

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

THE BENNETT FUNDING GROUP, INC.

Debtors

CASE NO. 96-61376

Chapter 11

Substantively Consolidated

RICHARD C. BREEDEN, TRUSTEE FOR
THE BENNETT FUNDING GROUP, INC.
et al.

Plaintiff

vs.

ADV. PRO. NO. 98-40892A

STEPHEN A. THOMAS

Debtor

ORDER

On April 29, 1999, the Court issued a Memorandum-Decision, Findings of Fact, Conclusions of Law and Order in the above-captioned adversary proceeding, which denied in part and granted in part the defendant's motion for summary judgment (the "April 29 Decision"). On May 12, 1999, the Trustee filed a Motion to Clarify a certain portion of the ordering paragraph of the April 29 Decision. There being no opposition to this motion, and the Court believing that there is good cause to grant such relief, it is hereby

ORDERED that the Trustee's Motion to Clarify the April 29 Decision is granted; and it is further

ORDERED that second ordering paragraph of the April 29 Decision shall be amended and clarified to read as follows:

“DENIED with respect to the Trustee’s Code § 544(b) and NYD&CL §§ 271-281 causes of action, provided, however, that the Trustee’s recovery shall in any case be limited to the amount of cash payments actually paid to Defendant by the Debtors, whether designated as interest or as the return of principal, and whether arising out of the notes originally purchased by Defendant or out of any note subsequently issued by the Debtors; and provided further, that the amount of the Trustee’s recovery shall not include the face value of any BRC or BRC II notes issued to Defendant in lieu of or in postponement of payment.”;

and it is further

ORDERED, that except as expressly amended herein, the April 29 Decision remains in full force and effect.

Dated at Utica, New York
this 10th day of June 1999

STEPHEN D. GERLING
Chief U.S. Bankruptcy Judge