

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:)	
)	Case No. 23-60403
JASON M. RAMUS., <i>et al.</i>)	Chapter 13
)	
Debtors.)	Judge John P. Gustafson
)	

**MOTION OF THE RECEIVER FOR AN ORDER
MODIFYING THE AUTOMATIC STAY¹**

Mark E. Dottore, solely in his capacity as the receiver (the “**Receiver**”) for The AEM Services, LLC (“**AEM Services**”) and related entities (collectively, with AEM Services, the “**Receivership Entities**”),² hereby moves the Court, pursuant

¹ The Receiver is deviating from the standard form mandated by Local Bankruptcy Rule 4001-1 because this matter relates entirely to ongoing (non-foreclosure) litigation.

² On June 22, 2022, the Court of Common Pleas of Summit County (the “**State Court**”) entered its order (the “**Order Appointing Receiver**”) in Case No. CV-2022-05-1754, *Christopher Longo v. The AEM Services, LLC, et al.* (the “**Receivership Case**”) appointing Mark E. Dottore (“**Mr. Dottore**”) as the receiver “to take possession of and to manage all the affairs of . . . The AEM Services, LLC (“AEM”), and to further take control of all assets and real property held in or by that entity.”

On July 15, 2022, the State Court entered its order (the “**First Amended Order Appointing Receiver**”) appointing Mr. Dottore as the receiver for AEM Investments, LLC (“**AEM Investments**”) and AEM Wholesale, LLC (“**AEM Wholesale**”) “and all their real and personal property [.]” Par. no. 1 of the First Amended Order Appointing Receiver provides, in pertinent part, that “all of [the] real and personal property [of AEM Investments and AEM Wholesale] . . . together with The AEM Services LLC . . . and all of its assets of the same kind and nature . . . shall hereafter constitute the Receivership Estate.”

to Section 362(d)(1) of the Bankruptcy Code,³ Bankruptcy Rules 4001 and 9014, and Local Bankruptcy Rules 4001-1, 9013-1 and 9013-2, to enter an order modifying the automatic stay for the limited purpose of permitting the Receiver to commence a

On August 11, 2022, the State Court entered its order (the “**Second Amended Order Appointing Receiver**”) confirming the appointment of Mr. Dottore as the receiver for AEM Services, AEM Investments, and AEM Wholesale and appointed him as the receiver for Mark Dente (“**Dente**”), Sharon Dente, Anthony Dente, Unlimited Acquisitions, LLC (“**Acquisitions**”), AEM Productions, LLC (“**AEM Productions**”), AEM Real Estate Group, LLC (“**AEM Real Estate**”), AEM Capital Fund, Ltd. (“**AEM Capital Fund**”), The Mark and Sharon Dente Living Trust (the “**Dente Trust**”), A&J RE Holdings, LLC (“**A&J**”), and Landmark Property Development fka Landmark Real Estate Endeavors (“**Landmark**”). AEM Investments, LLC (“**AEM Investments**”) and AEM Wholesale, LLC (“**AEM Wholesale**”) “and all their real and personal property [.]” Par. no. 1 of the Second Amended Order Appointing Receiver provides, in pertinent part, that “all of [the] real and personal property [of the named entities] . . . and all other assets arising out of, or pertaining to each entity, of whatever kind and nature, . . . shall hereinafter constitute the Receivership Estate.”

On November 2, 2022, the State Court entered its order (the “**November 2, 2022 Order**”) vacating the Second Amended Order Appointing Receiver as to Dente, Sharon Dente, Anthony Dente, Acquisitions, and the Dente Trust. As a result of the vacation of the Second Amended Order Appointing Receiver as it pertains to these five named entities, as of the date of this filing, AEM Services, AEM Investments, AEM Wholesale, AEM Productions, AEM Real Estate, AEM Capital Fund, A&J, and Landmark are the **Receivership Entities**.

A true and correct copy of the Order Appointing Receiver is attached hereto as Exhibit A; of the First Amended Order Appointing Receiver, as Exhibit B; of the Second Amended Order Appointing Receiver, as Exhibit C; of the November 2, 2022 Order, as Exhibit D.

