

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

In Re:

Case No. 23-11458

Crown Pointe Owners' Association, Inc,

Debtor.

ORDER TO SHOW CAUSE WHY CHAPTER 7 BANKRUPTCY CASE SHOULD NOT BE
DISMISSED AND SETTING SHOW CAUSE HEARING

This chapter 7 bankruptcy case is before the court sua sponte under Bankruptcy Code § 707(a) to consider whether the court should dismiss the case for cause. *See generally In re Piazza*, 719 F.3d 1253 (11th Cir. 2013).

Background

Debtor Crowne Point Owners' Association, Inc. ("CPOA") is the property owners association for the Crown Pointe residential subdivision in Mobile County, Alabama. It was operating before filing this bankruptcy and has never been legally dissolved.

In July 2020, an adjacent landowner, William Carpenter, sued CPOA and several of the subdivision lot owners over drainage issues, case no. 2020-901477 in the Circuit Court of Mobile County. After a jury verdict, the circuit court entered a money judgment for Carpenter against CPOA for \$116,000. Carpenter's judgment is the only debt listed on CPOA's bankruptcy schedules. Carpenter has filed a proof of claim in the main bankruptcy case for \$139,375.91, which includes postjudgment interest and court costs. Although no bar date has been set, at this point Carpenter's proof of claim is the only one filed. CPOA's schedules list only minimal

assets, although documents filed in the associated adversary proceeding indicate it also owns the street and the drainage area in the subdivision.

CPOA filed for chapter 7 bankruptcy in June 2023, and the court appointed D. Parker Sweet as the chapter 7 trustee. The trustee then filed an adversary proceeding for declaratory judgment against the property owners in Crown Pointe subdivision asking that this court declare that he has the power to issue a special assessment against the property owners to satisfy the Carpenter claim under the applicable POA documents.

Legal analysis

There appears to be little dispute that CPOA filed bankruptcy to avoid paying the Carpenter judgment — the only debt in the case — which is not a “good faith” reason under Bankruptcy Code § 707(a). *See generally, e.g., In re Piazza*, 719 F.3d 1253 (11th Cir. 2013); *In re Bryant*, 474 B.R. 770 (Bankr. N.D. Fla. 2012).

There also does not appear to be any bankruptcy purpose served by this case, which at bottom is a two-party dispute. “The ultimate goal of [c]hapter 7 is to provide an honest debtor with a fresh start in exchange for debtor’s handing over to the trustee all of a debtor’s assets for liquidation for the benefit of the debtor’s creditors.” *In re Hydratech Utilities, Inc.*, 384 B.R. 612, 615 (Bankr. M.D. Fla. 2008). “While these requirements could be construed jointly with respect [to] the individual debtor, they obviously could not be in the case of the corporate debtor because corporations do not receive [a] discharge.” *See id.* “Thus, the ordinary distribution of assets to creditors is the prime and only aim to consider” in a corporate chapter 7 case. *See id.* Here, the sole creditors can reach the debtor’s (admittedly minimal) assets through the state court postjudgment execution process. And a state court can determine whether the property owners

can be assessed to satisfy the Carpenter judgment. *See generally, e.g., In re American Telecom Corp.*, 304 B.R. 867 (Bank. N.D. Ill. 2004). In short, this case “does not adequately implicate any of the policies that the U.S. Bankruptcy Code was enacted to serve.” *See id.* at 873.

The court thus orders the debtor and any creditor or interested party who opposes dismissal of this bankruptcy case to appear in court on April 9, 2024, at 8:35 a.m. (at the end of the court’s regular 8:30 docket) to show cause why the court should not dismiss this bankruptcy case for cause.

Dated: March 22, 2024


HENRY A. CALLAWAY
U.S. BANKRUPTCY JUDGE

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