WRITTEN DECISION – NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

In re: BARBARA E. STONE, Debtor.	Bk. Case No. 94-09384-JBM7 **MEMORANDUM DECISION DENYING MOTION FOR CIVIL CONTEMPT FOR VIOLATION OF DISCHARGE INJUNCTION** Date: December 17, 2025 Time: 11:00 a.m. Judge: Hon. J. Barrett Marum

INTRODUCTION

This matter stems from Barbara E. Stone's (the "Debtor's") bankruptcy petition filed more than thirty years ago on August 31, 1994 (the "Petition"). When the Debtor filed, 11 U.S.C. § 523(a)(8) allowed certain educational loans to be discharged in bankruptcy without a showing of undue hardship. The Debtor did not file an adversary proceeding seeking a judgment discharging her student loans and she now takes the position that she was not required to do so to obtain their discharge. Because student loans are presumptively nondischargeable, the Department of Education ("Education") argues that it was appropriate for it to continue to seek repayment of the loans following the Debtor's general discharge.

The Debtor contends this was improper and now moves this Court to find Education violated the discharge injunction in § 524(a)(2) by doing so.

The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1334(a) and (b). This action arose in a bankruptcy case and under 28 U.S.C. § 157(b)(2)(I), the determination of a debt's dischargeability is a core proceeding. For the reasons discussed more fully below, the Court concludes that Education has not violated the discharge injunction.

FACTS

On August 31, 1994, the Debtor filed a Chapter 7 bankruptcy petition. The meeting of creditors occurred in October that year and the bankruptcy case progressed quickly. On December 5, 1994, the deadline to object to the Debtor's discharge passed without any objection being filed and on December 30, 1994, the Debtor was discharged.

At the time of the Debtor's discharge, the 1994 amendment to 11 U.S.C. § 523(a)(8) was in force and it excepted educational loans from discharge. However, § 523(a)(8)(A) provided that student loans were discharged if payments became due more than seven years before a petition's filing date. So, when the Debtor filed the Petition, any student loans she owed which became due more than seven years before she filed qualified for discharge. The Debtor filed a Motion for Civil Contempt for Violation of Discharge Injunction (the "Motion") on September 16, 2025, alleging Education violated the injunction by seeking repayment of the Debtor's student loans.

Throughout the pendency of the Debtor's case, the Debtor did not submit proof to Education regarding when her student loans became due. In fact, the Debtor did not submit that evidence until she filed the Amended Motion for Civil Contempt (the "Amended Motion") on September 24, 2025. There, the Debtor for the first time presented her transcripts that demonstrated when her student loans became "first due" for purposes of § 523(a)(8) because the Debtor's loans first became due when she ceased at least half-time enrollment. ECF No. 24 at 7. The transcripts confirm that the loans first became due in 1986, more than seven years before the Debtor filed the Petition. ECF No. 24 at 25-36.

Once Education received notice that the Debtor's loans indeed qualified for discharge under the law applicable in 1994, Education accommodated the Debtor despite the procedural issues detailed below. Education has confirmed it is "prepared to waive its due process rights ordinarily associated

with an adversary proceeding, and Education is now in the process of reducing Debtor's loan balances to $0.00 and clearing any associated credit reporting." ECF No. 44 at 2. This offer by Education provided for much of the relief requested in the Debtor's proposed order lodged with the Court. ECF No. 46 at 5-6. As mentioned above, the Debtor never filed an adversary proceeding related to her student loans' dischargeability.

ANALYSIS

A. Legal Standard for Civil Contempt

As a threshold matter, "bankruptcy courts have civil contempt authority for discharge violations derived from the conjunction of § 524(a)(2) and § 105(a)." *In re LeGrand*, 612 B.R. 604, 613 (Bankr. E.D. Cal. 2020) *citing Taggart v. Lorenzen*, 587 U.S. 554, 559 (2019). The Supreme Court has long recognized that civil contempt is a "potent weapon." *Id. citing Int'l Longshoremen's Ass'n, Loc. 1291 v. Philadelphia Marine Trade Ass'n*, 389 U.S. 64, 76 (1967). The Ninth Circuit on remand in *Taggart* found, "Civil contempt is a 'severe remedy' and, correspondingly, the Supreme Court has set a significantly high hurdle for when it is imposed." *In re Taggart,* 980 F.3d 1340, 1347 (9th Cir. 2020). A court may impose sanctions only "when there is no objectively reasonable basis for concluding that the creditor's conduct might be lawful under the discharge order." *Taggart*, 587 U.S. at 560.