³ Unless otherwise indicated, all Section, Chapter, and Subchapter references are to Title 11 of the United States Code (11 U.S.C. §§ 101–1532; the “**Bankruptcy Code**”), all references to the Civil Rules or “Rule XX” are to the Federal Rules of Civil Procedure (the “**Civil Rules**”), all references to the Bankruptcy Rules or to “Rule YYYY” are to the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and all references to “LBR xxxx-x” are to the Local Rules for the United States Bankruptcy Court, Northern District of Ohio.

civil action against Jason M. Ramus (“**Ramus**”) and Mackenzi E. Ramus (“**Mackenzi**” and, collectively with Ramus, the “**Debtors**”) in the Summit County, Ohio Court of Common Pleas (the “**State Court**”) to adjudicate the Receiver’s fraudulent transfer claims against the Debtors (the “**Avoidance Actions**”), including, specifically, the Receiver’s claim for the avoidance of the fraudulent transfer by AEM Investments to the Debtors of the real property known as 4870 Shady Knoll Ave. NW, Massillon, Ohio 44646 (PPN: 1622007) (the “**Property**”). In support of his motion, the Receiver says as follows:

INTRODUCTION

1. AEM Services—an entity purportedly engaged in “wholesale real estate”—was, in fact, a Ponzi scheme run by Mark Dente and his business team.
2. AEM Services used new investor money to pay earlier investors; the defining characteristic of a Ponzi scheme. Ponzi schemes generally (and AEM Services specifically) inevitably collapse when the incoming new investor deposits are not sufficient to pay off the scheme’s obligations to earlier investors. The AEM Services Ponzi scheme had collapsed by May 2022.
3. Ramus was an AEM Services executive team member with the title of “Vice President of Business Development.”
4. Ramus was a “finder” of “investors” for the AEM Services Ponzi scheme.
5. Ramus was paid a percentage of the “new money” that he recruited into the AEM Services Ponzi scheme.

6. Unlike the other “investors” in the AEM Services Ponzi scheme, Ramus walked away from the collapsing Ponzi scheme with a luxury house—the Property.

7. Zillow estimates the value of the Property to be \$712,500.⁴

8. In their bankruptcy schedules, the Debtors claimed two exemptions in the Property. ECF no. 1, Schedule C, p. 17.

9. At the Debtors’ 341 meeting, Ramus testified that AEM Services paid part of the purchase price for the Property.⁵

10. At the 341 meeting, Ramus testified that the mortgage payments on the Property were paid by AEM Services.

11. Pursuant to an order docketed on July 20, 2022, the Administrative Judge for the State Court transferred to the Honorable Patricia Cosgrove all cases filed and to be filed in the State Court regarding AEM Services, Mark Dente “or any other person or entity associated with either of them (the “**AEM Cases**”). A copy of the July 20, 2022 order (the “**Transfer Order**”) is attached hereto as Exhibit F.

12. Given the nature of the Receivership Estate, the Receiver may adjudicate hundreds of preference, fraudulent transfer, and other avoidance actions

⁴ Pictures of 4870 Shady Knoll Avenue NW, Massillon, OH 44646 are available at https://www.zillow.com/homedetails/4870-Shady-Knoll-Ave-NW-Massillon-OH-44646/111653788_zpid/

⁵ See Summit County Court of Common Pleas Case No. CV-2022-07-2228, *Sheryl Maxfield, Director State of Ohio Department of Commerce v. Mark Dente, et al.*, Complaint filed July 1, 2022 (the “**Ohio AG’s Complaint**”) attached hereto as Exhibit E, especially par. no. 39 as it pertains to the real property listed in the Debtors’ Schedule A).

in the State Court, each of which will involve issues that affect all stakeholders of the Receivership Entities—common issues of fact and law—and each of which will benefit from the consistent application of law as interpreted in the State of Ohio. The Receiver’s claims against Ramus are no different than hundreds of other claims that the Receiver will bring against “net winners” from the AEM Services Ponzi scheme with the exception that Ramus is the first schemer related to the AEM Services Ponzi scheme to try to protect his winnings in a Chapter 13 bankruptcy case.

