



SO ORDERED.

SIGNED this 22 day of May, 2008.

**ROBERT E. NUGENT
UNITED STATES CHIEF BANKRUPTCY JUDGE**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:

**TROY LEE TATRO,
LORI ANN TATRO,**

Debtors.

ASHLEE MOHR,

Plaintiff,

vs.

TROY LEE TATRO,

Defendant.

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) **Case No. 06-12273**
) **Chapter 7**
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) **Adversary No. 07-5087**
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JUDGMENT ON DECISION

In this adversary proceeding, plaintiff Ashlee Mohr, daughter of defendant and debtor Troy Lee Tatro, claims that Tatro breached his fiduciary duty as her natural guardian under Kansas law

by spending personal injury settlement funds he received on her behalf while she was a minor. She asserts that his debt for these funds should be excepted from Tatro's discharge under 11 U.S.C. § 523(a)(4) as a defalcation while acting in a fiduciary capacity.

The Court concludes that KAN. STAT. ANN. § 59-3053(a) (2005) imposes an express or technical trust on a minor's settlement funds held by the minor's natural guardian and therefore, the requisite fiduciary relationship exists for purposes of 11 U.S.C. § 523(a)(4). The Court found, however, that KAN. STAT. ANN. § 59-3053(b) did not prohibit the natural guardian from expending the settlement funds for the minor's support and that because the defendant never held more than \$10,000 at any given time, he was not required to establish a conservatorship for the funds and comply with the conservatorship statutes. Because defendant did not breach the fiduciary duty set forth in KAN. STAT. ANN. § 59-3053(a) defendant did not commit a defalcation while acting in a fiduciary relationship.

Judgment is entered in favor of defendant Troy Lee Tatro on the plaintiff's claim under 11 U.S.C. § 523(a)(4) and the plaintiff's complaint is dismissed. Costs are taxed to the plaintiff.

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