

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA

In Re:

Case No. 21-10038

Jason R. Dyken,

Debtor.

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Terrie S. Owens,  
Plaintiff,

v.

Midland National Life Insurance Company,  
Defendant.

Adversary Case No. 25-1007

Midland National Life Insurance Company,  
Counter-Claimant,

v.

Jason R. Dyken, et al.,  
Defendants.

FINAL ORDER

The chapter 7 trustee Terrie Owens filed this adversary proceeding against Midland National Life Insurance Company for turnover of commissions related to the sale of life insurance policies by chapter 7 debtor Jason Dyken (“debtor or Dyken”) and his single-member limited liability company, Dyken Insurance Strategies, LLC (“Dyken Insurance”) (*see* Amended Complaint, doc. 16). Midland filed an answer and counterclaim for declaratory judgment (doc. 42) and added Dyken and Dyken Insurance as counterclaim defendants. Midland states that is a neutral party and seeks a declaratory judgment as to who gets the commissions – the trustee on the one hand or Dyken and Dyken Insurance on the other.

The trustee, Dyken, Dyken Insurance, and Midland agreed to a stipulation (doc. 56) on the threshold issue of whether the trustee released any entitlement to insurance commissions owed by Midland to Dyken and/or Dyken Insurance as part of a settlement agreement and general release. The court set a briefing schedule (*see* doc. 58) and held oral argument on the issue after the parties briefed the matter.

The court subsequently entered an order (doc. 83) preliminarily finding that the commissions being held by Midland (as well as future ones) belong to Dyken and Dyken Insurance. That order stated:

This ruling is a preliminary ruling and is not final. The court by separate order will set a status conference to discuss with the parties whether there are remaining issues that need to be decided. If not, the court intends to enter a separate final judgment consistent with this order . . . .

(*Id.*, at pp. 9-10). At the status conference held on February 24, 2026, all parties, including the trustee and her counsel, agreed that there were no remaining issues that needed to be decided. The court therefore enters this final order and will enter a separate final judgment disposing of this adversary proceeding.

### Background

Dyken filed a chapter 7 bankruptcy in January 2021, and Terrie Owens was appointed as trustee of the bankruptcy estate. At the time Dyken filed bankruptcy, Dyken and Dyken Insurance had contracts with Midland related to the sale of life insurance policies. (*See* Stipulation, doc. 56, at ¶7).

Under their contracts with Midland, Dyken and/or Dyken Insurance were entitled to commissions, which were earned under the insurance codes of either Dyken personally or Dyken

Insurance. (*See id.*, at ¶¶ 7-8). Midland paid commissions “on policy premiums it received on policies sold by Jason Dyken and/or Dyken Insurance for the years after the policies were sold to a customer.” (*See id.*, at ¶9). Before Dyken filed for bankruptcy, Midland paid the commissions directly to Dyken and Dyken Insurance. (*See id.*). After Dyken filed for bankruptcy, between February 2021 and June 2023 Midland sent the trustee \$88,597.27 in commissions earned under Dyken’s personal insurance code on policies written before 2021. (*See id.*).

Midland is holding commissions of about \$60,000 earned under Dyken’s personal code from June 2023 to July 2025 and about \$26,000 earned under Dyken Insurance’s insurance code from May 2021 to July 2025 (the amounts may have increased since the joint stipulation was filed). (*See id.*, at ¶¶ 10-11). For “commissions to be distributed for Jason Dyken for policies written prior to 2021 . . . , some of the commissions are based on renewals and some are based on asset trails.” (*See id.*, at ¶13). For “commissions to be distributed for Dyken Insurance for policies written prior to 2021 . . . , those commissions are from asset trails.” (*See id.*, at ¶12).

Several years before the filing of this adversary proceeding, the trustee, Dyken, and a creditor were involved in multiple lawsuits in both bankruptcy court and federal district court. (*See id.*, at ¶17; Joint Motion to Approve Compromise in case no. 21-10038, doc. 306). Those lawsuits were ultimately resolved after a settlement was reached at a global mediation.

