

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
BAY CITY

IN RE: Kevin W. Kulek

Chapter 7 Petition
16-21030-dob
Honorable Daniel Opperman

RANDALL L. FRANK, TRUSTEE,
Plaintiff,

Adversary Case Number
16-2073
Honorable Daniel Opperman

V

AMANDA LYNN KULEK,
ALSO KNOWN AS
AMANDA L. KULEK AND
AMANDA KULEK,
Defendant.

Keith M. Nathanson, P41633
Special Litigation Counsel to Randall L. Frank, Trustee
Attorney for Plaintiff
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833
kn@nathanson-law.com

Amanda Kulek
Defendant in pro se
1301 East Pine River Road
Midland, Michigan 48460
(989) 941-8860
fae@laumephotography.com

**TRUSTEE'S MOTION FOR AUTHORITY TO PARTIALLY COMPROMISE AND
SETTLE ESTATE'S ADVERSARY COMPLAINT AGAINST DEFENDANT AS TO THE
REAL PROPERTY ONLY**

Randall L. Frank, through his Special Litigation Counsel, states as follows:

1. Trustee filed the instant adversary complaint on September 16, 2016 against Defendant for recovery of money and property, including:
 - a. Money transferred to Defendant from Debtor via checks and bank-to-bank transfers;
 - b. Money transferred by Debtor to purchase the home located at 1301 East Pine River Road, Midland, Michigan.
2. Randall L. Frank is the duly appointed and acting Chapter 7 Trustee in this Case.
3. Discovery has been had in this matter.
4. Defendant has obtained an appraisal of the home, and the appraisal valued the home at \$35,000.00.
5. Defendant has offered the amount of \$30,000.00 to resolve the Trustee's Claim to the home.
6. Defendant has offered, pursuant to the attached stipulation and proposed order, to:
 - a. Provide to the Trustee, a commitment lender to loan the \$30,000.00 on or before July 9, 2017;
 - b. Provide the settlement of \$30,000.00 to the Estate within thirty days of receiving a commitment letter;

- c. Stipulate to the entry of a Judgment against Defendant in the amount of \$30,000.00, which represents a partial resolution of the instant adversary proceeding, which may be entered should Defendant not obtain the requisite commitment to lend, or be able to provide the funds within thirty days of receiving the commitment to lend.
7. That upon receipt of the settlement, the Trustee has agreed to waive and release any further claim regarding the home only.
8. That this settlement does not affect the Estate's claim for the \$18,501.00 of money transferred to Defendant.
9. Based upon the representations of Defendant as to the appraised value, with Defendant to provide a copy of the appraisal to confirm the value, Trustee believes it to be in the best interests of the Estate to partially compromise the adversary claim against Defendant, to avoid:
 - a. The necessity of the Estate having to retain a real-estate broker to sell the property;
 - b. The potential wait to sell the property;
 - c. The brokers listing fees;
 - d. The title costs and closing fees to sell the property;
 - e. Additional costs and attorney fees to consummate the sale if said home were recovered into the estate.

WHEREFORE Trustee, Randall L. Frank, respectfully prays that this Honorable Court enter an order, substantially in the form attached hereto as Exhibit "1", authorizing

him to compromise and settle the estate's interest in the home as stated above and in the signed stipulation attached as an Exhibit to this motion.

/s Keith M. Nathanson

Keith M. Nathanson, P41633

Keith M. Nathanson, PLLC

Special Litigation Counsel to Randall L. Frank

2745 Pontiac Lake Road

Waterford, MI 48328

(248) 436-4833

Dated: June 19, 2017

Exhibit 1 – Proposed Order

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
BAY CITY**

IN RE: Kevin W. Kulek

Chapter 7 Petition
16-21030-dob
Honorable Daniel Opperman

_____/

RANDALL L. FRANK, TRUSTEE,
Plaintiff,

Adversary Case Number
16-2073
Honorable Daniel Opperman

V

AMANDA LYNN KULEK,
ALSO KNOWN AS
AMANDA L. KULEK AND
AMANDA KULEK,
Defendant.

