

STATE OF VERMONT  
ORANGE COUNTY, SS

Donald Lomascolo

Orange Superior Court

v.

Henry Huntington

Docket No. S195-92 OeC

Order of Adjudication of Trustee and  
Final Order Upon Post-Judgment Trustee Process

Plaintiff is the holder of a judgment order against defendant in the amount of \$5274.67, plus statutory interest at the rate of 12% per annum from the judgment date of December 15, 1992. Defendant was served with the judgment on February 21, 1993. Defendant has not appealed or otherwise taken issue with that order, which is now final. A Writ of Execution was served on defendant on March 21, 1993, to which defendant responded with a statement that he had insufficient funds and would have to "work out a payment plan." That Writ of Execution was returned to the court on March 24, 1993.

Pursuant to V.R.C.P. 4.2(k), a judgment upon which execution has issued operates as an order of approval which authorizes the clerk of the court to issue a summons to trustee upon a proper request for the same by the judgment creditor. Plaintiff has provided the recognizance for \$50.00 in costs to the trustee required by 12 V.S.A. §3087. Plaintiff has obtained from the clerk of the court a Summons to Trustee for the Merchants Bank. That Summons to Trustee, along with a list of exemptions and a disclosure form, was served on the Merchant's Bank on August 20, 1993, and upon the defendant on August 24, 1993, in compliance with V.R.C.P. 4.2(k).

The Merchant's Bank disclosed, on August 25, 1993, that it is in the possession of "\$5,274 and \$440.47 in interest for a total of \$5,715.14" belonging to defendant. Neither defendant nor the Merchants Bank has requested a hearing, as allowed under V.R.C.P. 4.2(g), to contest or question the trustee disclosure.

Accordingly, the Merchant's Bank is hereby ADJUDGED Trustee under V.R.C.P. 4.2(g), and is ORDERED to turn over to plaintiff any sums in its possession belonging or owing to defendant in an amount no greater than the amount of \$5,715.14, representing the amount set forth in the Trustee's disclosure of August 25, 1993.

Pursuant to 12 V.S.A. §3081, this order shall have the effect of extinguishing any entitlement or claim of the defendant to the sum which is paid under this order.

Dated this 18th day of November, 1993, at Chelsea, Vermont.

Mary Miles Teachout  
Mary Miles Teachout  
Presiding Judge