMPSON ... but limited to the aforementioned Book Rights."

Q. In his arguments and papers, Goldman makes a persuasive argument under the doctrine of collateral estoppel in regards to the Debtor's ability to re-litigate either the Assignment Order or the Surrogate Order. The Debtor argues that it was not involved in the California State Court proceedings and that therefore, the Surrogate Order cannot be binding on it. On the other hand, the Debtor argues that the California State Court proceedings are binding on Goldman in support of the Objection. The Debtor's arguments in respect of its arguments concerning its involvement in the California State Court proceedings are inconsistent.

R. In the California State Court, the Debtor was represented and affirmatively, but unsuccessfully, challenged the Assignment Order and the Surrogate Order. Moreover, the Debtor did not appeal either the Assignment Order or the Surrogate Order.

S. In determining whether to accord preclusive effect to a state court order, a bankruptcy court "begin[s] with the fundamental principle that 'judicial proceedings [of any

court of any state] shall have the same full faith and credit in every court within the United States . . . as they have by law or usage in the courts of such State . . . from which they are taken.'" In re Bursack, 65 F.3d 51, 53 (6th Cir. 1995) (quoting 28 U.S.C. § 1738); In re Calvert, 105 F.3d 315, 317 (6th Cir. 1997) (same); Marrese v. American Academy of Orthopaedic Surgeons, 470 U.S. 373 (1985) (holding that a federal court is to refer to the preclusion law of the state in which the judgment was rendered to determine whether to apply issue preclusion (or collateral estoppel) to a particular judgment).

T. The principles of full faith and credit require that federal courts "must give to a state-court judgment the same preclusive effect as would be given that judgment under the law of the State in which the judgment was rendered." Bursack, 65 F.3d at 53 (citations omitted). This means that, in order to determine the preclusive effect of a state court judgment, this Court must consider the law of the state in which the judgment was rendered. In re Markowitz, 190 F.3d 455, 461 (6th Cir. 1999). The Eleventh Circuit has also expressly held that "if the prior judgment was rendered by a state court, then the collateral estoppel law of the state must be applied to determine the judgment's preclusive effect." In re St. Laurent, 991 F.2d 672, 676 (11th Cir. 1993) (citing In re Touchstone, 149 B.R. 721, 725 (Bankr. S.D. Fla. 1993)). This Court is bound by the Eleventh Circuit's pronouncement that state collateral estoppel law applies. In re Itzler, 247 B.R. 546 (Bankr. S.D. Fla. 2000). Therefore, if California would give preclusive effect to the Assignment Order and the Surrogate Order, then this Court is likewise bound to accept the issues as conclusively-decided. Migra v. Warren City Sch. Dist. Bd. of Educ., 465 U.S. 75, 81 (1984).

U. In California, "collateral estoppel precludes relitigation of issues argued and decided in prior proceedings." Lucido v. Superior Court, 51 Cal. 3d 335, 341 (Cal.

1990)(citations omitted). California law further provides that collateral estoppel will apply to bar relitigation of issues where the following five elements are present:

1. the issue to be precluded must be identical to that decided in the prior proceeding;
2. the issue must have been actually litigated at that time;
3. the issue must have been necessarily decided;
4. the decision in the prior proceeding must be final and on the merits; and
5. the party against whom preclusion is sought must be in privity with the party to the former proceeding.[1]

People v. Garcia, 39 Cal. 4th 1070, 1077 (Cal. 2006) (citations omitted).

V. The facts and evidence in this case clearly establish that the Assignment Order and the Surrogate Order satisfy all five elements for collateral estoppel in California. As a result, the Debtor is collaterally estopped from challenging the Assignment Order and the Surrogate Order in this Court.

W. Separate and apart from the application of the doctrine of collateral estoppel, the Court finds the Debtor to be part of a scheme or device to hinder, delay or defraud creditors, specifically Goldman, by attempting to place a corporate veil over a mechanism for Simpson to author the Book and sell the intellectual property rights to a publisher who transmitted in excess of $630,000 as an up front payment for the Book, through a book representative or agent, then through the Debtor, and ultimately to Simpson or for his benefit.

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[1] See Zapata v. Department of Motor Vehicles, 2 Cal. App. 4th 108, 114 (Cal. Ct. App. 1991)("Privity is essentially a shorthand statement that collateral estoppel is to be applied in a given case; there is no universally applicable definition of privity." Lynch v. Glass, 44 Cal. App. 3d 943, 947 (Cal. Ct. App. 1975)); see also Clemmer v. Hartford Ins. Co., 22 Cal. 3d 865 (Cal. 1978)(The concept of privity refers "to a relationship between the party to be estopped and the unsuccessful party in the prior litigation which is 'sufficiently close' so as to justify application of the doctrine of collateral estoppel...In the context of collateral estoppel, due process requires that the party to be estopped had an identity or community of interest with, and adequate representation by, the losing party in the first action as well as that the circumstances must have been such that the party to be estopped should reasonably have expected to be bound by the prior adjudication.") Based on the findings contained herein, the Court concludes that the Debtor and Simpson are clearly in privity with each other for purposes of collateral estoppel.