_____/

Keith M. Nathanson, P41633
Special Litigation Counsel to Randall L. Frank, Trustee
Attorney for Plaintiff
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833
kn@nathanson-law.com

Amanda Kulek
Defendant in pro se
1301 East Pine River Road
Midland, Michigan 48460
(989) 941-8860
fae@laumephotography.com

_____/

**STIPULATED ORDER PARTIALLY RESOLVING TRUSTEE'S CLAIM (AGAINST
REAL PROPERTY OF DEFENDANT ONLY)**

This matter having come before this Honorable Court upon the signed stipulation of the parties, and upon Trustee's Motion to Compromise a Portion of the Estate's Claim against Defendant, and the Court being first duly advised in the premises:

IT IS HEREBY ORDERED that Defendant, Amanda Kulek, shall pay to the Estate, the sum of Thirty Thousand (\$30,000.00) Dollars, representing the compromised claim of the Estate in the real property located at 1301 East Pine River Road, Midland, Michigan.

IT IS FURTHER ORDERED that Defendant, Amanda Kulek, shall have thirty (30) days (July 9, 2017) to provide to Counsel for Trustee, a commitment from a lender to loan the Thirty Thousand (\$30,000.00) Dollars to Defendant, either by way of a mortgage, a secured loan on other security, a personal loan, line of credit, or other lending mechanism.

IT IS FURTHER ORDERED that upon payment of the Thirty Thousand (\$30,000.00) Dollars, pursuant to the terms above, that Plaintiff/Trustee will file and record a release of the notice of lis pendens and a release of the prior recorded order prohibiting transfer of the property.

IT IS FURTHER ORDERED that Defendant shall have thirty (30) days from the commitment to loan letter to close said loan and remit the funds to the Plaintiff/Trustee.

IT IS FURTHER ORDERED that should Defendant fail to provide the aforementioned commitment to lend within thirty (30) days (July 9, 2017), or fail to remit the Thirty Thousand (\$30,000.00) Dollars to Plaintiff/Trustee, that Plaintiff/Trustee shall have and be entitled to a money judgment against Defendant for Thirty Thousand (\$30,000.00) Dollars, and that this Order shall be treated as a money judgment for Thirty Thousand (\$30,000.00) Dollars.

IT IS FURTHER ORDERED that this compromise does not resolve the Plaintiff/Trustee's Claims for \$18,501.00 transferred to Defendant which is part and parcel of Plaintiff's Adversary Complaint in this matter.

IT IS FURTHER ORDERED that this Consent Order does not resolve all pending claims in this adversary proceeding.

**EXHIBIT 2
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
BAY CITY**

IN RE: Kevin W. Kulek

Chapter 7 Petition
16-21030-dob
Honorable Daniel Opperman

_____/

RANDALL L. FRANK, TRUSTEE,
Plaintiff,

Adversary Case Number
16-2073
Honorable Daniel Opperman

V

AMANDA LYNN KULEK,
ALSO KNOWN AS
AMANDA L. KULEK AND
AMANDA KULEK,
Defendant.

_____/

Keith M. Nathanson, P41633
Special Litigation Counsel to Randall L. Frank, Trustee
Attorney for Plaintiff
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833
kn@nathanson-law.com

Amanda Kulek
Defendant in pro se
1301 East Pine River Road
Midland, Michigan 48460
(989) 941-8860
fae@laumephotography.com

_____/

NOTICE OF MOTION TO PARTIALLY COMPROMISE CLAIM OF ESTATE

Plaintiff, Randall L. Frank, Trustee has filed papers with the court to partially compromise claims of the estate.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to compel production of documents, or if you want the court to consider your views on the motion, within 21 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:¹

United States Bankruptcy Court

111 First Street, Bay City, MI 48708

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also send a copy to:

Keith M. Nathanson, Special Litigation Counsel to Randall L. Frank, Trustee
2745 Pontiac Lake Road, Waterford, MI 48328

