

Case No.

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**IN THE SUPREME COURT  
OF THE UNITED STATES**

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Mac Truong, Ruediger Albrecht, *Appellants-Petitioners*  
Rosemary Ida Mergenthaler, *Debtor-Appellant-Petitioner*

-against-

R. Kenneth Barnard, United States Trustee,  
*Appellees-Respondents*

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**On Petition for Writ of Certiorari to the  
United States Court of Appeals for the Second Circuit**

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**APPENDIX**

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**Mac Truong, Plaintiff-Appellant-Petitioner *Pro Se***  
**Rosemary Mergenthaler, Debtor-Appellant-Petitioner *Pro Se***  
**Ruediger Albrecht, Creditor-Appellant-Petitioner *Pro Se***

**C/o IMDIT *PRO SE* SERVICES**

875 Bergen Avenue, Jersey City, NJ 07306

(914) 215-2304 - [Dmtforest@aol.com](mailto:Dmtforest@aol.com),

[Rosiemer@gmail.com](mailto:Rosiemer@gmail.com), [Nyrudy@hotmail.com](mailto:Nyrudy@hotmail.com)

# APPENDIX TABLE OF CONTENT

	Page
<b>USCA2 Dkt #19-2562 MOTION ORDER 01/15/2020 Doc 61.....</b>	<b>1-2</b>
<b>USCA2 Dkt #19-2562 MOTION ORDER 01/15/2020 Doc 62 .....</b>	<b>3-4</b>
<b>USCA2 Dkt #19-2562 MOTION ORDER 01/16/2020 Doc 65 .....</b>	<b>5</b>
<b>USCA2 Dkt #19-2562 MOTION ORDER 02/10/2020 Doc 73 .....</b>	<b>6</b>
<b>USCA2 Dkt #19-2562 MOTION ORDER 03/19/2020 Doc 106 .....</b>	<b>7-8</b>
<b>USDC-EDNY Dkt #19-4279-JS JUDGMENT 7/31/2019 Doc 3.....</b>	<b>9</b>
<b>USDC-EDNY Dkt #19-4279-JS MEMORANDUM &amp; ORDER 7/31/2019 Doc 3 .....</b>	<b>10-13</b>
<b>USDC-EDNY Dkt #19-4279-JS ELECTRONIC ORDER 9/13/2019 .....</b>	<b>14-16</b>
<b>USBC-EDNY Dkt #15-72040-REG – ORDER 7/16/2019 GRANTING TFR .....</b>	<b>17-20</b>

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 15<sup>th</sup> day of January, two thousand twenty.

Present:

Guido Calabresi,  
Rosemary S. Pooler,  
Susan L. Carney,  
*Circuit Judges.*

---

In re: Rosemary Ida Mergenthaler,

*Debtor.*

---

Mac Truong, Ruediger Albrecht,

*Appellants,*

Rosemary Ida Mergenthaler,

*Debtor-Appellant,*

v.

19-2562

R. Kenneth Barnard, United States Trustee,

*Appellees.*

---

Appellants, pro se, each move for leave to proceed in forma pauperis.


Appellant Mac Truong is reminded that in March 2010, this Court entered a leave-to-file sanction against him prohibiting "any further submissions" in this Court unless he first obtained permission from the Court, and in May 2010 reaffirmed that sanction. *See* 2d Cir. 09-1162,

entries at 3/18/10 and 5/19/10. We construe Truong's motion to proceed in forma pauperis as also requesting leave to file this appeal. Upon due consideration, it is hereby ORDERED that the request for leave to file is DENIED because the proposed appeal does not represent a departure from Truong's pattern of vexatious litigation. See *In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993).

It is further ORDERED that the appeal is DISMISSED because it "lacks an arguable basis either in law or in fact," and that the IFP motions are DENIED as moot because the district court granted IFP status on appeal. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); see also 28 U.S.C. § 1915(e).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

 Catherine O'Hagan Wolfe

E.D.N.Y.-C. Islip  
19-cv-4279  
Seybert, J.

