

LAMONICA HERBST & MANISCALCO, LLP
3305 Jerusalem Avenue, Suite 201
Wantagh, New York 11793
Tel. (516) 826-6500
Gary F. Herbst, Esq.
David A. Blansky, Esq.
Jacquelyn S. Loftin, Esq.
Attorneys for Gregory Messer, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In Re:

Chapter 7

Hypnotic Taxi LLC, *et al.*,¹

Case No. 15-43300 (CEC)
(Jointly Administered)

Debtors.

-----X
Gregory Messer, as Chapter 7 Trustee of Hypnotic Taxi
LLC, *et al.*,

Plaintiff,

Adversary Proc. No. 17-

-against-

Evgeny Freidman, 28th Street Management, Inc.,
Downtown Taxi Management, Inc., Woodside
Management, Inc., and Tunnel Taxi Management, LLC,

Defendants.
-----X

COMPLAINT

Gregory Messer, as Chapter 7 Trustee (the “Trustee” or “Plaintiff”) of the estates of the debtor Hypnotic Taxi LLC and affiliated Debtors (collectively, the “Debtors”), brings this complaint to avoid and/or recover over \$16 million and for other relief against Evgeny Freidman (“Freidman”), 28th Street Management, Inc. (“28th Street”), Downtown Taxi Management, Inc. (“Downtown”), Woodside Management, Inc. (“Woodside”) and Tunnel Taxi Management, LLC (“Tunnel”).

¹ Debtors are Hypnotic Taxi LLC (“Hypnotic”)(Case No. 15-43300), Vodka Taxi LLC (“Vodka”)(Case No. 15- 43320), Pudding Taxi LLC (“Pudding”)(Case No. 15-43318), Chopard Taxi Inc. (“Chopard”)(Case No. 15-43306), Iceberg Taxi Inc. (“Iceberg”)(Case No. 15-43311), Milkyway Cab Corp. (“Milkyway”)(Case No. 15-43314), VSOP Taxi Inc. (“VSOP”)(Case No. 15-43321), Cupcake Taxi LLC (“Cupcake”)(Case No. 15-43307), Dorit Transit Inc. (“Dorit”)(Case No. 15-43308), Hennessey Taxi Inc. (“Hennessey”)(Case No. 15-43310), Candy Apple Taxi LLC (“Candy”)(Case No. 15-43304), Stoli Taxi Inc. (“Stoli”)(Case No. 15-43319), Pointer Taxi Inc. (“Pointer”)(Case No. 15-43317), Palermo Taxi, Inc. (“Palermo”)(Case No. 15-43315), Marseille Taxi LLC (“Marseille”)(Case No. 43312), Bombshell Taxi LLC (“Bombshell”)(Case No. 15-43301), Merlot Taxi LLC (“Merlot”)(Case No. 15-43313), France Taxi LLC (“France”)(Case No. 15-43309), Bourbon Taxi LLC (“Bourbon”)(Case No. 15-43302), Chianti Taxi LLC (“Chianti”)(Case No. 15-433045), Pinot Noir Taxi LLC (“Pinot”)(Case No. 15-43316) and Butterfly Taxi LLC (“Butterfly”)(Case No. 15-43303) (collectively, “Debtors” or individually “Debtor”) are the Debtors in these jointly administered cases.

NATURE OF THE PROCEEDING

1. This adversary proceeding is brought to recover sums due the Debtors by the Defendants or to avoid and recover transfers made by the Debtors to the Defendants or funds withheld by the Defendants due the Debtors under §§ 502, 541, 542, 549, and 550 of Title 11, United States Code (the “Bankruptcy Code”), and Rule 7001 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and to hold Defendants liable for, among other things, unjust enrichment, breach of contract, conversion, money had and received, and breach of fiduciary duty.

2. Since this action arises under the Debtors’ pending Chapter 7 bankruptcy cases, the United States Bankruptcy Court for the Eastern District of New York (the “Court”) has jurisdiction over this action under 28 U.S.C. §§ 157 and 1334 and Bankruptcy Rules 6009 and 7001.

3. The statutory predicates for the claims asserted herein are 11 U.S.C. §§ 105, 502, 541, 542, 548, 549, 550, and 551, New York Business Corporation Law §§ 520, 713, 714, 715, 717, 719 and 720, New York Limited Liability Company Law §§ 409, 411, 417, 508 and 611, general common law, and Bankruptcy Rules 6009 and 7001.

4. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(1), 157(b)(2)(A), 157(b)(2)(B), 157(b)(2)(H) and 157(b)(2)(O).

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

6. In accordance with Local Bankruptcy Rule 7008-1, Plaintiff consents to the entry of final orders and judgment by this Court if it is determined that this Court, absent the consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

Procedural Background

7. On July 22, 2015 (the “Filing Date”), the Debtors each filed separate voluntary petitions for relief pursuant to Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in this Court [Dkt. Nos. 1].

8. By Order dated August 10, 2015 [Dkt. No. 26], the Debtors’ cases were jointly administered under Hypnotic Taxi LLC [Case No. 15-43300-CEC].

9. On September 24, 2015, the United States Trustee (the “UST”) filed an amended appointment of the Official Committee of Unsecured Creditors (the “Committee”) in the Debtors’ cases [Dkt. No. 64].

10. By Order dated October 30, 2015 [Dkt. No. 107], Joshua Rizack was appointed as the Chief Restructuring Officer (the “CRO”) to the debtors in possession during the Chapter 11 proceedings.

11. By Order dated September 22, 2016 [Dkt. No. 368], the Debtors’ cases were converted to ones under Chapter 7 of the Bankruptcy Code (the “Conversion Date”).

12. By Notice of Appointment dated September 23, 2016 [Dkt. No. 370], Gregory M. Messer (the “Trustee” or “Plaintiff”) was appointed as the interim Chapter 7 Trustee of the Debtors’ jointly administered estates.

13. Plaintiff has duly qualified and is now the permanent Trustee administering the Debtors’ estates.

THE PARTIES

14. As the permanent Trustee of the Debtors’ estates, Plaintiff is authorized to commence this Adversary Proceeding, pursuant to Bankruptcy Code § 323 and Bankruptcy Rule 6009.

15. Each of the Debtors is either a limited liability company or a corporation organized under the laws of the State of New York.

16. At all times relevant, the Debtors maintained an office at 330 Butler Street, Brooklyn, New York 11217 and the Debtors' Medallions and taxi vehicles were maintained or utilized at this location.

17. Defendant Freidman is an individual residing at 502 Park Avenue, New York, New York 10065.

18. As of the Filing Date and through the Conversion Date, Freidman was sole member of the limited liability company Debtors and the president and 100% stockholder of the corporation Debtors.

19. At all times relevant, the Debtors had no other officers or employees beside Freidman.

20. At all times relevant, Freidman was the individual responsible for and familiar with the Debtors' day-to-day operations, their books and records, their business affairs and their financial condition.

21. Defendant 28th Street Management, Inc. ("28th Street") is a corporation with its primary place of a business located at 313 10th Avenue, New York, New York 10001.

22. Defendant Downtown Taxi LLC ("Downtown") is a limited liability company with its primary place of a business located at 330 Butler Street, Brooklyn, New York 11217.

23. Defendant Woodside Management, Inc. ("Woodside") is corporation with its primary place of a business located at 4913 Roosevelt Avenue, Woodside, New York 11377.

24. Defendant Tunnel Taxi Management, LLC ("Tunnel") is a limited liability company with its primary place of a business located at 4407 Vernon Boulevard, Long Island

City, New York 11101 (Tunnel, together with Downtown and Woodside, are collectively referred to herein as the “Former Managers”).

25. Upon information and belief, Freidman is the sole owner of 28th Street and Woodside.

26. Upon information and belief, Freidman possesses a one-third (1/3) interest in each of Downtown and Tunnel.

27. Upon information and belief, Mamed Dzhanyev and Yladimia Basin are the other equity owners of Downtown and Tunnel and each holds a one-third (1/3) interest in Downtown and Tunnel.

FACTUAL BACKGROUND

A. The Debtors’ Assets

28. As of the Filing Date, the Debtors each owned either two or three medallions (“Medallions”) issued by the New York City Taxi and Limousine Commission (“TLC”) that permit taxi services to be performed by the Debtors.

29. As of the Filing Date, the Debtors also owed 46 vehicles which are operated with the permission granted through their respective Medallions (the “Taxi Vehicles”).

30. The Trustee currently has 39 Taxi Vehicles and 46 Medallions in his possession.

B. Citibank Loans

31. Each of the Debtors is individually obligated to Citibank, N.A. (“Citibank”) with respect to various loans obtained from Citibank in 2012.

32. One group of these loans, totaling \$10 million, was approved by Citibank on January 11, 2012 (collectively, the “\$10 Million Citibank Loans”).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.