

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
NEW HAVEN DIVISION

IN RE:

THE ROSEGARDEN HEALTH AND
REHABILITATION CENTER LLC, et al.,

Debtors¹

JON P. NEWTON, CHAPTER 11 TRUSTEE,

Plaintiff,

vs.

SHORELINE BOILER & WELDING, LLC,

Defendant.

CHAPTER 11

CASE NO. 18-30623

(Jointly Administered)

Adversary Proceeding

No. _____

COMPLAINT TO AVOID PREFERENTIAL TRANSFERS

Plaintiff, Jon P. Newton, the Chapter 11 trustee (the "Plaintiff" or "Trustee") for the jointly administered estates of The Rosegarden Health and Rehabilitation Center LLC ("Rosegarden") and Bridgeport Health Care Center Inc. ("Bridgeport Health"; together with Rosegarden, the "Debtors"), by and through his attorneys, Reid and Riege, P.C., states and alleges as follows:

PARTIES AND JURISDICTION

1. On April 18, 2018 (the "Filing Date"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code" in the United States Bankruptcy Court for the District of Connecticut.

¹ The Debtors in these cases and the last four digits of each Debtor's tax identification number are: The Rosegarden Health and Rehabilitation Center LLC (4423) and Bridgeport Health Care Center Inc. (6665).

2. On April 25, 2018, People's United Bank, National Association ("People's") filed a Motion to Appoint Trustee (the "Trustee Motion"). After an evidentiary hearing spanning several days, the Court, on May 15, 2018, entered an order granting the Trustee Motion.

3. On May 17, 2018, and upon the Application for the Approval of Jon P. Newton, Esq. as Chapter 11 Trustee of the Bankruptcy Estates of Rosegarden Health and Rehabilitation Center, LLC and Bridgeport Health Care Center, Inc., the Court entered an order approving the appointment of the Trustee.

4. The Trustee is duly qualified and acting as such.

5. Upon information and belief, Shoreline Boiler & Welding, LLC, the defendant herein ("Defendant"), has a mailing address of 43 M Pepperidge Ave., Westbrook, CT 06498.

6. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157(b)(2) and 1334(b).

7. This matter is a core proceeding.

8. Venue of this adversary proceeding in this Court is proper pursuant to 28 U.S.C. § 1409(a).

9. This adversary proceeding is brought pursuant to Federal Rule of Bankruptcy Procedure 7001 and Bankruptcy Code §§ 502(d), 547(b) and 550.

GROUND FOR RELIEF

COUNT I – TO AVOID PREFERENTIAL TRANSFERS PURSUANT TO 11 U.S.C. § 547(b)

10. The Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 9 above as if fully set forth herein.

11. Upon information and belief, on or within ninety (90) days prior to the Filing Date, Bridgeport Health made payment(s) ("Payments") to the Defendant in the total amount of \$20,871.86.

12. The Payments were made to or for the benefit of the Defendant.

13. The Payments were made for or on account of an antecedent debt owed by Bridgeport Health to the Defendant.

14. The Payments were made while Bridgeport Health was insolvent.

15. The Payments enabled the Defendant to receive more than it would receive if:

- a. the case were a Chapter 7 case;
- b. the Payments had not been made; and
- c. the Defendant received payment to the extent provided by the provisions of the Bankruptcy Code.

16. The Payments constitute a preferential transfer within the meaning of Bankruptcy Code § 547(b).

17. By reason of the foregoing, the Plaintiff has the power and right to avoid the Payments under Bankruptcy Code § 547(b).

COUNT II – TO RECOVER PREFERENTIAL TRANSFERS PURSUANT TO 11 U.S.C. § 550

18. The Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 17 above as if fully set forth herein.

19. The Defendant was the initial transferee of the Payments or the immediate or mediate transferee of such Payments or the person for whose benefit the Payments were made.

20. Pursuant to Bankruptcy Code § 550(a), the Plaintiff is entitled to recover from the Defendant an amount to be determined at trial that is not less than the amount of the Payments plus interest thereon to the date of payment and the costs of this action.

COUNT III – TO DISALLOW CLAIMS PURSUANT TO 11 U.S.C. § 502(d)

21. The Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 20 above as if fully set forth herein.

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS JON P. NEWTON, CHAPTER 11 TRUSTEE		DEFENDANTS SHORELINE BOILER & WELDING, LLC
ATTORNEYS (Firm Name, Address, and Telephone No.) Reid and Riege, P.C., One Financial Plaza, Hartford, CT 06103 (860) 278-1150 - Attn: Charles J. Filarldi, Jr., Esq.		ATTORNEYS (If Known)
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee		PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Action brought pursuant to Federal Rule of Bankruptcy Procedure 7001 and Bankruptcy Code §§ 502(d), 547(b) and 550, to avoid preferential transfers, recover preferential transfers and disallow claims.		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input checked="" type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input checked="" type="checkbox"/> 14-Recovery of money/property - other		FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other
FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property		FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other
FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)		FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest
FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)		FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment
FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation		FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause
FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)		Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$ 20,871.86
Other Relief Sought Avoiding Payments to Defendant; directing Defendant to pay value of avoided transfer to Plaintiff, plus interest with costs; disallowing any claim of Defendant against Bridgeport Health		

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR The Rosegarden Health and Rehabilitation Center LLC et al		BANKRUPTCY CASE NO. Jointly Administered Case No. 18-30623
DISTRICT IN WHICH CASE IS PENDING Connecticut	DIVISION OFFICE New Haven	NAME OF JUDGE Ann Nevins
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Charles J. Filardi, Jr. ct09809		
DATE April 13, 2020	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Charles J. Filardi, Jr.	