

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.,)	
)	TRUSTEE’S DECLARATION IN
Debtor(s).)	RESPONSE TO OPPOSITION TO
)	MOTION FOR AN ORDER
)	APPROVING COMPROMISE OF CLAIMS

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 duly appointed bankruptcy trustee in the above-captioned matter.
3. I have read the Notice and Motion for an Order Approving Compromise of Claims regarding the settlement with Steve Fleischman, Fleischman Family LLP, Fleischman Center and any other entities owned and operated by the Fleischman family (“Fleischman”). I am familiar with the statements made therein and believe the same to be true.
4. I hereby incorporate the statements made in that document into this declaration.
5. It is my opinion as the trustee in the above-captioned matter that the proposed settlement with Fleischman is in the best interest of the estate.
6. The probability of success in litigation with respect to the \$62,000 deposit is high. The funds are frozen in the account, so collection should not be a difficult matter upon entry of a final judgment. The litigation, however, will be expensive and time consuming. The litigation of this matter will be integrated into the litigation of the matter referred to next in this declaration. It

1 will likely entail a trial and an appeal to the Ninth Circuit. This process will take about three years
2 to complete. Placing a time value on the money and discounting a likely recovery for the expense
3 associated with it means that the proposed settlement is very advantageous.

4 7. With respect to the recovery of the \$150,000, that claim turns upon proving that
5 Fleischman was the subsequent transferee of funds transferred from Court Reporting Institute, Inc.
6 (“CRI”) to Alen Janisch. We must also prove that Fleischman did not receive the funds in good faith
7 and that he had knowledge of the voidability of the transfer between Janisch and CRI. That matter
8 will be intensely litigated, although the evidence of what Fleischman knew and did not know will
9 likely be limited to statements made by Steve Fleischman. Janisch is not likely to be helpful in this
10 litigation, if he can be located for the trial. Steve Fleischman did, in fact, make the loan, as he did
11 in several prior years, and the loan was of a very short duration. The trustee has the burden of proof
12 and, in many ways, the equities will favor Fleischman.

13 8. I would also note that this is a win all or lose all situation, and there is no middle
14 ground. The estate will either obtain a judgment for \$150,000 or for zero. There is no middle
15 ground to split which adds to the risk of pursuing the claim because the burden of proof is on the
16 estate and there is no middle ground for the trier of fact to create any compromise. The estate wins
17 everything or loses everything.

18 9. The difficulties with respect to collection of the \$150,000 are unknown. While Steve
19 Fleischman appears to be a successful real estate developer, his actual financial circumstances are
20 unknown to the trustee and may or may not enable the trustee to collect a judgment in that amount.
21 The expense associated with the litigation will be very large and, as stated above, the matter will
22 likely be appealed to the Ninth Circuit and consume the next three years. The time value of the
23 money argues for a settlement at this point.