Among other things, the settlement provided that Dyken and some of his companies would pay the trustee \$800,000 (\$150,000 upfront and a \$650,000 one-year balloon note) for the benefit of Dyken’s creditors.<sup>1</sup> In October 2023, on motion and after notice and a hearing, this

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<sup>1</sup> The note was secured by several mortgages and guaranteed by Dyken’s wife. Dyken reached a similar \$800,000 settlement with the creditor.

court approved the settlement agreement. (See Order Granting Motion to Approve Compromise in case no. 21-10038, doc. 324).

The parties agree that doc. 306-1 filed in Dyken's chapter 7 bankruptcy case no. 21-10038 is the settlement agreement. The settlement agreement contains the following provision:

### **GENERAL RELEASE**

For good and valuable consideration, the receipt of which is hereby acknowledged, TERRIE S. OWENS, as Trustee (the "Bankruptcy Trustee") of the Bankruptcy Estate of Jason R. Dyken in that proceeding pending in the Bankruptcy Court of the Southern District of Alabama, Case No. 21-10038-HAC ("Bankruptcy Proceeding"), does hereby release, acquit and forever discharge JASON R. DYKEN ("Jason") . . . and any applicable parent, affiliate and subsidiary companies, and their respective officers, directors, shareholders, owners, members, managers and attorneys (each a "Releasee"), of and from any and all claims, demands, obligations, liability, actions, causes of action, suits at law or in equity of whatsoever kind or nature, whether based in tort, contract, warranty or other theory of recovery, and whether for compensatory or punitive damages, known or unknown, which Bankruptcy Trustee has or may have against the Releasees, including without limitation any and all claims brought in and/or arising or resulting from (a) that certain lawsuit filed in the U.S. District Court for the Southern District of Alabama styled SE Property Holdings, LLC v. Dyken, Case No. 2020-CV-297-KD-B (the "FT Lawsuit"), and (b) that certain Adversary Proceeding No. 22-01005 and that certain Adversary Proceeding No. 23-01001 filed by Bankruptcy Trustee (the "Adversary Proceedings") in the Bankruptcy Proceeding; PROVIDED, that this General Release is subject to the terms and conditions of that certain Settlement Agreement dated August \_\_, 2023 (the "Settlement Agreement"), between Releasees, Bankruptcy Trustee and SE Property Holdings, LLC, an Ohio limited liability company ("SEPH"), and all exhibits thereto, including but not limited to rights of Bankruptcy Trustee under (i) that certain promissory note dated on or about the date hereof from SST, Jason, TMD, CMLP and Green Book Development, LLC ("GBD") to Bankruptcy Trustee in the principal amount of \$650,000.00, (ii) that certain Mortgage dated on or about the date hereof from SST to SEPH and Bankruptcy Trustee, (iii) that certain Mortgage dated on or about the date hereof from GBD to SEPH and Bankruptcy Trustee, and (iv) that certain Personal Guaranty dated on or about the date hereof from Renee to Bankruptcy Trustee.

A copy of the signed general release was filed by Dyken/Dyken Insurance in this adversary proceeding (*see* doc. 63), and the trustee does not dispute that she signed the general release.

### Analysis

When Dyken filed for bankruptcy, his membership interest in Dyken Insurance became property of his chapter 7 bankruptcy estate under Bankruptcy Code § 541. For purposes of this order only, the court will assume the trustee's position that any commissions owed to either Dyken or Dyken Insurance became property of the chapter 7 bankruptcy estate.<sup>2</sup> The trustee contends that the general release has no effect on this adversary proceeding because her claims for turnover of the commissions are against Midland – a non-party to the release – and not Dyken or Dyken Insurance. The court disagrees; no matter how she characterizes the turnover claims, the trustee is trying to eliminate the rights of Dyken and Dyken Insurance to the commissions.

The question for this court is whether the trustee is still entitled to receive commissions owed to Dyken and Dyken Insurance after she executed the general release. To answer this question, the court will first outline the applicable Alabama law. It will then separately address the commissions owed to Dyken and those owed to Dyken Insurance.

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<sup>2</sup> Whether the commissions involved would qualify as prepetition or postpetition assets is unclear to the court and is disputed by the parties. But accepting the trustee's position for purposes of this order that all of the commissions qualify as prepetition assets does not alter the result below.

A. Applicable law governing the general release

The settlement agreement states that it is “governed by and construed in accordance with the laws of the State of Alabama.” The parties do not dispute that the same law applies to the general release included in the settlement agreement.