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

¹ Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e)

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: 6/19/2017

Signature /s/ Keith M. Nathanson, P41633_____

Keith M. Nathanson, P41633

2745 Pontiac Lake Road

Waterford, MI 48328

(248) 436-4833

kn@nathanson-law.com

**EXHIBIT 2
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
BAY CITY**

IN RE: Kevin W. Kulek

Chapter 7 Petition
16-21030-dob
Honorable Daniel Opperman

_____/

RANDALL L. FRANK, TRUSTEE,
Plaintiff,

Adversary Case Number
16-2073
Honorable Daniel Opperman

V

AMANDA LYNN KULEK,
ALSO KNOWN AS
AMANDA L. KULEK AND
AMANDA KULEK,
Defendant.

_____/

Keith M. Nathanson, P41633
Special Litigation Counsel to Randall L. Frank, Trustee
Attorney for Plaintiff
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833
kn@nathanson-law.com

Amanda Kulek
Defendant in pro se
1301 East Pine River Road
Midland, Michigan 48460
(989) 941-8860
fae@laumephotography.com

_____/

CERTIFICATE OF SERVICE

Keith M. Nathanson, being first duly sworn, states that on June 19, 2017, he did serve by first class mail:

- Trustee's Motion for Authority to Compromise Estate's Claim (Partial), Proposed Order, Notice of Trustee's Motion, Proof of service

With the Clerk of the Court using the ECF and I hereby certify that the Court's ECF system has served all registered users. I have mailed by USPS the above referenced papers to all of the non-registered ECF participants as listed in the Creditor's matrix by placing same in a US mail receptacle in Waterford, Michigan first class postage-prepaid.

Respectfully submitted,

/s/ Keith M. Nathanson

Keith M. Nathanson, P41633
Special Litigation Counsel for the Chapter 7 Trustee
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833
kn@nathanson-law.com

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
BAY CITY

IN RE: Kevin W. Kulek

Chapter 7 Petition
16-21030-dob
Honorable Daniel Opperman

RANDALL L. FRANK, TRUSTEE,
Plaintiff,

Adversary Case Number
16-2073
Honorable Daniel Opperman

V

AMANDA LYNN KULEK,
ALSO KNOWN AS
AMANDA L. KULEK AND
AMANDA KULEK,
Defendant.

Keith M. Nathanson, P41633
Special Litigation Counsel to Randall L. Frank, Trustee
Attorney for Plaintiff
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833
kn@nathanson-law.com

Amanda Kulek
Defendant in pro se
1301 East Pine River Road
Midland, Michigan 48460
(989) 941-8860
fae@laumephotography.com

**STIPULATION TO PARTIALLY RESOLVE TRUSTEE'S CLAIM (AGAINST REAL
PROPERTY OF DEFENDANT ONLY)**

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES THAT:

- a. Defendant, Amanda Kulek, shall pay to the Estate, the sum of Thirty Thousand (\$30,000.00) Dollars, representing the compromised claim of the Estate in the real property located at 1301 East Pine River Road, Midland, Michigan.
- b. Defendant, Amanda Kulek, shall have thirty (30) days (July 9, 2017) to provide to Counsel for Trustee, a commitment from a lender to loan the Thirty Thousand (\$30,000.00) Dollars to Defendant, either by way of a mortgage, a secured loan on other security, a personal loan, line of credit, or other lending mechanism.
- c. That upon payment of the Thirty Thousand (\$30,000.00) Dollars, pursuant to the terms above, that Plaintiff/Trustee will file and record a release of the notice of lis pendens and a release of the prior recorded order prohibiting transfer of the property.
- d. Defendant shall have thirty (30) days from the commitment to loan letter to close said loan and remit the funds to the Plaintiff/Trustee.
- e. That should Defendant fail to provide the aforementioned commitment to lend within thirty (30) days (July 9, 2017), or fail to remit the Thirty Thousand (\$30,000.00) Dollars to Plaintiff/Trustee, that Plaintiff/Trustee shall have and be entitled to a money judgment against Defendant for Thirty Thousand (\$30,000.00) Dollars, and that this Order shall be treated as a money judgment for Thirty Thousand (\$30,000.00) Dollars.
- f. That this compromise does not resolve the Plaintiff/Trustee's Claims for \$18,501.00 transferred to Defendant which is part and parcel of Plaintiff's Adversary Complaint in this matter.

