

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re:)	Chapter 7
)	Bankruptcy No. 06-14202
COURT REPORTING INSTITUTE, INC.,)	
)	SUPPLEMENTAL DECLARATION
Debtor(s).)	OF MICHAEL B. MCCARTY
)	IN SUPPORT OF SETTLEMENT
)	WITH MOLDSKRED

The undersigned makes the following statement under penalty of perjury:

1. I am over 18 years of age, am competent to testify to the statements herein and make the statements herein based on facts personally known to me.
2. I am the Chapter 7 bankruptcy trustee in the above-captioned matter, and I have served on the Seattle Chapter 7 Trustee’s Panel since 1984.
3. There is an appeal pending before the Ninth Circuit BAP regarding the \$123,000 judgment based upon a fraudulent conveyance. I believe that it will cost approximately \$15,000 to \$25,000 to address that appeal in both the Ninth Circuit BAP and the Ninth Circuit Court of Appeals.
4. I believe that a trial against Moldskred on the remaining issues would take approximately two days. The discovery has been essentially concluded; however, no trial preparation as such has taken place. It is estimated that the trial would take two days to perform and ten days to prepare. The trial will be rather fact intensive, unlike the proceedings to date. The trial will involve the interviewing and preparation of third party witnesses, although it will not be

1 necessary to take their depositions. I estimate it will cost \$30,000 to \$50,000 for the legal fees to
2 prepare for and conduct that trial.

3 5. Additionally, my accountant will be utilized as an expert witness and it is estimated
4 that his fees would approximate \$5,000. This means that a trial could cost as much as \$55,000.

5 6. Assuming I win the trial against Mr. Moldskred, he may well file an appeal to the
6 Ninth Circuit BAP and then the Ninth Circuit Court of Appeals. Again, such an appeal will cost
7 approximately \$15,000 to \$30,000 to prosecute.

8 7. I have folded potential costs of \$110,000 to take the Moldskred matter to trial and
9 to pursue the likely appeals.

10 8. This amount does not include the time value of the money. It is likely that it would
11 take another six months to try the Moldskred matter and posture the case for an appeal. It is likely
12 that an appeal first to the BAP and then to the Ninth Circuit would take approximately three years.
13 This means that in the best case the creditors would have to wait an additional three and one half
14 years in order to obtain a final judgment regarding the outstanding claims.

15 9. In her response, Ms. McKinney notes that the estate expects to receive \$92,000 from
16 the Fleischman settlement, and I have approximately \$15,000 on hand. At the same time, my
17 attorney has a fee application pending before this court in the approximate amount of \$80,000, and
18 my accountant has an application pending for \$20,000. This means that the costs of administration
19 to date are equal to all assets in this case other than the instant litigation. If I pursue the pending
20 claims, recover an additional \$175,000 and spend \$110,000 on litigation expenses, the creditors will
21 net \$65,000.

22 10. Under the proposed settlement, the creditors will net \$154,500. This is over twice
23 the amount of money that would be recovered under the best case scenario for litigating this matter
24 to a conclusion, assuming the costs of administration do not exceed my estimates and not
25 considering the economic cost for the three years which will transpire prior to the conclusion of the
litigation.

