

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

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<b>IN RE:</b>	<b>ALLIANCE TITLE &amp; ESCROW, LTD.</b>	)	<b>Case No. 99-31914-T</b>
	<b>Debtor.</b>	)	<b>Chapter 7</b>
		)	
		)	
<b>HARRY SHAIA, JR., TRUSTEE</b>		)	<b>Adversary No. 00-3135</b>
<b>Plaintiff</b>		)	
		)	
<b>v.</b>		)	
		)	
<b>UTICA MUTUAL INSURANCE COMPANY</b>		)	
<b>Defendant.</b>		)	

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MEMORANDUM OPINION AND ORDER

Hearing was held January 10, 2001, on defendant's motion to dismiss. At the conclusion of hearing, the court announced that defendant's motion would be denied. This memorandum opinion supplements the court's bench ruling denying defendant's motion to dismiss.

I. Procedural History and Positions of the Parties

On March 16, 1999, an involuntary petition was filed against debtor. Harry Shaia, Jr. was appointed chapter 7 trustee.

On October 10, 2000, plaintiff filed a complaint for turnover of property to the estate pursuant to 11 U.S.C. § 542(b) to enforce terms of an employee dishonesty policy issued by defendant.

On November 13, 2000, defendant filed a motion to dismiss. Defendant asserts that plaintiff's adversary proceeding is a non-core proceeding, and the court lacks jurisdiction over the matter.

On December 5, 2000, plaintiff filed a response to defendant's motion to dismiss.

Plaintiff asserts that the adversary proceeding is a core proceeding pursuant to 28 U.S.C. §§ 157 (b)(2)(A), (b)(2)(E) and (b)(2)(O). Plaintiff further asserts that even if the adversary is a non-core proceeding, defendant consented to jurisdiction and the court can hear the matter. Finally, plaintiff argues that even if the adversary is non-core and defendant did not consent, the court has jurisdiction over the matter since it is "related to" the bankruptcy.

On December 21, 2000, defendant filed a reply to plaintiff's response. Defendant maintains that the adversary is not a core proceeding, that it did not consent to the entry of orders and judgments by the bankruptcy court, and the bankruptcy court should abstain from hearing the matter if "related to" jurisdiction does apply.

Hearing was held January 10, 2001, on defendant's motion to dismiss. At the conclusion of hearing, the court announced that it would deny defendant's motion to dismiss.

On January 31, 2001, defendant filed an answer to plaintiff's complaint.

## II. Discussion

This is a core proceeding pursuant to 28 U.S.C. § 157 (b)(2)(E). The court has jurisdiction pursuant to 28 U.S.C. § 157(a) and § 1334(b). Venue is proper pursuant to 28 U.S.C. § 1409(a).

Citing a bankruptcy case from the northern district of Georgia, defendant states that proceeds of an insurance policy are not property of the estate. *See Ellenburg v. Certain Underwriters at Lloyd's (In re Prime Commercial Corp.)*, 187 B.R. 785 (Bankr. N.D. Ga. 1995). However, there is Fourth Circuit authority to the contrary, indicating insurance proceeds are property of the estate. *See A.H. Robins Co. v. Piccinin*, 788 F.2d 994 (4th Cir. 1986). There is also authority from this bankruptcy court that insurance proceeds are property of the estate. *See A.H. Robins Co.*, 88 B.R. 742 (Bankr. E.D. Va. 1988).

Plaintiff filed the complaint for turnover of property to the estate pursuant to 11 U.S.C. § 542(b). The court is persuaded by the rationales and holdings of the cases in this circuit and finds that insurance proceeds are property of the estate. *See generally* 11 U.S.C. § 541. Accordingly, the court has jurisdiction over the matter since an order to turn over property of the estate is a core proceeding. *See* 28 U.S.C. § 157(b)(2)(E). Therefore,

**IT IS ORDERED** that defendant's motion to dismiss is **DENIED**.

Signed this 26th day of March, 2001.

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**DOUGLAS O. TICE, JR.**  
**CHIEF JUDGE**  
**UNITED STATES BANKRUPTCY COURT**