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ATTORNEYS FOR DEFENDANTS

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	CHAPTER 11
	§	
SENIOR CARE CENTERS, LLC, et al,	§	CASE No. 18-33967-SGJ
	§	
<i>Debtors.</i>	§	(JOINTLY ADMINISTERED)
<hr/>		
ALAN D. HALPERIN, as Unsecured Creditor	§	
Trustee,	§	
<i>Plaintiff,</i>	§	
v.	§	Adversary No. 20-03184 -SGJ
	§	
SCHMONK LIMITED,	§	
<i>Defendant.</i>	§	

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Schmonk Limited (“Schmonk”) hereby moves pursuant to Fed. R. Civ. P. 56 and Local Rules 56.1-56.7 for summary judgment with respect to all of the claims set forth in the Plaintiff’s Complaint, filed December 2, 2020 (Dkt. No. 1) (the “Complaint”) and respectfully states as follows:

1. By this Motion, Defendant seeks summary judgment dismissing each of the six Counts in the Complaint. Plaintiff, Alan D. Halperin, a plan-designated litigation trustee, seeks to

avoid and recover a payment made by Senior Care Centers, LLC (“SCC” or the “Debtor”) to Schmonk. The trustee seeks relief under both fraudulent transfer and preference theories for a payment that the trustee has defined as the Transfer. *See* Complaint ¶ 1. The Trustee alleges both constructive fraudulent transfer [Counts I and IV], intentional fraudulent transfer [Counts II and III] and preferential transfer [Counts V and VI] to avoid and recover a single transfer made to Schmonk which was made in satisfaction of a short term loan made by Schmonk for the benefit of the Debtor.

2. Defendant seeks summary judgment based upon 1) Plaintiff’s inability to present evidence that the Debtor did not receive reasonably equivalent value in exchange for the Note Transfer (Counts I and IV); 2) Plaintiff’s inability to present evidence that the Note Transfer was made by the Debtor with intent to hinder, delay or defraud creditors of the Debtor (Counts II and III); 3) Plaintiff’s inability to present evidence that Schmonk was an insider of the Debtor at the time of the Transfer (Counts V and VI); 4) Plaintiff’s inability to present evidence that the Transfer was not made in the ordinary course of business between the Debtor and Schmonk (Counts V and VI); and 5) Plaintiff’s inability to present evidence that Schmonk had reasonable cause to believe SCC was insolvent on the date of the Transfer (Count V).

3. The accompanying Brief in support of this Motion contains the information required by Local Rule 56.3(a) and the arguments and authorities in support of the relief requested by this Motion.

4. The live pleadings in this matter are: (i) the Complaint, filed December 2, 2020 (Dkt. No. 1); and (ii) Defendant’s Answer and Affirmative Defenses, filed April 28, 2021 (Dkt. No. 22).

WHEREFORE, for all the reasons, arguments and authorities set forth in the accompanying Brief, Defendant Schmonk Limited respectfully requests that the Court grant summary judgment in its favor on all counts of the Plaintiff's Complaint, dismissing the Complaint in its entirety, and such other and further relief as this Court deems just and proper.

Dated: June 14, 2022

/s/ Jeffrey R. Seckel (6/14/2022)

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CERTIFICATE OF SERVICE

I, Jeffrey R. Seckel, certify that on June 14, 2022, my office served a true and correct copy of the foregoing document via electronic service, on:

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/s/ Jeffrey R. Seckel (6/14/2022)
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