UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ILLINOIS

In Re	)	
CURTIS DAVID MASE,	)	In Bankruptcy
MASE FINANCIAL SERVICES,	)	Case No. 98-33373
C&M FINANCIAL GROUP, INC.,	)	
	)	
Debtor.	)	
	)	
THOMAS P. GILMORE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Adversary No. 99-3016
	)	
CURTIS MASE, RICHARD J.	)	
DRAKULICH, MRD FINANCIAL LTD.,	)	
and DMR FINANCIAL LTD.,	)	
	)	
Defendants.	)	

O P I N I O N

The issue before the Court is whether the Defendant fraudulently induced the Plaintiff to invest $50,000 in certain "Cooperative Venture Agreements" so as to render a debt for $50,000 nondischargeable pursuant to 11 U.S.C. §523(a)(2)(A).

There is wisdom in the adage "if it sounds too good to be true, it probably is." The Plaintiff, Thomas Gilmore, learned this lesson the hard way.

Mr. Gilmore and the Defendant, Curtis Mase, have known each other for 15 years. They went to the same church - The World of Life Tabernacle - three times a week, they worked out together

at the gym, and they socialized at each other's house. Both men are in their early 40's and have high school educations. Mr. Gilmore currently works as a personal secretary at a beverage company. He described his duties as those of a troubleshooter. His prior employment history included stints as a clerk, custodian, and line inspector. Mr. Mase is in the insurance business. He has his own firms - Mase Financial Services and C&M Financial Group, Inc. -which he operates from his home and he serves as the manager of an insurance office for Richard Drakulich of MRD Financial Ltd. and DMR Financial Ltd. His prior employment history included work as a laborer, roofer, trucker and factory worker.

During the course of their friendship, Mr. Gilmore and Mr. Mase discussed various investment opportunities. One of the topics of these discussions was a "Cooperative Venture Agreement" which Mr. Mase had access to through Mr. Drakulich. These agreements were described as secured and promised a return of 100% or more. Mr. Gilmore was initially not interested in one of these investments because he was concerned about the safety of his investment. According to Mr. Gilbert, Mr. Mase was persistent in trying to get him to invest in one of these instruments. Mr. Mase described the Cooperative Venture Agreement as 100% secure. Indeed, Mr. Mase told Mr. Gilmore

that his own mother invested $200,000 in one of these agreements and received a 100% return.

Mr. Mase told a slightly different story. He testified that he simply told Mr. Gilmore what he knew about the program, and told him that he should make up his mind. He denied being persistent. He stated that his mother invested $200,000 in a Cooperative Venture Agreement in 1996, received $30,000 in interest, and then rolled over her $200,000 investment into another Cooperative Venture Agreement in 1996.

Relying on Mr. Mase's advice and their long friendship, Mr. Gilmore invested $50,000 in a Cooperative Venture Agreement on September 1, 1996. The Agreement promised net distributable profits of 120%. The Agreement was signed by Mr. Gilmore and Mr. Drakulich on behalf of MRD Financial Ltd. Mr. Gilmore delivered his check to Mr. Mase, and then received a contract already signed by Mr. Drakulich. Mr. Mase notarized the signatures on the Agreement. Mr. Gilmore did not talk to Mr. Drakulich prior to signing the agreement.

At some point after the first Agreement but before the second Agreement, Mr. Gilmore received a "Bank Debenture Trading Programs Introduction" from Mr. Mase. This document purported to explain how the program of trading in European bank debentures worked. The document described the trading as "non-

speculative" and stated that an investor's principal would be "secured at 100% or more." The large profit margins were “derived from the margins of pre-negotiate trades.” The document concluded that “[b]ank debentures offer an opportunity for investors to participate in international financial markets through trading in stable, liquid, dollar denominated notes that generate high yields without corresponding risk.”

Mr. Gilmore received a return of $25,000 on his Cooperative Venture Agreement in 1997. He reinvested the $25,000 in a Cooperative Venture Agreement with DMR Financial Ltd. of Belize City, Belize on April 24, 1997. This agreement promised a return of approximately 100%. It was signed by Mr. Drakulich on behalf of DMR Financial Ltd. and Mr. Gilmore. Mr. Mase notarized the signatures. The $25,000 was wired to DMR's bank account. Mr. Mase was not a party to the transaction, but he delivered the necessary documents to Mr. Gilmore and saw to the details of the transaction.