## United States Court of Appeals

FOR THE  
SECOND CIRCUIT

---

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 15<sup>th</sup> day of January, two thousand twenty.

Present:

Guido Calabresi,  
Rosemary S. Pooler,  
Susan L. Carney,  
*Circuit Judges.*

---

In re: Rosemary Ida Mergenthaler,

*Debtor.*

---

Mac Truong, Ruediger Albrecht,

*Appellants,*

Rosemary Ida Mergenthaler,

*Debtor-Appellant,*

v.

19-2562

R. Kenneth Barnard, United States Trustee,

*Appellees.*

---

Appellants, pro se, each move for leave to proceed in forma pauperis.

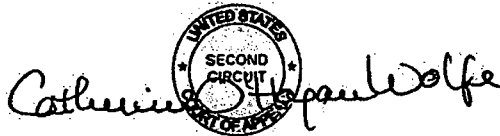
Appellant Mac Truong is reminded that in March 2010, this Court entered a leave-to-file sanction against him prohibiting “any further submissions” in this Court unless he first obtained permission from the Court, and in May 2010 reaffirmed that sanction. *See* 2d Cir. 09-1162,

entries at 3/18/10 and 5/19/10. We construe Truong's motion to proceed in forma pauperis as also requesting leave to file this appeal. Upon due consideration, it is hereby ORDERED that the request for leave to file is DENIED because the proposed appeal does not represent a departure from Truong's pattern of vexatious litigation. See *In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993).

It is further ORDERED that the appeal is DISMISSED because it "lacks an arguable basis either in law or in fact," and that the IFP motions are DENIED as moot because the district court granted IFP status on appeal. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); see also 28 U.S.C. § 1915(e).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

The image shows a handwritten signature, "Catherine O'Hagan Wolfe", written in cursive. The signature is positioned over a circular official seal. The seal contains the text "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "CITY OF NEW YORK" at the bottom, separated by small stars.

**UNITED STATES COURT OF APPEALS  
FOR THE  
SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 16<sup>th</sup> day of January, two thousand twenty.

---

In re: Rosemary Ida Mergenthaler,  
Debtor.

\*\*\*\*\*

**ORDER**

Docket No. 19-2562

Mac Truong, Ruediger Albrecht,

Appellants,

Rosemary Ida Mergenthaler,

Debtor - Appellant,

v.

R. Kenneth Barnard, United States Trustee,

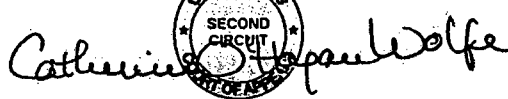

Appellees.

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IT IS HEREBY ORDERED that the Appellants' motion for an order directing Appellees to "turn over debtor's estate" is DENIED as moot in light of the Court's January 15, 2020 order dismissing this appeal.

For the Court:

Catherine O'Hagan Wolfe,  
Clerk of Court

**UNITED STATES COURT OF APPEALS  
FOR THE  
SECOND CIRCUIT**

---

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10<sup>th</sup> day of February, two thousand twenty.

Present: Guido Calabresi,  
Rosemary S. Pooler,  
Susan L. Carney,

Circuit Judges,

---

In re: Rosemary Ida Mergenthaler,  
Debtor.

\*\*\*\*\*

**ORDER**  
Docket No. 19-2562

Mac Truong, Ruediger Albrecht,

Appellants,

Rosemary Ida Mergenthaler,

Debtor - Appellant,

v.

R. Kenneth Barnard, United States Trustee,

Appellees.

---

Appellant Rosemary Ida Mergenthaler filed a motion for reconsideration and the panel that determined the motion has considered the request.

IT IS HEREBY ORDERED, that the motion is denied.

For The Court:  
Catherine O'Hagan Wolfe,  
Clerk of Court



E.D.N.Y.-C. Islip  
19-cv-4279  
Seybert, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

---

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 19<sup>th</sup> day of March, two thousand twenty.

