

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

21500 NORTHWESTERN HIGHWAY
HOLDINGS, LLC,

Plaintiff,

v.

Case No: 2014-143069-CH

Hon. Wendy Potts

NORTHLAND CENTER MICHIGAN, LLC,

Defendant.

OPINION AND ORDER RE: RECEIVER'S MOTION TO ENJOIN UNIVERSAL
PROTECTION SERVICE, LLC FROM PURSUING ITS ACTION AGAINST
PLAINTIFF

At a session of Court
Held in Pontiac, Michigan
On

~~NOV 04 2014~~

Plaintiff 21500 Northwestern Highway Holdings, LLC filed this action on September 22, 2014 claiming that it is the assignee of a commercial loan extended to Defendant Northland Center Michigan, LLC and Defendant defaulted on its loan obligations. Plaintiff further claims that it holds a mortgage, assignment of rents, and security interest in fixtures for Defendant's property, known as Northland Center Mall. The same day it filed this complaint, Plaintiff moved for appointment of a receiver on an emergency basis claiming that Defendant had \$700,000 in unpaid bills for critical services to the mall. Defendant did not oppose Plaintiff's request for a receiver and, on September 26, the Court appointed Frank Simon as Receiver over the "Receivership Property." The order defined the Receivership Property to include the Defendant's real and personal property as well as other tangible and intangible assets. However, the

Defendant LLC is not included within the definition of the Receivership Property and, in fact, the recitals of the order state that it is a “limited receivership” over Defendant’s property and collateral “and not over Defendant.”

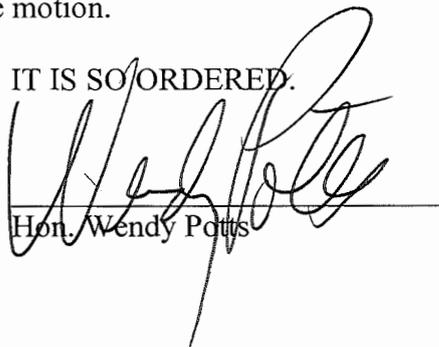
On October 7, 2014, Universal Protection Service, LLC filed a complaint against Defendant Northland as well as two other entities Ashkenazy Acquisition Corp and New Eastland Mall Developers, LLC. That case, Docket No. 2014-143378-CK, is assigned to this Court. According to Universal, New Eastland owns the Eastland Center Mall in Harper Woods and Ashkenazy is the parent corporation of the LLCs that own the malls. Universal claims that as of September 2, 2014, Defendant Northland owes \$556,257.02 for security services Universal provided to Northland Center Mall. Universal alleges claims against Defendant Northland for breach of contract, account stated, other implied contract theories, tortious interference with contractual and business relationships, and civil conspiracy. The Receiver claims that he contacted Universal and asked it to stay its case, which it refused to do.

The Receiver now moves the Court to enjoin Universal from proceeding with its case against Defendant Northland. The Court is exercising its discretion to decide this motion without a hearing. MCR 2.119(E)(3). The Receiver claims that Universal’s lawsuit violates a provision in the Receiver order barring third-parties from suing the Receiver or the Receivership estate. However, Universal is suing Northland Center Michigan, LLC, not the Receiver, the Receivership Estate, or any property or entity contained within the Receivership Estate. The Receiver is not named as a party in Universal’s case, and the Court’s Receiver order expressly excludes Northland Center Michigan, LLC from the Receivership Estate. Because Universal was not suing the Receiver or the Receivership Estate, it was under no obligation to obtain Court approval before filing its action against Defendant Northland.

Even if the terms of the Receiver order purports to require Universal to obtain Court approval before filing a case against Defendant Northland, the Receiver fails to establish that this Court has authority to enforce that provision or enjoin Universal from pursuing its claims. Certainly, the Court has authority to bar a party from suing the Receiver without first obtaining the Court's permission. See *In re Petition for the Appointment of a Receiver for the Peoples State Bank of Auburn*, 51 Mich App 421, 431; 215 NW2d 722 (1974). However, the Receiver cites no authority that would permit the Court to enjoin Universal, who is not a party to this action, from bringing suit against an entity that is not the Receiver and is not controlled by the Receiver or included in the Receivership Estate.

For all of these reasons, the Court denies the motion.

IT IS SO ORDERED.



Hon. Wendy Potts

Dated:

NOV 04 2014