X. The Court's findings of fact are clearly proven by the HContract and the Simpson Letter attached to the HC Contract. The HC Contract is very much like a publisher's contract with an author, except that the Debtor is described as a proprietor, rather than an author, and strangely, the Debtor is obligated to do all the things an author is usually obligated to do in a publishing contract. However, the Debtor is not the author of the Book, Simpson is. As a result, what begins as a contract between HarperCollins and the Debtor is converted by the Simpson Letter into a contract between HarperCollins and Simpson.

Y. The Court concludes that the HC Contract could not be enforced by specific performance against the Debtor because the HC Contract is actually a personal services contract between HarperCollins and Simpson.

Z. The Simpson Letter starts out by confirming that it is regarding, "An untitled memoir written by [Simpson]", not by the Debtor, which is confirmed by Simpson's signature. The Court notes that the HC Contract makes clear that HarperCollins would not have entered into the HC Contract unless Simpson signed the Simpson Letter, and in Paragraph 1 Simpson represents that the Debtor "has the right to enter into the Agreement and bind me [Simpson] personally to the terms of the Agreement and to provide the services of me [Simpson] required under the terms of the Agreement."

AA. Paragraph 2 of the Simpson Letter is a representation by Simpson that, "The Work shall be solely written by me [Simpson] with a writer."

BB. In Paragraph 3 of the Simpson Letter, Simpson represents that he read the HC Contract, and that he, Simpson, "agree[s] to be personally responsible for the performance of LBA, and to be personally bound by the obligations of LBA contained in the agreement to the same extent as LBA." Simpson also agrees in the Simpson Letter to be specifically bound by,

among others, Paragraph 9 of the HC Contract, which paragraph deals with warranties and indemnities of the Debtor to HarperCollins.

CC. Paragraph 12 of the HC Contract contains an option for the publication of the next book by Simpson. The Court finds it odd that the rights to a book that does not yet exist could be assigned to the Debtor.

DD. Paragraph 18 of the HC Contract addresses the use of Simpson's name. Clearly, this is a Simpson book.

EE. Paragraph 4 of the Simpson Letter also provides that Simpson agrees that "all of the obligations of LBA will be duly performed", and that, "I will perform all obligations required of me so that LBA will at all times be in full compliance with the terms and conditions of the Agreement. Any notice given to LBA shall be sufficient notice to me for my personal guarantee of the performance of the Agreement by LBA."

FF. Finally, in Paragraph 5 of the Simpson Letter, Simpson agrees that, "the entering of the Agreement by HC with LBA is sufficient consideration to me for the agreements and representations made by me in this letter." The letter is signed, "Sincerely, O.J. Simpson."

GG. It is clear from the HC Contract and the Simpson Letter that it is a contract between HarperCollins and Simpson. The facts and circumstances of this case are that the Debtor is nothing more than a nominee of and for Simpson. As a result, this Court finds that this entire structure and series of transactions between Simpson and the Debtor was a scheme and a device of Simpson and others to hinder, delay and defraud creditors, specifically Goldman.

HH. The Court finds that the evidence presented here today confirms the opinion of the California State Court Judge Gerald A. Rosenberg that LBA is a nominee or a surrogate, a substitute for Simpson, and equity demands that the corporate veil be pierced, indeed lifted

totally from the device created for the sole purpose of secreting a possible asset from a judgment creditor, namely Goldman.

II. The Court further finds and determines that it is appropriate to conclude that there is a lack of separate existence between LBA and Simpson, and that this must be determined and found, as a matter of law, to prevent fraud and an injustice.

JJ. The incorporation of LBA was clearly accomplished to perpetrate a fraud, a deception without any legitimate business purpose, deliberately practiced in order to secure an unfair or an unlawful benefit or accomplishment.

KK. The Debtor's argument of separate entity status fails upon Exhibit "A" to the contract, the letter dated May 6, 2006 to HarperCollins signed by O.J. Simpson. It is here that Mr. Simpson is, to quote Shakespear, Hamlet, Act III, Scene IV, "hoisted on its own petard."

Upon the foregoing findings of facts and conclusions of law, it is

ORDERED AND ADJUDGED as follows:

1. The Objection to the Goldman Claim is OVERRULED in its entirety.

2. The Goldman Claim is ALLOWED IN FULL as filed.

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Copies Furnished to:

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(Attorney Battista is directed to immediately serve a conformed copy of this Order upon all parties in interest and file a certificate of service with the Court.)