Present:

Guido Calabresi,  
Rosemary S. Pooler,  
Susan L. Carney,  
*Circuit Judges.*

---

In re: Rosemary Ida Mergenthaler,

*Debtor.*

---

Mac Truong, Ruediger Albrecht,

*Appellants,*

Rosemary Ida Mergenthaler,

*Debtor-Appellant,*

v.

19-2562

R. Kenneth Barnard, United States Trustee,

*Appellees.*

---

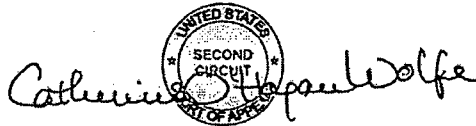
Appellant Mac Truong moves for leave to file and for reconsideration. Appellant Ruediger Albrecht moves for reconsideration. These motions for reconsideration are construed as motions for panel rehearing. Fed. R. App. P. 40(a)(2).

Upon due consideration, it is hereby ORDERED that Truong's request for leave to file is DENIED because the proposed appeal does not represent a departure from Truong's pattern of vexatious litigation. *See In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993).

It is further ORDERED that the motion for panel rehearing is DENIED.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

The block contains a handwritten signature in cursive script that reads "Catherine O'Hagan Wolfe". Overlaid on the signature is a circular official seal of the United States Court of Appeals for the Second Circuit. The seal features the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom, with small stars on either side of the central text.

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
ROSEMARY IDA MERGENTHALER, MARC  
TRUONG, and RUEDIGER ALBRECHT,

Appellants,

**JUDGMENT**  
CV 19-4279 (JS)

- against -

R. KENNETH BARNARD and  
UNITED STATES TRUSTEE,

Appellees.

-----X

A Memorandum and Order of Honorable Joanna Seybert, United States District Judge, having been filed on July 31, 2019, dismissing the appeal in its entirety with prejudice, denying *in forma pauperis* status for the purpose of any appeal, and directing the Clerk of the Court to mark this case closed, it is

**ORDERED AND ADJUDGED** that Appellants Rosemary Ida Mergenthaler, Marc Truong and Ruediger Albrecht take nothing of Appellees R. Kenneth Barnard and United States Trustee; that the appeal is dismissed in its entirety with prejudice; that *in forma pauperis* status is denied for the purpose of any appeal; and that this case is closed.

Dated: Central Islip, New York  
July 31, 2019

DOUGLAS C. PALMER  
CLERK OF THE COURT  
By: /s/ James J. Toritto  
Deputy Clerk

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
ROSEMARY IDA MERGENTHALER, MARC TRUONG,  
and RUEDIGER ALBRECHT,

Appellants,

MEMORANDUM & ORDER  
19-CV-4279(JS)

-against-

R. KENNETH BARNARD and  
UNITED STATES TRUSTEE,

Appellees.

-----X  
SEYBERT, District Judge:

Appellants Rosemary Ida Mergenthaler, Marc Truong, and Ruediger Albrecht appeal from three orders issued by Judge Robert E. Grossman in Mergenthaler's Chapter 7 bankruptcy proceeding, which was commenced on May 11, 2015. (See In re Mergenthaler, Bankr. Docket No. 15-72040.) The Trustee has fully administered Mergenthaler's estate and filed a Final Account and related applications for compensation. (Bankr. D.E. 327.) Appellants filed various motions and objections in response. Judge Grossman held a hearing on the motions at issue on July 15, 2019, and all Appellants failed to appear.

Appellants seek review of orders (1) approving the Trustee's final report and granting applications for allowance of compensation, commissions, and reimbursement of expenses (Bankr. D.E. 345); (2) denying a motion "to Authorize an Order Disregarding Trustee Barnard's Final Report but Directing him to Pay out of the

Estate Assets \$575,000.00 Plus 10% Interest Per Annum as of May 11, 2015 to Plaintiff Marc Truong, and All Other Appropriate Relief" (Bankr. D.E. 346); and (3) denying a motion for an "Order Disregarding Trustee Barnard's Final Report And Directing Debtor Rosemary Ida Mergenthaler And/Or Her Chapter 7 Trustee To Pay Out Of Her Estate Assets \$600,000.00 To Creditor Ruediger Albrecht" (Bankr. D.E. 347).

