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MAY 03 2006

U.S. BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

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6 **IN THE UNITED STATES BANKRUPTCY COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 In re:) Chapter 11
10 LEASCO, INC., a California corporation,)
11 Debtor.) No. 2-03-bk-21422-JMM
12) Adversary No. 2-04-ap-00089-JMM
13 FLAVIO TENORIO; JUAN TENORIO;)
14 FRANCISCO TENORIO; AURELIO)
15 TENORIO; and FILIBERTO TENORIO,) **MEMORANDUM DECISION RE**
16) **RULE 60 MOTION**
17 Plaintiffs,)
18 vs.)
19 LEASCO, INC., a California corporation;)
20 LEASCO HOLDINGS, INC., a California)
21 corporation; MANSFIELD COLLINS; and)
22 IVANIA PISKULICH,)
23 Defendants.)

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Mansfield Collins, one of the Defendants herein, has moved, pursuant to FED. R. CIV. P. 60(b) (made applicable to bankruptcy proceeding by FED. R. BANKR. P. 9024) to set aside the judgment entered on February 24, 2005. That judgment is final, as Mr. Collins did not appeal from it.

1 **Rule 60 Motion - Jurisdiction**

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3 During the course of that adversary proceeding, all parties (including Mr. Collins)
4 removed all state and federal litigation between them to the bankruptcy court, and affirmatively consented
5 to the bankruptcy court's jurisdiction to adjudicate all issues between them. Mr. Collins participated,
6 though counsel, in all such proceedings, and never raised any jurisdictional objections at any time, nor
7 did he or his counsel preserve any such issues nor appeal on such grounds. Accordingly, the Court finds
8 and concludes that the arguments regarding improper jurisdiction have been waived.

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10 **Satisfaction of Judgment**

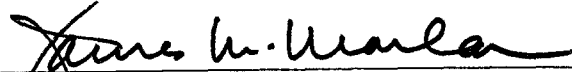
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12 Mr. Collins also argues that the court's ruling concerning the value of his fees in the
13 criminal case was erroneous. This argument should have been made on a direct appeal, but instead Mr.
14 Collins chose not to do so. Because this ground to set aside the judgment appears to be that the court
15 made a mistake of fact or error of law, it would properly fall within the orbit of FED. R. CIV. P. 60(b)(1).
16 Because such grounds must be brought within one year of the judgment (entered February 24, 2005), this
17 ground is time-barred. The effort to label it as a 60(b)(4) "satisfaction" issue (not time-barred but
18 required to be brought within a "reasonable" time) is misplaced.

Settlement

Nor did the settlement between the Tenorio Brothers and the Trustee, affect, in a positive or negative way, the judgment against Mr. Collins. The settlement was neutral as to him. Moreover, since the settlement order is currently on appeal (and has not been stayed), this court is without jurisdiction to adjudicate controversies or issues concerning it.

For these reason, the Rule 60(b) motion shall be DENIED.

DATED: May 3, 2006



JAMES M. MARLAR
UNITED STATES BANKRUPTCY JUDGE

COPIES served as indicated below this 3 day of May, 2006, upon:

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By /s/ M.B. Thompson
Judicial Assistant