“As a general proposition, Alabama courts enforce [releases] in accordance with their plain terms.” See *Branch Banking & Tr. Co. v. Howard*, No. 12-0175-WS-N, 2013 WL 172903, at \*2 (S.D. Ala. Jan. 16, 2013); see also Ala. Code § 12-21-109; *Nix v. Henry C. Beck Co.*, 572 So. 2d 1214, 1216 (Ala. 1990). “[A]bsent fraud, a release, supported by valuable consideration and unambiguous in meaning, will be given effect according to the intention of the parties from what appears in the four corners of the document itself; and parol evidence is not admissible to impeach or vary its terms.” See *Ex parte Renovations Unlimited, LLC*, 59 So. 3d 679, 683 (Ala. 2010) (citation omitted); see also *Corbin v. Smith*, 842 So. 2d 610, 615 (Ala. 2002); *Branch Banking & Tr. Co. v. Howard*, 2013 WL 172903, at \*2. “With a general release, the parties obviously intend to release all claims . . . .” *Reg’l Health Servs., Inc. v. Hale Cnty. Hosp. Bd.*, 565 So. 2d 109, 114 (Ala. 1990).

B. Jason Dyken

Dyken is a named released party in the general release. There is no allegation or evidence that the release was obtained by fraud or that the \$800,000 paid to the trustee was not valuable consideration. The general release encompasses “any and all claims, demands, obligations, liability, actions, causes of action, suits at law or in equity of whatsoever kind or nature, whether based in tort, contract, warranty or other theory of recovery, and whether for compensatory or punitive damages, known or unknown, which Bankruptcy Trustee has or may

have against” Dyken. The court finds that this language is unambiguous and includes any right that the trustee had to the commissions owed to Dyken.

In response to an argument made by counsel for Dyken/Dyken Insurance at oral argument, counsel for the trustee argued that the trustee never abandoned the estate’s right to Dyken’s commissions because she never indicated that she intended to do so in any estate property record and report and never filed a notice to do so under Bankruptcy Rule 6007. While the court does not agree with counsel for Dyken/Dyken Insurance that a trustee’s release *always* amounts to an abandonment of assets by the trustee, under the facts here, the court finds that the trustee effectively abandoned Dyken’s unpaid commissions without formal notice in an estate property record and report or through a Rule 6007 notice. *See In re Harman*, 683 F. App’x 880, 882 (11th Cir. Mar. 31, 2017). “[C]ompliance with the formal abandonment requirements of Bankruptcy Rule 6007 and [Bankruptcy Code] § 554 is unnecessary when the claim is part of a compromise settlement entered into with approval of the bankruptcy court, and when creditors were given notice and an opportunity to be heard.” *Id.* The joint motion to approve compromise consisted of an 18-page motion with over 100 pages of attachments (including the general release) which was noticed to all parties and creditors in Dyken’s chapter 7 case. This court conducted a hearing on the motion and no creditors objected.<sup>3</sup> It then entered an Order Granting Motion to Approve Compromise and approved the settlement. The court finds that the trustee thus abandoned Dyken’s unpaid commissions as part of the court-approved settlement.

The trustee’s counsel also contended that the commissions were never contemplated as part of the general release. The trustee is a lawyer who was represented by a seasoned attorney

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<sup>3</sup> The Bankruptcy Administrator filed a limited objection that is not relevant to this proceeding and that was resolved as part of the court’s order approving the settlement.

in the complex underlying litigation that resulted in the settlement agreement. She knew about the commissions when she signed the general release – having received them between 2021 and 2023 – but did not carve them out or otherwise limit the release. *See Wayne J. Griffin Elec., Inc. v. Dunn Constr. Co.*, 622 So. 2d 314, 317 (Ala. 1993) (“If the parties had intended to limit the releases, they could have specifically done so.”); *Nix v. Henry C. Beck Co.*, 572 So. 2d at 1216 (“The release . . . was a general release and could have been limited if the parties so desired.”); *Reg’l Health Servs. v. Hale Cnty. Hosp. Bd.*, 565 So. 2d at 114 (“If the parties had wanted to limit the release, they could have expressly reserved and excepted certain claims . . . from the release.”). Failing to opt for a more limited release, the trustee “cannot now assert an intent not found within the four corners” of the general release. *See Wayne J. Griffin Elec. v. Dunn Constr.*, 622 So. 2d at 317.