Mergenthaler and her husband are well known to Judge Grossman and this Court.<sup>1</sup> On September 21, 2016, this Court barred her from "filing any additional cases, motions, or appeals" regarding the assets in her bankruptcy estate without obtaining written permission from this Court. (Mergenthaler v. Barnard, Docket No. 15-CV-5078, D.E. 34, at 5.)<sup>2</sup> Mergenthaler is on notice

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<sup>1</sup> The actions filed by the Mergenthalers bear the following case numbers: 15-CV-2031, 15-CV-2032, 15-CV-2033, 15-CV-2034, 15-CV-5078, 15-CV-7301, 16-CV-1113, 16-CV-2466, 16-CV-4390, and 17-CV-0615.

<sup>2</sup> The Court's reasoning for the September 21, 2016 filing injunction remains applicable here: "The record before the Court shows that the Mergenthalers have filed numerous vexatious cases in this Court in an effort to delay the sale of her Property. The Mergenthalers have filed ten similar bankruptcy appeals before this Court, none which have been meritorious. In addition, the Mergenthalers have a history of filing meritless motions in bankruptcy court and were barred from filing further motions in that court without permission from Judge Grossman. Finally, when the undersigned temporarily barred Rosemary Mergenthaler from filing any additional bankruptcy appeals pending a hearing, she nevertheless filed an appeal days later, and then did not attend the hearing to discuss [the] Order to Show Cause." (15-CV-5078, D.E. 34, at 4.)

that she must comply with the filing injunction. (See Mergenthaler v. Barnard, Docket No. 17-CV-0615, Feb. 23, 2017 Elec. Order (referencing Sept. 21, 2016 injunction and denying leave to file unsigned Order to Show Cause and denying leave to file appeal).)

Furthermore, Judge Grossman issued a filing injunction in the bankruptcy case on May 5, 2016, finding that Mergenthaler "is a vexatious litigant . . . and . . . has purposely filed frivolous and vexatious motions and proceedings." (Bankr. D.E. 165 at 2.) Additionally, as to Truong, on February 22, 2016, Chief Judge Dora L. Irizarry "enjoined [him] from commencing any further actions in the Eastern District of New York absent permission from this Court. . . . [and] further enjoined [him] from intervening in any bankruptcy proceeding in the Eastern District of New York, including Rosemary Mergenthaler's bankruptcy case, absent permission of the presiding United States Bankruptcy Judge." (Bankr. D.E. 333-1 at 6.)

Neither Mergenthaler or Truong<sup>3</sup> have obtained the requisite permission required under these prior orders for this

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<sup>3</sup> As to Albrecht, who is a friend of Mergenthaler and was a creditor in her Chapter 7 proceeding (see 17-CV-0592, D.E. 14, at 1-2), the Court finds that the appeal from Judge Grossman's order denying his motion to "disregard" the Trustee's Final Report (which closely mirrored Mergenthaler's and Truong's filings below) is similarly without merit. In any event, his motion below was not timely served in accordance with Federal Rule of Bankruptcy Procedure 2002(a) and Local Rule 9006-1(a), and he did not appear for the scheduled hearing before Judge Grossman.

appeal. Nor did they obtain permission from Judge Grossman to file the motions underlying the orders from which they seek to appeal. Notwithstanding their failure to do so, this Court has reviewed the documents and determined that the appeal from each of Judge Grossman's orders is without merit. Thus, the appeal is DISMISSED WITH PREJUDICE in its entirety. Given Appellants' pro se status, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is DENIED for purposes of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962). The Clerk of the Court is directed to mail a copy of this Order to the pro se Appellants and mark this case CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: July 31, 2019  
Central Islip, New York

