

DUNN V. QUIEPO (IN RE TERESA I. QUIEPO)
ADV. NO. 06-1916-BKC-LMI

The Court overruled Chapter 7 Trustee's objection to the Debtor's discharge pursuant to 11 U.S.C. §727(a)(3) based on the Debtor's alleged failure to keep or preserve recorded information from which the Debtor's financial condition or business transactions might be ascertained, where the Court found that even if the Debtor had a duty to maintain the records of interest to the Trustee, the 66 year-old Debtor's limited education and business experience, her general reliance on her children, and the fact that the real estate transactions at issue were orchestrated by the Debtor's son and former daughter-in-law, all supported the Debtor's justifiable expectation that she need not maintain her own records of the real estate transactions.

Denial of the Debtor's discharge was appropriate pursuant to 11 U.S.C. §727(a)(4) where the Debtor's omission of her maiden name from her bankruptcy petition was a deliberate false oath. The Court found the Debtor's maiden name was directly related to her participation in numerous real estate transactions. The omission of the Debtor's maiden name was an impediment to the Trustee's ability to discover transfers of real property and significant sale proceeds.

Denial of the Debtor's discharge was also appropriate pursuant to 11 U.S.C. §727(a)(5) as a result of the Debtor's failure to explain the loss of assets. The Trustee met her burden of showing the debtor had an unexplained loss of assets, *viz*, proceeds of various real estate sales. The Debtor held title to various parcels of real property and received sale proceeds in the aggregate of over \$274,410.35. Once the Trustee met her initial burden, the Debtor had the burden to produce documents explaining how the proceeds of the sales were distributed, and without the documentation to corroborate the testimony, the Debtor was unable to sustain her burden of providing a satisfactory explanation.