### C. Dyken Insurance

Unlike Dyken, Dyken Insurance is not specifically named as a released party.<sup>4</sup> The general release, by its terms, applies to any “affiliate” of Dyken, so the court must decide the question of whether Dyken Insurance is an affiliate of Dyken. The court finds that the answer is yes under both the Bankruptcy Code and Alabama law.

Bankruptcy Code § 101(2)(B) defines “affiliate” as a “corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with the power to vote, by the debtor . . . .” A limited liability company is included in the Bankruptcy

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<sup>4</sup> At oral argument, counsel for the trustee stated that the trustee agreed to the joint stipulation except the portion of paragraph 17 that “Dyken and *Dyken Insurance* contend that the Settlement Agreement and the release contained therein are dispositive of the Trustee’s claims . . . .” (emphasis added). The court has not considered paragraph 17 as part of the agreed facts and is separately discussing the commissions owed to Dyken and the commissions owed to Dyken Insurance.

Code’s definition of “corporation.” *See, e.g., In re Longview Aluminum, L.L.C.*, 657 F.3d 507, 509 n.1 (7th Cir. 2011); *In re 53 Stanhope LLC*, 625 B.R. 573, 591 (Bankr. S.D.N.Y. 2021).

Thus, a single-member LLC like Dyken Insurance is an affiliate of the debtor Dyken under the Bankruptcy Code.<sup>5</sup> *See, e.g., In re Parks*, 503 B.R. 820, 829 (Bankr. W.D. Wash. 2013); *see also In re Lake Bennett Village-Ocoee, LLC*, No. 6:25-BK-02001-GER, 2025 WL 1556592, at \*2 (Bankr. M.D. Fla. May 27, 2025).

Alabama’s Business Code similarly defines “affiliate” as “[a] person who controls, is controlled by, or is under common control with another person.” *See* Ala. Code § 10A-1-1.03(b)(1). “Person” includes individuals and limited liability companies. *See* Ala. Code § 10A-1-1.03(b)(75). Dyken Insurance is also an affiliate of the debtor under controlling Alabama law. *See, e.g., Funderburk Enters., LLC v. Cavern Disposal, Inc.*, No. A-09-CA-327 LY, 2009 WL 3101064, at \*6 (W.D. Tex. Sept. 22, 2009) (applying identical Texas law).

As with the commissions owed to Dyken, the trustee could have excluded Dyken Insurance from the general release but did not do so. Accordingly, the same analysis in section B applies, and the trustee is not entitled to the commissions owed to Dyken Insurance.

Finally, the court will address the trustee’s argument that Dyken “has no authority or right to make any claims on behalf of Dyken Insurance as the [t]rustee owns all the membership interests in Dyken Insurance.” (*See* Trustee brief, doc. 68, at ¶3). When the bankruptcy was filed, the trustee stepped into Dyken’s shoes and had the right to control Dyken Insurance. But by not limiting the release – as to Dyken, Dyken Insurance, or the commissions owed – the

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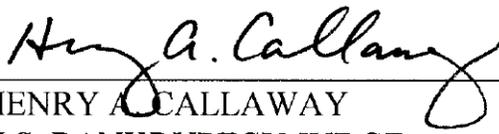
<sup>5</sup> Dyken Insurance is still an affiliate of Dyken even though the chapter 7 trustee ostensibly took control of the LLC when Dyken filed for chapter 7 bankruptcy. *See generally In re Carter*, No. 23-54816-JWC, 2023 WL 9103614 (Bankr. N.D. Ga. 2023).

trustee effectively abandoned the bankruptcy estate's interest in that single-member LLC (including the entitlement to the commissions), even if she had not formally abandoned those assets. *See In re Harman*, 683 F. App'x at 882.

Conclusion

For the reasons discussed above, the court will enter a separate final judgment declaring that the monies being held by Midland for commissions earned under Dyken's personal code from June 10, 2023 forward and for commissions earned under Dyken Insurance's insurance code from May 30, 2021 forward are to be paid to Dyken and Dyken Insurance, respectively.

Dated: February 25, 2026

  
HENRY A. CALLAWAY  
U.S. BANKRUPTCY JUDGE