- g. That this consent order is not a final order and does not resolve all pending claims in this adversary proceeding.

/s/ Keith M. Nathanson

**Keith M. Nathanson, P41633
Keith M. Nathanson, PLLC
Special Litigation Counsel to Randall L. Frank
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833**

Amanda Kulek

**Amanda L. Kulek
Defendant in pro se
1301 East Pine River Road
Midland, MI 48640
(989) 941-8860
fae@laumephotography.com**

dated:

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
BAY CITY

IN RE: Kevin W. Kulek

Chapter 7 Petition
16-21030-dob
Honorable Daniel Opperman

_____/

RANDALL L. FRANK, TRUSTEE,
Plaintiff,

Adversary Case Number
16-2073
Honorable Daniel Opperman

V

AMANDA LYNN KULEK,
ALSO KNOWN AS
AMANDA L. KULEK AND
AMANDA KULEK,
Defendant.

_____/

Keith M. Nathanson, P41633
Special Litigation Counsel to Randall L. Frank, Trustee
Attorney for Plaintiff
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833
kn@nathanson-law.com

Amanda Kulek
Defendant in pro se
1301 East Pine River Road
Midland, Michigan 48460
(989) 941-8860
fae@laumephotography.com

_____/

**STIPULATED ORDER PARTIALLY RESOLVING TRUSTEE'S CLAIM (AGAINST
REAL PROPERTY OF DEFENDANT ONLY)**

This matter having come before this Honorable Court upon the signed stipulation of the parties, and upon Trustee's Motion to Compromise a Portion of the Estate's Claim against Defendant, and the Court being first duly advised in the premises:

IT IS HEREBY ORDERED that Defendant, Amanda Kulek, shall pay to the Estate, the sum of Thirty Thousand (\$30,000.00) Dollars, representing the compromised claim of the Estate in the real property located at 1301 East Pine River Road, Midland, Michigan.

IT IS FURTHER ORDERED that Defendant, Amanda Kulek, shall have thirty (30) days (July 9, 2017) to provide to Counsel for Trustee, a commitment from a lender to loan the Thirty Thousand (\$30,000.00) Dollars to Defendant, either by way of a mortgage, a secured loan on other security, a personal loan, line of credit, or other lending mechanism.

IT IS FURTHER ORDERED that upon payment of the Thirty Thousand (\$30,000.00) Dollars, pursuant to the terms above, that Plaintiff/Trustee will file and record a release of the notice of lis pendens and a release of the prior recorded order prohibiting transfer of the property.

IT IS FURTHER ORDERED that Defendant shall have thirty (30) days from the commitment to loan letter to close said loan and remit the funds to the Plaintiff/Trustee.

IT IS FURTHER ORDERED that should Defendant fail to provide the aforementioned commitment to lend within thirty (30) days (July 9, 2017), or fail to remit the Thirty Thousand (\$30,000.00) Dollars to Plaintiff/Trustee, that Plaintiff/Trustee shall have and be entitled to a money judgment against Defendant for Thirty Thousand (\$30,000.00) Dollars, and that this Order shall be treated as a money judgment for Thirty Thousand (\$30,000.00) Dollars.

IT IS FURTHER ORDERED that this compromise does not resolve the Plaintiff/Trustee's Claims for \$18,501.00 transferred to Defendant which is part and parcel of Plaintiff's Adversary Complaint in this matter.

IT IS FURTHER ORDERED that this Consent Order does not resolve all pending claims in this adversary proceeding.

I Amanda Kulek have electronically signed this document as I am working in a field and do not have access to a printer nor a scanner to print out and sign personally

Amanda kulek 12th of June, 2017