**David A. Blansky**

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**From:** ecf\_bounces@nyed.uscourts.gov  
**Sent:** Friday, September 13, 2019 9:13 AM  
**To:** nobody@nyed.uscourts.gov  
**Subject:** Activity in Case 2:19-cv-04279-JS Mergenthaler et al v. Barnard et al Order on Motion for Leave to Appeal in forma pauperis

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

Eastern District of New York

**Notice of Electronic Filing**

The following transaction was entered on 9/13/2019 at 9:12 AM EDT and filed on 9/13/2019

**Case Name:** Mergenthaler et al v. Barnard et al

**Case Number:** 2:19-cv-04279-JS

**Filer:**

**WARNING: CASE CLOSED on 07/31/2019**

**Document Number:** No document attached

**Docket Text:**

**ELECTRONIC ORDER granting [4] Motion for Leave to Appeal in forma pauperis; granting [5] Motion for Leave to Appeal in forma pauperis; granting [6] Motion for Leave to Appeal in forma pauperis; denying [11] Motion for Reconsideration.**

Upon review of the declarations in support of the applications to proceed in forma pauperis (D.E. 4, 5, 6), the Court finds that Appellants are qualified to commence these actions without prepayment of the filing fees. Therefore, the requests to proceed in forma pauperis are **GRANTED**. However, Appellants' joint motion for reconsideration (D.E. 11) of this Court's July 31, 2019 Memorandum and Order dismissing their bankruptcy appeal (D.E. 2) is **DENIED**. As Appellants have already been instructed, "[m]otions for reconsideration may be brought pursuant to Rules 59(e) and 60(b) of the Federal Rules of Civil Procedure and Local Rule 6.3. A motion for reconsideration is appropriate when the moving party believes the Court overlooked important matters or controlling decisions that would have influenced the prior decision. Reconsideration is not a proper tool to repackage and relitigate arguments and issues already considered by the Court in deciding the original motion. Nor is it proper to raise new arguments and issues. Reconsideration may only be granted when the Court did not evaluate decisions or data that might reasonably be expected to alter the conclusion reached by the Court." In re Mergenthaler, No. 15-CV-2034, 2016 WL 5956009, at \*1 (E.D.N.Y. Jan. 15, 2016) (internal quotation marks and citations omitted).



The Court notes that, yet again, Appellants did not seek the requisite permission to file this motion. See generally Mem. & Order, D.E. 2 (outlining filing injunctions imposed by this Court, Judge Grossman, and Chief Judge Irizarry). It is thus procedurally barred. Notwithstanding Appellants' persistent failure to comply with court orders and continued vexatious and frivolous filings, the Court has reviewed the motion for reconsideration. Appellants' assertions that the Trustee's final report is "fake" and that this Court overlooked Judge Grossman's "felonies of conspiracy" and other crimes are not only a repackaging of their prior arguments both here and before the Bankruptcy court, but are completely devoid of factual and legal support and meritless. Accordingly, the motion for reconsideration is DENIED.

Appellants are WARNED that further attempts to evade court orders will not be tolerated. It is now ORDERED that: (1) Appellants are ENJOINED from filing any additional complaints, motions, or appeals in this Court concerning the assets in Mergenthaler's bankruptcy estate without first seeking leave of Court; (2) the Clerk of the Court is DIRECTED to return to Appellants, without filing, any new complaint, motion, or appeal concerning the assets in Mergenthaler's bankruptcy estate if they are received without a separate application seeking leave to file; (3) if Appellants seek leave to file a new complaint or appeal and the Court finds that it is not subject to this filing injunction, the Court shall grant Appellants leave to file the new complaint or appeal and it shall be assigned a civil docket number; and (4) if leave to file is denied, Appellants' submissions shall be filed on the Court's miscellaneous docket and a summary order denying leave to file shall be entered and no further action shall be taken. Appellants are WARNED that the continued submission of frivolous civil actions may result in the imposition of additional sanctions, including monetary penalties, upon notice and an opportunity to be heard. 28 U.S.C. § 1651(a); Malley v. Corp. Counsel of the City of N.Y., 9 F. App'x 58, 59 (2d Cir. 2001) (affirming imposition of \$1,500 sanction on pro se litigant for filing repetitive, frivolous complaints).