13. The Debtors list as one of their assets, “Claims against Mark Dente for improperly conducting business in the name of AEM Investments, LLC after 12/18/2019.” Schedule B, Item 33 [ECF no. 1, page 15].

JURISDICTION AND VENUE

14. This Court has jurisdiction over these Chapter 13 proceedings pursuant to 28 U.S.C. §§ 1334 and 157(a) and General Order No. 2012-7 entered on April 4, 2012 by the United States District Court for the Northern District of Ohio. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

15. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

THE DEBTORS’ CASE: PROCEDURAL HISTORY

16. On April 7, 2023 (the “**Petition Date**”), the Debtors filed their voluntary petition for relief under Chapter 13 [ECF no. 1].

17. The Debtors filed their Chapter 13 Plan [ECF no. 2] on the Petition Date and filed their First Amended Chapter 13 Plan [ECF no. 14] (the “**Debtors’ Amended Plan**”) on April 19, 2023.

18. Dynele L. Schinker-Kuharich is the standing Chapter 13 Trustee (the “**Trustee**”) for this bankruptcy case.

19. On June 7, 2023, the Receiver filed his proof of claim—Claim no. 14—in this case.

UNCONTESTABLE BACKGROUND FACTS RELATED TO THE PROPERTY

20. AEM Investments is an Ohio limited liability, organized by Dente on March 14, 2019. AEM Investments had no business purpose except to facilitate the AEM Services Ponzi scheme.

21. On October 22, 2019, the Debtors became the record title holders of the Property when a certain warranty deed from Lucas J. Sherer to the Debtors was filed with the Stark County Recorder. A copy of the warranty deed is attached hereto as Exhibit G.

22. On December 9, 2019, AEM Investments became the record title holder of the Property when a certain quit-claim deed from the Debtors to AEM Investments was filed with the Stark County Recorder. A copy of the quit claim deed is attached hereto as Exhibit H.

23. On June 7, 2022, the Debtors became the record title holders of the Property when a certain general warranty deed from AEM Investments to the

Debtors was filed with the Stark County Recorder. A copy of the general warranty deed is attached hereto as Exhibit I.

**FACTS THAT SHOW THE JUNE 7, 2022 TRANSFER OF THE PROPERTY FROM
AEM INVESTMENTS TO THE DEBTORS WAS A FRAUDULENT TRANSFER**

24. AEM Services paid part of the purchase price for the Property and made the mortgage payments on the Property. (Ramus testimony at 341 meeting)

25. Neither AEM Investments nor AEM Services received any consideration from the Debtors in exchange for the transfer of the record title to the Property from AEM Investments to the Debtors. (Ramus testimony at 341 meeting)

RELIEF REQUESTED

26. The Receiver requests that this Court enter an order modifying the automatic stay for the limited purpose of permitting the Receiver to commence a civil action against the Debtors in the State Court to adjudicate the Receiver's fraudulent transfer claims against the Debtors including, specifically, the Receiver's claim for the avoidance of the fraudulent transfer of the Property by AEM Investments to the Debtors.

27. The Receiver does not seek a money judgment against or to otherwise liquidate his claims against the Debtors at this time.

28. The Receiver does not seek a determination regarding the dischargeability of any debt owed by either of the Debtors to the Receivership Estate or of the entitlement of either of the Debtors to a discharge generally.

ARGUMENT

29. At the request of a party in interest, a court can modify the automatic stay “for cause.” 11 U.S.C. § 362(d)(1).

30. The decision whether or not to lift or to modify the automatic stay resides within the sound discretion of the bankruptcy court. *See Laguna Assocs. Ltd. P’ship v. Aetna Cas. & Sur. Co. (In re Laguna Assocs., Ltd. P’ship)*, 30 F.3d 734, 737 (6th Cir. 1994) ; *Sonnax Indus., Inc. v. Tri Component Prods. Corp. (In re Sonnax Indus., Inc.)*, 907 F.2d 1280, 1286 (2d Cir. 1990) (citations omitted).

