

The document below is hereby signed.

Signed: February 23, 2013



S. Martin Teel, Jr.

S. Martin Teel, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	
)	
CLARENCE LUSANE,)	Case No. 11-00889
)	(Chapter 7)
Debtor.)	
_____)	
)	
ARC CONSTRUCTION SERVICES,)	
INC.,)	
)	
Plaintiff,)	
)	Adversary Proceeding No.
v.)	12-10022
)	
CLARENCE LUSANE,)	Not for Publication in
)	West's Bankruptcy Reporter
Defendant.)	

MEMORANDUM DECISION AND ORDER RE
ARC CONSTRUCTION SERVICES, INC.'S MOTION FOR SUMMARY JUDGMENT

Arc Construction Services, Inc. has filed a motion for summary judgment on its claim that the debtor made false statements and failed to disclose preferential transfers such that the debtor should be denied a discharge under 11 U.S.C. §§ 727(a)(2) and (4). To prevail on claims under §§ 727(a)(2) and (4), however, Arc must show that the debtor acted with fraudulent intent. The question of the debtor's intent is more

appropriately resolved at trial. See *In re Swegan*, 383 B.R. 646, 655 (B.A.P. 6th Cir. 2008) (“Courts must be cautious in determining issues that involve a person’s state of mind when deciding a case at the summary judgment stage, [and] summary judgment is particularly inappropriate when an individual’s intent is at issue.” (internal quotations and citations omitted)). It is thus

ORDERED that Arc Construction Services, Inc.’s motion for summary judgment (Dkt. No. 13) is DENIED.

[Signed and dated above.]

Copies to: All counsel of record; Office of United States Trustee.