

FILED & ENTERED

OCT 03 2013

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
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**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION**

In re:

Artur Grigoryan  
Teresa Petrosyan

Debtors.

MDA MOTORS CORP.

Plaintiff,

vs.

Artur Grigoryan

Defendant.

CHAPTER 7

Case No.: 2:10-bk-65003-TD  
Adv No: 2:12-ap-01618-TD

**MEMORANDUM OF DECISION**

Date: August 26, 2013  
Time: 9:00 a.m.  
Courtroom: 1345

This matter was tried on August 26, 2013; a tentative decision was announced in favor of the Plaintiff, MDA Motors Corp. (MDA) at the conclusion of the trial; and the matter was taken under advisement for the determination of damages based on the testimony and documentary evidence admitted.

The evidence established that the parties entered into a written consignment

1 agreement (the Agreement) for the purchase and sale of used cars and accessories in  
2 February 12, 2009. The agreement was drafted by Defendant, Artur Grigoryan. The  
3 general concept was that Grigoryan would purchase used cars at auctions; MDA would  
4 pay the auction yard for the cars; the cars were to be sold by Grigoryan; Grigoryan  
5 would pay MDA the purchase price it paid for each car and any later furnished  
6 accessories, plus a profit of \$1,100 for any car purchased by Grigoryan for resale over  
7 the price of \$8,000; for cars purchased for less than \$8,000 or resold for less than  
8 \$8,000, Grigoryan would pay MDA a profit equal to 10 percent of the resale price.  
9 Grigoryan was the owner of Ask Auto Sales, Inc. and used Ask Auto as the licensed  
10 entity to conduct his sales. His business bank account was at Wells Fargo Bank.

11 Grigoryan sold and paid MDA for many cars under the Agreement. Grigoryan's  
12 sales averaged about \$375,000 for the months of February through August 27, 2009.  
13 However, out of 157 cars purchased for resale under the Agreement, Grigoryan failed to  
14 account for or pay MDA for 63 cars. Many lesser issues were discussed in the  
15 evidence, but the central material issue pertinent to MDA's claim was the amount of  
16 money owed to MDA based on Grigoryan's admitted sale of the 63 cars in issue.

17 MDA conceded that Grigoryan gave MDA checks for three of these cars, but the  
18 Grigoryan checks for these three cars were returned unpaid by Grigoryan's bank for  
19 insufficient funds. Grigoryan submitted other checks as evidence but none related to  
20 any of the 63 cars at issue. Grigoryan testified that he paid MDA cash for some of the  
21 63 cars. MDA's witness, Kourosh Javaheri (or John), denied that any cash payment  
22 was received from Grigoryan for any of the 63 cars. Grigoryan's testimony about cash  
23 payments was not credible; it was vague as to time, place and amount of any asserted  
24 payment and was not corroborated by any normal business record or otherwise. At the  
25 same time, Javaheri's testimony about non-receipt of payment was highly credible and  
26 persuasive and supported by extensive corroborating evidence. MDA's evidence and  
27 Javaheri's testimony was carefully documented with respect to all other Grigoryan  
28 sales. For the 63 cars in issue, the purchase of each such car with MDA funds was

1 well-documented, while there was no documentation of any payment to MDA by  
2 Grigoryan for any of the 63 cars.

3 MDA has proved by a substantial preponderance that Grigoryan should be held  
4 liable on a nondischargeable basis under 11 U.S.C. § 523(a)(6) for willful and malicious  
5 injury suffered by MDA for the loss of its property interest in 63 cars or the proceeds of  
6 Grigoryan's sale of the 63 cars. MDA has proved by a preponderance that Grigoryan's  
7 conduct with respect to the 63 cars was both willful and malicious. MDA has proved  
8 that Grigoryan acted deliberately and intentionally in converting car sale proceeds owed  
9 to MDA and in failing to pay MDA for car sales; that Grigoryan knew or had to have  
10 known the consequences of his actions in selling cars and not paying MDA as agreed  
11 from the proceeds; that Grigoryan knew or had to know that his actions were wrongful  
12 and would necessarily cause injury to MDA. Grigoryan has failed to establish that there  
13 was any just cause or excuse for his conduct in selling the 63 cars and failing to pay  
14 MDA as he had agreed to do.

15 By way of damages, MDA's evidence is carefully documented in trial exhibits 2  
16 through 116. Exhibits 2 through 116 fully and convincingly support MDA's final claim for  
17 damages in the amount of \$644,996.84. Damages for MDA's losses for Grigoryan's  
18 conversion of car sale proceeds hereby are fixed at \$644,996.84.

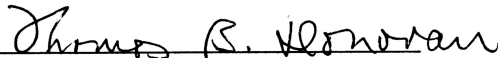
19 Grigoryan offered many explanations for his inability to pay MDA as agreed. He  
20 offered many so-called "business" justifications for his many cash withdrawals and other  
21 expenditures from his main business bank account. Most of such explanations by  
22 Grigoryan were vague and self-serving; some were highly confusing. The court  
23 concludes that Grigoryan made several inadequately explained personal withdrawals of  
24 car sale proceeds from his main business account that most likely were for his personal  
25 use or the personal use of his family. In the end, Grigoryan's testimony and records  
26 were inadequate to explain his failure to pay MDA for 63 admitted car sales by  
27 Grigoryan.

28 By contrast, MDA's losses were well-documented and explained.

1 MDA's counsel is directed to lodge an appropriate judgment consistent with this  
2 memorandum.

3 IT IS SO ORDERED.  
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24 Date: October 3, 2013

  
Thomas B. Donovan  
United States Bankruptcy Judge

## NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*): **MEMORANDUM OF DECISION** as entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner stated below:

**1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)** <sup>B</sup> Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of (*date*) 9/30/13, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.

Alana B Anaya on behalf of Plaintiff MDA MOTORS CORP.  
alana.anaya@sbcglobal.net

Richard W Esterkin on behalf of Mediator Richard W Esterkin  
resterkin@morganlewis.com

Elissa Miller (TR)  
CA71@ecfcbis.com, MillerTrustee@Sulmeyerlaw.com;C124@ecfcbis.com

United States Trustee (LA)  
ustpregion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

**2. SERVED BY THE COURT VIA UNITED STATES MAIL:** A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses indicated below:

Defendant/Debtors

Artur Grigoryan  
Teresa Petrosyan  
430 N. Parish Place  
Burbank, CA 91506

Attorney for Defendant

John Petersen  
Law Office of John Petersen  
1010 North Central Avenue  
Glendale, CA 91202

☐ Service information continued on attached page

**3. TO BE SERVED BY THE LODGING PARTY:** Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

☐ Service information continued on attached page

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This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.