31. When a party in interests requests a modification of the automatic stay, bankruptcy courts considers the following factors in deciding whether to lift a stay: 1) judicial economy; 2) trial readiness; 3) the resolution of preliminary bankruptcy issues; 4) the creditor’s chance of success on the merits; and 5) the cost of defense or other potential burden to the bankruptcy estate and the impact of the litigation on other creditors. *Garzoni v. K-Mart Corp. (In re Garzoni)*, 35 Fed. Appx. 179, 181 (6th Cir. 2002) (citing *In re United Imports, Inc.*, 203 B.R. 162, 167 (Bankr. D. Neb. 1996)). *See also Junk v. CitiMortgage, Inc. (In re Junk)*, 512 B.R. 584, 607 (Bankr. S.D. OH 2014). *In re Martin*, 542 B.R. 199, 202 (B.A.P. 6th Cir. 2015) (“*Martin*”). “Not all of the factors are relevant in every case and the court need not assign equal weight to each factor.” *In re New York Med. Grp., P.C.*, 265 B.R. 408, 413 (Bankr. S.D.N.Y. 2001) (commenting on the 12-factor test laid out by the Second Circuit in *In re Sonnax Industries, Inc.*, 907 F.2d 1280, 1285 (2d Cir. 1990) (“*Sonnax*”).

Factor 1 – Judicial Economy

32. Because the Avoidance Actions involve core legal and factual issues likely to be raised in other avoidance actions brought by the Receiver, litigation of the Avoidance Actions in the State Court serves the interests of judicial economy

and the expeditious and economical resolution of the disputes. It is unlikely that those core issues will otherwise be raised in this Chapter 13 Case.

33. Permitting the Receiver to litigate the Avoidance Actions in the State Court is necessary and appropriate to avoid potentially inconsistent rulings from multiple courts on common issues relating to core matters impacting the Receivership Estates.

34. The law on Ohio is clear: Exemption of property pursuant to Ohio Revised Code § 2329.66(A)(2) does not preclude avoidance of the transfer of that property in an action brought pursuant to the Ohio Uniform Transfer Act (Ohio Revised Code Chapter 1336).⁶ *Mancz v. McHenry*, 2021 Ohio 82 (2d Dist. 2021) ¶ 93; *UBS Fin. Servs., Inc. v. Lacava*, 2018 Ohio 3055 (8th Dist. 2018).

⁶ Section 1336.04(A) of the Ohio Revised Code provides, in pertinent part,

A transfer made . . . by a debtor is fraudulent as to a creditor . . . if the debtor made the transfer . . . in either of the following ways:

(1) With actual intent to hinder, delay, or defraud any creditor of the debtor;

(2) without receiving reasonably equivalent value in exchange for the transfer . . . and if either of the following applies:

(a) The debtor was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction;

(b) The debtor intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.

Section 1336.07(A) of the Ohio Revised Code provides, in pertinent part,

In an action for relief arising out of a transfer . . . that is fraudulent under section 1336.04 . . . , a creditor . . . may obtain . . . :

(1) Avoidance of the transfer[.]

35. Both the State Court and this Court will apply this Ohio law to resolve any issues involving the Property, but only the State Court can enter the order that will return the Property to the Receivership Estate.

36. Factor 1 favors granting the relief requested in this motion.

Factor 2 – Trial Readiness

37. There is no action currently pending in the State Court and there is no action pending in this Court to object to the Debtors' claim of exemption in the Property; therefore, Factor 2 is neutral with respect to this motion.

Factor 3 – The Resolution of Preliminary Bankruptcy Issues

38. There are no bankruptcy issues that need to be resolved before the Receiver's Avoidance Action can be litigated; therefore, Factor 3 favors granting the relief requested in this motion or is neutral with respect to this motion.

Factor 4 – The Creditor's Chance of Success on the Merits

39. Both this Court and the State Court are experienced in interpreting the laws of the State of Ohio; therefore Factor 4 is neutral with respect to this motion.

Factor 5 – The Cost of Defense or Other Potential Burden to the Bankruptcy Estate and the Impact of the Litigation on Other Creditors

The cost of defense (and of prosecution) should be about the same in either forum, and the impact on other creditors will not be affected by which court makes the decision; therefore, Factor 5 is neutral with respect to this motion.

