

In re: ANTHONY F. CUTAIA, Debtor

DEBORAH MENOTTE,

Plaintiff

v.

ANTHONY F. CUTAIA,

Defendant

**CASE NO.: 07-15746-PGH**

**ADV. NO.: 08-01359**

Debtor disclosed ownership of a Rolex watch on Schedule B and asserted it had a current value of \$250.00. The Debtor claimed the Rolex watch as exempt. The Trustee objected to the claimed exemption. The Debtor subsequently sold the Rolex watch without authorization from the Court or the Trustee. In addition, the Debtor failed to account for his ownership of a Movado watch on his Schedules. The Trustee filed a two count complaint seeking: 1) denial of the Debtor's discharge pursuant to § 727(a)(2)(B) on the grounds that the Debtor transferred, without notice or consent, the Rolex with the intent to hinder, delay, or defraud the Trustee and creditors, and 2) denial of the Debtor's discharge pursuant to § 727(a)(4)(A) on the grounds that the Debtor knowingly and fraudulently made a false oath by failing to disclose the Movado. As for § 727(a)(2)(B), the Court concluded that the Trustee presented sufficient evidence to establish that the Debtor acted with fraudulent intent when he engaged in a post-petition transfer of property of the estate. The Debtor failed to present evidence that sufficiently explained why he should nevertheless receive a discharge. Accordingly, the Court denied the Debtor's discharge under § 727(a)(2)(B). As for § 727(a)(4)(A), the Court concluded that the Debtor's failure to list the Movado in his Schedules was an innocent omission. Thus, the Court found that denial of the Debtor's discharge under § 727(a)(4)(A) was unwarranted.