Mr. Gilmore did not talk to Mr. Drakulich prior to making his investments. Mr. Mase said that he would take care of everything, and that it would be better not to do anything direct.

Mr. Mase was not clear on how he was compensated for his work in procuring investors for the Cooperative Venture

Agreements. However, he did admit that he received a $10,000 finder's fee at some point, and that there was a possibility of additional finder's fees.

Mr. Mase testified that he invested $30,000 of his own money in a Cooperative Venture Agreement in April 1997. However, he could not produce any documents to support this claim.

Mr. Gilmore requested payment of the principal and interest from both Mr. Mase and directly from Mr. Drakulich. He has not received the return of any of his funds. The agreements he signed with Mr. Drakulich's firms are worthless. There was no evidence that any investor received the return of all principal invested.

11 U.S.C. §523(a)(2)(A) excepts from discharge those debts which have been obtained by false pretenses, a false representation, or actual fraud. In order for a debt to be found nondischargeable under §523(a)(2)(A), the Plaintiff must prove by a preponderance of the evidence that the Defendant knowingly made a false representation with the intention and purpose of deceiving the creditor, that the creditor relied on the representation, and that the creditor sustained damages as a proximate result of the representation having been made. Field v. Mans, 116 S.Ct. 437, 446 (1995); Grogan v. Garner, 111 S.Ct. 654, 661 (1991); In re Mayer, 51 F.3d 670, 673 (7th Cir.

1995), *cert. denied* 116 S-Ct. 563 (1995); In re Sheridan, 57 F.3d 627, 635 (7th Cir. 1995); In re Scarlata, 979 F.2d 521, 525 (7th Cir. 1992); In re Kimzey, 761 F.2d 421, 423-24 (7th Cir. 1985).

The evidence in this proceeding clearly establishes that Mr. Mase made false representations to Mr. Gilmore. Mr. Mase described the investments as "safe" and "secured". In fact, they were neither safe nor secured. Mr. Gilmore relied on Mr. Mase's representation that the investments were safe and secured. Mr. Gilmore had made it clear to Mr. Mase that safety was one of his principal concerns, and he relied on his good friend who was in the financial business for his advice on these matters. It is undisputed that Mr. Gilmore lost $50,000 as a result of his investment in the Cooperative Venture Agreements.

The key issue in this proceeding is whether Mr. Mase made the false representations with an intent to deceive or defraud Mr. Gilmore. The evidence showed that Mr. Drakulich was the main culprit in this investment scam. Mr. Gilmore portrays Mr. Mase as Mr. Drakulich's chief henchman and a knowing participant in the scam; Mr. Mase portrays himself as a fellow victim of Mr. Drakulich.

Mr. Gilmore describes himself as an unsophisticated investor. While this is true, it is also true that Mr. Mase is

not very sophisticated in financial matters. Both men are high school graduates. Mr. Mase’s training in insurance matters did not prepare him for the world of high finance. Both men were vulnerable to the kind of get rich quick scheme orchestrated by Mr. Drakulich.

Mr. Mase invested $30,000 of his own money in a Cooperative Venture Agreement following Mr. Gilmore's first investment and at about the same time as Mr. Gilmore's second investment. In addition, Mr. Mase's mother invested $200,000 in these agreements. The Court does not believe that Mr. Mase would have invested his own money and his mother's money in these ventures if he knew that they were fraudulent and worthless.

Moreover, by all accounts, Mr. Gilmore and Mr. Mase were close personal friends for a number of years prior to these investments. The Court does not believe that this was a case where Mr. Mase took advantage of his long friendship with Mr. Gilmore in order to perpetrate a fraud for his own financial benefit. The evidence showed that Mr. Mase was trying to let his friend in on a good deal, and that both men lost money when the deal turned sour. Mr. Mase did not intend to deceive Mr. Gilmore.

For the foregoing reasons, the Complaint to Determine Dischargeability of Debt is denied, and the debt of Mr. Mase to

Mr. Gilmore is discharged..

This Opinion is to serve as Findings of Fact and Conclusions of Law pursuant to Rule 7052 of the Rules of Bankruptcy Procedure.

See written Order.

ENTERED: December 27, 1999

/s/ LARRY LESSEN
UNITED STATES BANKRUPTCY JUDGE