B. The Debtor Needed to File an Adversary Proceeding to Obtain an Order Discharging her Student Loans

A Debtor must affirmatively secure a discharge determination through an adversary proceeding prior to filing a motion for civil contempt if the debtor's discharge is based on the statutory "seven-year rule" that was in place in 1994. *In re Hoxie*, No. 05-00002-A7, 2006 WL 165004 (Bankr. S.D. Cal. Jan. 19, 2006), *aff'd*, 370 B.R. 288 (S.D. Cal. 2006). The debtor in *Hoxie* never filed an adversary proceeding to determine the dischargeability of his student loans and thus had "no judgment 'discharging' these debts." *Id.* at *1. The court reasoned that because student loans are presumptively nondischargeable in bankruptcy and § 523(a)(8) is "self-executing," "a debtor must affirmatively initiate an adversary proceeding to determine the student loan debt is discharged." *Id.* at *2 *citing Tenn. Student Assistance Corp. v. Hood,* 541 U.S. 440, 450 (2004). The self-executing nature of the code section places "the burden [] on the debtor to bring a complaint in the bankruptcy proceeding or defend in a subsequent

state court action." *In re Hoxie*, 370 B.R. at 292 (citations omitted). Although *Hoxie* dealt with the analogous "five-year rule" under a different amendment of § 523(a)(8), the court supported its conclusion with "basic law dating back to 1978." *Id.*

Here, the Debtor's student loans qualify under the seven-year rule in the 1994 amendment to § 523(a)(8) that governed at the time the Debtor filed the Petition and obtained a discharge. Thus, the Debtor similarly must possess a judgment discharging the loans in order to invoke the injunction in § 524(a)(2). Without a judgment demonstrating the loans were in fact discharged, the Debtor cannot properly support her claim for civil contempt.

C. *In re Irigoyen* Does not Apply

The Debtor argues that because statutory timing cases are "static," discharge occurs automatically, and an adversary proceeding was not necessary. ECF No. 45 at 4. Although the court in *In re Irigoyen,* 659 B.R. 1 (B.A.P. 9th Cir. 2024) drew a distinction between the static determination of a student loan's excepted nature and the circumstantial determination of "undue hardship" cases (where whether there is an undue hardship may change over time), the court dealt with debts that did not qualify as "student loans" at all. Thus, the *Irigoyen* court rendered unique reasoning that does not bear on this case where there is no dispute that the Debtor's loans qualify as student loans.

Moreover, the court in *Irigoyen* maintained that "[i]t is well established that, if a debtor wants to receive a discharge of a qualified educational loan, the debtor bears the burden of filing a lawsuit and obtaining a judgment of dischargeability." *In re Irigoyen,* 659 B.R. at 4. Education contends that the Debtor's debts may not be entirely static, either, because determination of their dischargeability hinges on "whether and when [the] Debtor's university enrollment dropped below half-time, and Debtor 'is the party who has the necessary evidence.'" ECF No. 44 at 9. The Court does not find it necessary, though, to determine whether the loans were "static" because the loans at issue in *Irigoyen* were not education loans at all and nothing in *Irigoyen* disturbs the long-standing principle that to obtain a discharge of qualified educational loans, the debtor must bring an adversary proceeding. It is only if the loans at issue never qualified as educational loans that *Irigoyen* holds that an adversary proceeding is not required to obtain their discharge. That is not the situation before the Court and the Court therefore concludes that the Debtor's student loans were not discharged because she did not bring an adversary proceeding.

D. Education's Fair Ground of Doubt

Additionally, Education possessed a "fair ground of doubt" under *Taggart* referenced above, shielding Education from contempt sanctions. Education's doubt is two-fold: first, it could not confirm whether the loans fell within the scope of the general discharge. As detailed above, Education did not receive copies of the Debtor's transcripts demonstrating the loans became due more than seven years before the Debtor filed the Petition until the Debtor filed the Amended Motion, more than thirty years after the Debtor received a discharge. Education further suggests it received other information indicating the loans became due outside the bounds of the seven-year rule. ECF No. 44 at 7. Without the information contained in the Debtor's transcripts, Education had more than a fair ground of doubt as to whether the student loans became due more than seven years prior to the underlying Petition's filing date. The process for rendering a judgment of discharge (an adversary proceeding) would have revealed such vital information to Education and prevented further collection efforts.

Second, even if *Irigoyen* correctly applied to the facts of this case, the recent change in law would be a departure from longstanding rules requiring an adversary proceeding to discharge student loans under the five- or seven-year rules. Such uncertainty in the law further supports Education's position that it possessed a "fair ground of doubt" as to the loans' dischargeability. The Bankruptcy Appellate Panel similarly found the State Bar possessed a "fair ground of doubt" in collection efforts for discharged debts when "considerable confusion" existed as to the law at the time. *In re Albert-Sheridan*, 658 B.R. 516, 540 (B.A.P. 9th Cir. 2024), *appeal dismissed sub nom. In re Albert*, No. 24-3305, 2025 WL 1452555 (9th Cir. May 21, 2025). In *Albert-Sheridan*, the court found "the State Bar had fair ground to doubt that the debt was discharged when it took its actions" because the decision resolving the issue as to the debt's dischargeability and reversing prior caselaw was not entered until 2022, long after the debtor was penalized. *Id.* at 541. Here, *Irigoyen* was not decided until 2024, also after many of the collection efforts alleged to violate the discharge injunction occurred. On top of the *Irigoyen* decision's recency, the case is also a Bankruptcy Appellate Panel decision and not binding on the circuit as a whole, further showing Education possessed a fair ground of doubt as to any change in the law. Education acted objectively reasonably in prior attempts to collect on the student loan debts and thus is shielded from civil contempt.

CONCLUSION

Based on the foregoing, the Court declines to impose civil contempt sanctions on Education pursuant to 11 U.S.C. §§ 105(a) and 524(a)(2). The Court further finds Education did not violate the discharge injunction.

Dated: January 7, 2026

J. BARRETT MARUM, Judge
United States Bankruptcy Court