Other considerations

40. Ramus or the Chapter 13 Trustee may seek to assert a claim against the Receivership Estate based on the asset listed in the Debtors' Schedule B, Item 33. *See* par. no. 13 *supra*. If either of them do, this claim will be akin to numerous claims that the Receiver expects to receive and to resolve or litigate.

41. This "two estates" problem—the Receivership Estate and the Debtors' bankruptcy estate—is akin to the situation involved in *In re Shared Technologies Cellular, Inc.*, 281 B.R. 804 (Bankr. D. Conn. 2002), in which the bankruptcy court modified the automatic stay to permit a debtor in a separate bankruptcy to prosecute preference claims in its own bankruptcy case against the debtor protected by the stay. This situation is similar except that the movant is the court-appointed receiver—a representative of the court—for the stakeholders of the AEM Services Ponzi scheme rather than another bankruptcy trustee.

CONCLUSION

42. Cause exists to modify the automatic stay to allow the Avoidance Actions against the Debtor to be filed and adjudicated in the State Court

NOTICE

43. Notice of this motion will be given to: (a) the Debtors, (b) counsel for the Debtors, (c) the Chapter 13 Trustee, (d) all parties that have requested notice in this case, and (e) the United States Trustee. In light of the nature of the relief requested herein, the Receiver submits that no other or further notice is required.

NO PRIOR REQUEST

44. No prior request for the relief sought in this motion has been made to this or to any other court in connection with this Chapter 13 case.

WHEREFORE, the Receiver respectfully request that this Court enter an order, in the form of the attached Exhibit J, (i) modifying the automatic stay of 11 U.S.C. § 362(a) for the limited purpose of permitting the Receiver to commence a civil action against the Debtors in the State Court to adjudicate the Receiver's fraudulent transfer claims against the Debtors including, specifically, the Receiver's claim for the avoidance of the fraudulent transfer of the Property by AEM Investments to the Debtors; and (ii) granting such other and further relief as the Court may deem proper.

Dated: June 20, 2023

Respectfully submitted,

/s/ James W. Ehrman
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*Counsel for Mark E. Dottore, Receiver for
the Receivership Entities*

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2023, a copy of the foregoing *Motion of the Receiver for an Order Modifying the Automatic Stay* (the “**Motion**”) was filed electronically. Notice of this filing will be sent by operation of the Court’s electronic filing system to all parties on the Electronic Mail Notice List as set forth below. Parties may access this filing through the Court’s system. I further certify that I caused a copy of the foregoing Motion to be served on each of the persons on the Manual Notice List below by placing a copy thereof in the regular United States mail, first class postage prepaid, addressed as indicated, on June 20, 2023:

Electronic Mail Notice List

- **Thomas S. Amato** on behalf of Thomas S. Amato at TAmato@GroupMgmt.com
- **Jonathan Jones Bond** on behalf of Zachary Harris, Rachel Harris, James Armeni Jr., and Brandon Mathie at jjb@bondlawltd.com
- **Edwin H. Breyfogle** on behalf of Paula Russell at edwinbreyfogle@gmail.com, breyfogleer84552@notify.bestcase.com
- **LeAnn E. Covey** on behalf of EF Mortgage LLC at bknotice@clunkhoose.com
- **James W. Ehrman** on behalf of The Receiver for AEM Services and related entities at jwe@weadvocate.net, newpleadings@gmail.com;ecf-7d83ee620d47@ecf.pacerpro.com
- **Dynele L Schinker-Kuharich** the Chapter 13 Trustee at DLSK@Chapter13Canton.com, dschinkerkuharich@ecf.epiqsystems.com
- **United States Trustee** at (Registered address)@usdoj.gov
- **Peter G. Tsarnas** on behalf of the Debtors at ptsarnas@gertzrosen.com, tsarnasp@hotmail.com;dmichna@gertzrosen.com;tsarnas.peterr102582@notify.bestcase.com

Manual Notice List

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/s/ James W. Ehrman
James W. Ehrman (0011006)