The Clerk of the Court is directed to mail a copy of this Electronic Order to the pro se Appellants. The Clerk is further directed to provide a copy to the Clerk of the Bankruptcy Court for the Eastern District of New York. Given Appellants' pro se status, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Electronic Order would not be taken in good faith and therefore in forma pauperis status is DENIED for purposes of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962). Ordered by Judge Joanna Seybert on 9/13/2019. (Alessi, Samantha)

2:19-cv-04279-JS Notice has been electronically mailed to:

Gary F. Herbst    gfh@lhmlawfirm.com, hrh@lhmlawfirm.com

Robert Kenneth Barnard    rkbesquire@aol.com, rkbesquire@gmail.com

Stan Yuon Yang    stan.y.yang@usdoj.gov

Surajudeen Agbaje    agbajelawpc@aol.com

David Blansky    dab@lhmlawfirm.com

Nicholas Rigano    ncr@lhmlawfirm.com

Melanie A. FitzGerald    mfitzgerald@lhmlawfirm.com

**2:19-cv-04279-JS Notice will not be electronically mailed to:**

Marc Truong  
63 Van Reypen Street  
Jersey City, NJ 07306

Rosemary Ida Mergenthaler  
3 Wood Edge Court  
Water Mill, NY 11976

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

ROSEMARY IDA MERGENTHALER,

Chapter 7  
Case No. 15-72040 (REG)

Debtor.  
-----X

**ORDER APPROVING TRUSTEE'S FINAL REPORT AND GRANTING  
APPLICATIONS FOR ALLOWANCE OF COMPENSATION, COMMISSIONS AND  
REIMBURSEMENT OF EXPENSES**

Upon the applications for allowance of compensation, commissions and reimbursement of expenses (collectively the "Applications") filed by the following parties seeking the amounts listed:

<u>Applicant</u>	<u>Amount Requested</u>
<b>R. Kenneth Barnard, Esq.</b> Chapter 7 Trustee	Commissions: \$90,000.00 Expenses: \$ 0.00 Total: <u>\$90,000.00</u>
<b>LaMonica Herbst &amp; Maniscalco, LLP</b> Attorneys for the Trustee	Fees: \$280,500.00 Expenses: \$ 0.00 Total: <u>\$280,500.00</u>
<b>Paritz &amp; Company, P.A.</b> Accountants to the Trustee	Fees: \$ 4,452.50 Expenses: \$ 0.00 Total: <u>\$ 4,452.50</u>

and upon the Objection of Rosemary Ida Mergenthaler (the "Debtor") to the Chapter 7 Trustee's (the "Trustee") Final Report and Application for Compensation etc. dated June 5, 2019 (the "Debtor Objection") [ECF no. 330]; and upon the Motion of Mac Truong seeking the entry of an Order disregarding Trustee's Final Report etc. dated June 6, 2019 (the "Truong Opposition") [ECF no. 331]; and upon the Letter Request of R. Kenneth Barnard ("Trustee") to Strike the Debtor's Objection Filed in Violation of the Court's Filing Injunction, dated June 7, 2019 [ECF no.

