

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

In re:	)	
	)	
MOHAMED ALI SAMANTAR	)	Case No. 12-11085-BFK
	)	Chapter 7
Debtor	)	
	)	
BASHE ABDI YOUSUF, <i>et al.</i>	)	
	)	
Plaintiffs	)	
	)	
vs.	)	Contested Matter
	)	
MOHAMED ALI SAMANTAR	)	
	)	
Defendant	)	

**ORDER DENYING MOTION TO DISMISS**

A hearing was held June 12, 2012, on the Motion (Docket No. 52) to Dismiss filed on behalf of Bashe Abdi Yousuf, Buralle Salah Mohamoud, Ahmed Jama Gulaid and Aziz Mohamed Deria, in his capacity as the personal representative of the estates of Mohamed Deria Ali, Mustafa Mohamed Deria, Abdullahi Salah Mohamoud, the deceased brother of Buralle Salah Mohamoud, and Cawil Salah Mohamoud, the deceased brother of Buralle Salah Mohamoud (collectively, the "Tort Claimants"). The Debtor was present by counsel. The Tort Claimants were also present by counsel. The Chapter 7 Trustee, Janet M. Meiburger, Esquire, was present in person. Sean Day, Esquire, appeared on behalf of the Office of the United States Trustee.

Upon consideration of the Motion, as well as the argument presented by the parties at the hearing, the Court concludes that the creditor body, as a whole, will best be served by not dismissing this case. *See Rollex Corp. v. Associated Materials (In re Superior Siding & Window)*, 14 F.3d 240, 242-43 (4th Cir. 1994) (in evaluating whether dismissal was in the best interest of creditors and the estate, a court should compare remedies in a bankruptcy case to those available

outside of bankruptcy); *see also Desiderio v. Parikh (In re Parikh)*, 456 B.R. 1, 26-27 (Bankr. E.D.N.Y. 2011) (despite findings of bad faith, Court declined to dismiss case under Section 707(a), finding that liquidation of any available assets by the Chapter 7 Trustee would be in the best interests of the creditors).

Specifically, the Court finds that not dismissing the case will enable the creditors to more fully investigate any available assets of the Debtor, by conducting examinations and subpoenaing records of the Debtor and any third parties (e.g., banks, or other parties) with knowledge of the assets, liabilities or financial affairs of the Debtor pursuant to Bankruptcy Rule 2004. The Court has exclusive jurisdiction over all property of the estate, “wherever located and by whomever held.” 11 U.S.C. § 541(a). Further, in the event that any additional assets of the Debtor are discovered, the bankruptcy Trustee has ample power to recover such assets through Sections 542, 547, 548, and 550 of the Bankruptcy Code. These Bankruptcy Code remedies would not be available to the creditors outside of a bankruptcy case.

Moreover, should the creditors believe their claims to be nondischargeable, or should they have grounds for a denial of discharge, they may avail themselves of Sections 523 or 727 of the Bankruptcy Code by the timely filing of a Complaint invoking those remedies.<sup>1</sup>

Accordingly, for the reasons set forth above, as well as for the reasons stated on the record at the hearing, it is

**ORDERED:**

1. The Motion to Dismiss is DENIED.

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<sup>1</sup> The Court has already entered a Stipulation and Consent Order extending the time for the Tort Claimants to file a Complaint pursuant to 11 U.S.C. 727 and 523 to 21 days after the entry of the Order disposing of the Motion to Dismiss, i.e., this Order. Docket No. 62. As well, the Office of the U.S. Trustee has filed a Motion to extend the time to file a Complaint objecting to the Debtor’s discharge under Section 727. *See* Docket No. 69. This Motion is scheduled for a hearing on June 26, 2012.

2. The clerk will mail a copy of this order, or give electronic notice of its entry, to the parties listed below.

Date: \_\_\_\_\_

Alexandria, Virginia

\_\_\_\_\_  
Brian F. Kenney  
United States Bankruptcy Judge

Copies to:

Mohamed Ali Samantar  
9901 Five Oaks Rd  
Fairfax, VA 22031  
Debtor

Christopher S. Moffitt  
211 South Union Street, Suite 100  
Alexandria, VA 22314  
Counsel for the Debtor

Steven H. Schulman, Esquire  
1333 New Hampshire Avenue, NW  
Washington, DC 20036  
Counsel for the Movants

Janet M. Meiburger, Esquire  
The Meiburger Law Firm, P.C.  
1493 Chain Bridge Road, Suite 201  
McLean, VA 22101-5726  
Chapter 7 Trustee

Joseph A. Guzinski, Esquire  
Office of the United States Trustee  
115 South Union Street, Room 210  
Alexandria, VA 22314