

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT OF FLORIDA
(WEST PALM BEACH DIVISION)**

Case No. 09-81224-CIV-HURLEY/HOPKINS

**JONATHAN E. PERLMAN, ESQ., as court
appointed Receiver for Creative Capital
Consortium, LLC, et. al.,**

Plaintiff,

vs.

DOLCE REGENCY, LLC,

Defendant

**JONATHAN E. PERLMAN, ESQ., as court
appointed Receiver for Creative Capital
Consortium, LLC, et. al.,**

Plaintiff,

vs.

**FIVE CORNERS INVESTORS I, LLC, FIVE
CORNERS INVESTORS II, LLC, CFD-
REGENCY I, LLC, CFD-REGENCY II, LLC,
and BW ASPIRE, LLC,**

Defendants.

**MOTION OF DEFENDANTS, FIVE CORNERS INVESTORS I, LLC, FIVE CORNERS
INVESTORS II, LLC, AND BW ASPIRE, LLC FOR ENTRY OF SUMMARY FINAL
JUDGMENT IN FAVOR OF DEFENDANTS AND MEMORANDUM OF LAW IN
SUPPORT THEREOF**

Defendants, FIVE CORNERS INVESTORS I, LLC; FIVE CORNERS INVESTORS II, LLC; and BW ASPIRE, LLC (together called "Defendants"), by and through their undersigned respective counsel, move this Court for the entry of a Summary Final Judgment on the allegations of Plaintiff's Complaint in favor of Defendants, and against Plaintiff, and in support thereof, state as follows:

1. Plaintiff alleges in his Complaint that Defendants are liable to Plaintiff on the theories that (1) Defendants are the “subsequent transferees” within the meaning of the Florida Uniform Fraudulent Transfer Act, of a fraudulent transfer of assets from the companies which are Receivership Entities (as defined in the Complaint), (2) Defendants are the initial transferees of a fraudulent transfer from the companies which are Receivership Entities, (3) Defendants are liable to Plaintiff for unjust enrichment because Defendants allegedly received assets belonging to the Receivership Entities, and (4) assets in Defendants’ hands should be subjected to a constructive trust or an equitable lien.

2. All of Plaintiff’s causes of action are based upon his essential allegation that George Theodule caused assets belonging to the Receivership Entities to be used to purchase real estate and membership interests in Regency Suites I, LLC, which were owned by these Defendants.

3. Dolce Regency, LLC, the co-defendant in this case (“Dolce”), has filed papers, including Interrogatories with the Court which seek entry of a Summary Judgment against Plaintiff and in favor of Dolce Regency, LLC, on the grounds that the Plaintiff has stated in his answers to the Interrogatories that the money which is in question came from Crowne Gold, Inc. but that Plaintiff has no evidence which would show that the money which came from Crowne Gold, Inc. was originally from George Theodule or any of the Receivership Entities. Dolce argues that evidence that the money came from the Receivership Entities is a necessary element of Plaintiff’s case against Dolce, and that in the absence of such evidence, there is no issue of law or fact which prevents entry of a Summary Judgment in favor of Dolce.

4. Similarly, evidence that the money came from the Receivership Entities is an essential element of Plaintiff’s case against these Defendants, and in the absence of such evidence, there is no issue of law or fact which prevents entry of a Summary Judgment in favor

of these Defendants. Further, in the event that Summary Judgment is entered in favor of Dolce, Summary Judgment should also be entered in favor of these Defendants because Plaintiff's action against these Defendants is premised upon the allegation that these Defendants are subsequent transferees from Dolce. If the transfer to Dolce was not a fraudulent transfer, then the downstream transfer to these Defendants is also not a fraudulent transfer. Because all of the Plaintiff's claims against these Defendants are based upon such the theory that these Defendants' rights are somehow tainted by the fraud allegedly committed by Dolce, Summary Judgment should be entered in favor of these Defendants, if the Court grants Dolce's Motion for Summary Judgment.

MEMORANDUM OF LAW

5. Pursuant to Rule 56(a), Fed.R.Civ.Proc., "A party claiming relief may move, with or without supporting affidavits, for summary judgment on all or part of the claim."

6. Pursuant to Rule 56(c)(2), Fed.R.Civ.Proc., "The judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law."

7. In this case, the Interrogatories answered by the Plaintiff show that he's not aware of any evidence which supports an essential element of his case against Defendants. Accordingly, pursuant to Rule 56, Fed.R.Civ.Proc., the Court should grant Summary Judgment in favor of Defendants on the allegations of Plaintiff's Complaint.

Respectfully submitted this 6th day of July, 2010.

/s/ David E. Peterson
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CERTIFICATE OF SERVICE

I hereby certify that on July 6th, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that the foregoing document is being served on all counsel of record or pro se parties as listed on the attached service list below, via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ David E. Peterson

David E. Peterson

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STATEMENT OF MATERIAL FACTS

Pursuant to Local Rule 7.5(b), Defendants submit this Statement of Material Facts:

1. Defendants sold their membership interests in Regency Suites I, LLC to Dolce Regency.
2. As part of the closing, Dolce Regency's counsel, Gabrielle Alexis, transferred \$7 million from her trust account to the closing attorneys, Dean, Meade, Edgerton to be used to satisfy closing obligations.
3. The Interrogatories and other evidence shows that the money was transferred to Gabrielle Alexis's trust account by Crowne Gold, Inc.
4. There is no evidence that the money which came from Crowne Gold, Inc. to Gabrielle Alexis's trust account came from George Theodule or from any of the Receivership Entities.

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