1 JUDGE HERB ROSS (Recalled) UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ALASKA 2 605 West 4th Avenue, Room 138, Anchorage, AK 99501-2253 — (Website: www.akb.uscourts.gov) 3 Clerk's Office: 907-271-2655 (1-800-859-8059 In-State) — Judge's Fax: 907-271-2692 4 Filed On 5 9/7/11 6 7 8 Case No. A11-00616-HAR In re 9 THE MARTHA REYNOLDS TRUST, In Chapter 11 10 Debtor(s) MEMORANDUM ABOUT DEBTOR'S **ELIGIBILITY TO BE A CHAPTER 12** 11 DEBTOR 12 Debtor's attorney alluded to the possibility of conversion to a case under chapter 12 in his 13 argument and response brief (Docket No. 25, page 4) to the US Trustee's motion to dismiss 14 (Docket No. 8). Although it would not have changed the court's decision about dismissing this 15 case even if debtor qualified to be a chapter 12 debtor, I do not think it would qualify as a "family 16 fisherman." 17 To qualify, debtor would have to be conducting a "commercial fishing operation." 11 USC 18 § 109(A)(B). "Commercial fishing operation" is a defined term under 11 USC § 101(7A): 19 (7A) The term "commercial fishing operation" means--20 (A) the catching or harvesting of fish, shrimp, lobsters, urchins, 21 seaweed, shellfish, or other aquatic species or products of such species; or 22 (B) for purposes of section 109 and chapter 12, aquaculture activities 23 consisting of raising for market any species or product described in subparagraph (A). 2.4 What debtor describes in its response is more like a "sport fishing" charter operation, than a 25 "commercial fishing operation." (Docket No. 25, \P 1). 26 27 28

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1	There are few cases interpreting these terms and little legislative history. It is instructive,
2	however, to compare the definitions in the Alaska Fish and Game Code for the definitions of
3	"commercial fishing" and "sport fishing." AS 16.05.940(5), (30).
4	DATED, Contombox 7, 2011
5	DATED: September 7, 2011
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7	/s/ Herb Ross HERB ROSS
8	U.S. Bankruptcy Judge
9	<u>Serve</u> :
10	Kav Hill, Asst. US Trustee
11	Brian Sullivan, Esq., for debtor Steven Shamburek, Esq., for IBT D7519
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28	ELIGIBILITY TO BE A CHAPTER 12 DEBTOR Page 2 of 2