332]; and upon the Trustee's Letter Request to Strike Mac Truong's Motion Filed In Violation of Judge Irizarry's Filing Injunction, dated June 7, 2019 [ECF no. 333]; and upon the Debtor's *Nunc Pro Tunc* Application For Prior Leave To File Debtor's June 5, 2019 Objection And Cross-Motion etc. ("**Debtor Supplemental Objection**") [ECF no. 334]; and upon Debtor Pro Se Rosemary Mergenthaler's Supplemental Objection to the Trustee's Final Report, dated June 12, 2019 ("**Second Debtor Supplemental Objection**") [ECF no. 335]; and upon the *Nunc Pro Tunc* Application filed by Mac Truong For Prior Leave To File His Motion and Objection to the Trustee's Final Report, dated June 14, 2019 (the "**Truong Supplemental Opposition**") [ECF no. 336]; and upon the Affirmation in Opposition of Gary F. Herbst filed on behalf of Trustee, dated July 10, 2019, in opposition to Truong's Motion [ECF no. 337]; and upon Motion of Ruediger Albrecht For An Order disregarding the Trustee's Final Report etc., dated July 9, 2019 (the "**Albrecht Motion**") [ECF no. 339]; and upon the Trustee's Affirmation in Opposition to the Albrecht Motion [ECF no. 340]; and upon the Reply of Ruediger Albrecht filed on July 15, 2019 ("**Albrecht Reply**"), [ECF no. 344; and a hearing having been held before the Honorable Robert E. Grossman, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Eastern District of New York (the "**Court**") on July 15, 2019, the transcript of which is incorporated herein by reference (the "**Hearing**"); and neither Truong, the Debtor nor Albrecht having appeared at the Hearing; and upon the appearance at the Hearing by the Trustee by his counsel and upon the appearance at the Hearing by the counsel for Dean Osekavage d/b/a Pathfinders USA, as Assignee of Judith Wetzstein; and upon the docket entry filed by the Office of the United States Trustee advising that the Office of the United States Trustee had no objection to the Final Report and the applications for compensation for commissions and fees; and upon consideration of the entire docket in this case, which is incorporated herein by reference, to include

the Trustee's Final Report, the Applications, the Debtor Objection, the Truong Opposition, the Debtor Supplemental Objection, the Second Debtor Supplemental Objection, the Truong Supplemental Opposition, the Albrecht Motion, the Albrecht Reply, the Letters to Strike the Debtor's Objections and the Truong Opposition filed by the Trustee's counsel and Affirmations in opposition to the Truong Opposition and the Affirmation in Opposition to the Albrecht Motion; and after due deliberation and consideration of all the facts and circumstances herein; and it being determined to be in the best interests of the estate; and upon the Applications being in accordance with Sections 327 and 330 of the Bankruptcy Code; and no additional notices being required, it is hereby

**ORDERED**, that the Debtor Objection, the Truong Opposition, the Debtor Supplemental Objection, the Second Debtor Supplemental Objection, the Truong Supplemental Opposition, the Albrecht Motion and the Albrecht Reply, are all overruled and denied; and, it is further

**ORDERED**, that the Trustee's Final Report and the distributions proposed therein, are authorized, approved and granted; and, it is further

**ORDERED**, that the Chapter 7 Trustee, R. Kenneth Barnard, Esq., is awarded commissions in the amount of \$90,000.00 and expenses in the amount of \$0.00; and, it is further

**ORDERED**, that LaMonica Herbst & Maniscalco, LLP, as counsel to the Trustee, is awarded compensation in the amount of \$280,500.00 and expenses in the amount of \$0.00; and, it is further

**ORDERED**, that Paritz & Company, P.A., as accountants to the Trustee, is awarded compensation in the amount of \$4,452.50 and expenses in the amount of \$0.00; and it is further

**ORDERED**, that the Trustee is authorized to abandon the Debtor's books and records; and it is further

**ORDERED**, that upon the closing of the case, the Trustee shall be discharged from his duties; and it is further

**ORDERED**, that the Trustee is authorized to perform such acts, pay such awards and execute such documents as are necessary to implement the terms and conditions of this Order.

**Dated: Central Islip, New York  
July 16, 2019**



A handwritten signature in black ink, appearing to read "Robert E. Grossman". The signature is written in a cursive, flowing style.

**Robert E. Grossman  
United States Bankruptcy Judge**

# **LIST OF PARTIES TO BE SERVED**

Stan Yuon Yang, Attorney for the  
U.S. Trustee, Appellee  
560 Federal Plaza  
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