

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

In re: Case No. 22-15714-PDR

POMPANO SENIOR SQUADRON
FLYING CLUB, INC., a Florida
corporation, Chapter 11
(Subchapter V)

Debtor.

_____ /

POMPANO SENIOR SQUADRON
FLYING CLUB, INC., a Florida
corporation, Adv Proc. No.

Plaintiff,

v.

CARL KENNEDY, individually,

Defendant.

_____ /

NOTICE OF REMOVAL

The Debtor, Pompano Senior Squadron Flying Club, Inc., as a debtor-in-possession and by and through undersigned counsel, pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (2022) files the instant *Notice of Removal* of that certain state court action styled *Pompano Senior Squadron Flying Club, Inc. v. Kennedy*, designated Case Number CACE 20-005993 (08), pending in the Circuit Court of the Seventeenth Judicial Circuit in and for Miami-Dade County, Florida (the “State Court Action”) and by way of this *Notice* removes the State Court Action, and that facts on which entitle the Debtor to remove the State Court Action are as follows:

1. Debtor filed a voluntary bankruptcy petition on July 27, 2022 in the Southern District of Florida under Title 11 of the United States Code (the “Bankruptcy Code”), specifically, under subchapter V of chapter 11 of the Bankruptcy Code, which was assigned Case No. 22-15714-PDR.

2. Debtor is the Plaintiff in the State Court Action that is being removed

3. As set forth in the *Third Amended Verified Complaint* filed in the State Court Action (the “*Third Amended Complaint*”), a copy of which is attached hereto as **Exhibit “A”**:

- a. Defendant Kennedy was an officer and director of Plaintiff Flying Club from May 22, 2014, until the beginning of 2020,
- b. At all times relevant to the issues raised in the State Court Action, Defendant Kennedy served as the treasurer of the Debtor.
- c. During his term as treasurer, Kennedy made multiple payments from Debtor’s corporate bank account to pay Kennedy’s American Express credit charges,
- d. Just prior to the date Kennedy was replaced as treasurer of the Debtor, Kennedy issued checks on Debtor’s corporate checking account to himself and others,
- e. There are no corporate records, resolutions, minutes of meetings, or any other corporate document evidencing authorization for these payments made by Kennedy to himself or to the others,
- f. On or about February 12, 2020, Defendant Kennedy signed and recorded liens against aircraft owned by Plaintiff Club (the “Liens”), and
- g. The Liens listed Defendant Kennedy as the lienor thereunder.
- h. As a result of the foregoing, Debtor brought claims against Kennedy in the State Court action for an accounting (Count I), violation of Florida Statutes, § 817.535

for slandering title to the aircraft by recording fraudulent liens, and for breach of fiduciary duty (Count III).

4. The claims in the State Court Action therefore fall within the jurisdictional scope of 28 U.S.C. § 1334.

5. The claims asserted in the State Court Action in Count I and II, which seek an accounting with respect to the losses suffered by the Debtor pre-petition, and that which challenges the validity of the Liens are core claims, or at the very least, claims that are “related to” the bankruptcy. And the claim for breach of fiduciary duty in Count III of the *Third Amended Complaint* is also, at a minimum, related to the bankruptcy case for the recovery will likely impact that to be received by creditors on account of their allowed claims.

6. By way of this *Notice*, Debtor respectfully removes the State Court Action from the Courts of the State of Florida and to this Honorable Court pursuant to subsection (a) of 28 U.S.C. § 1452 – Removal of claims related to bankruptcy cases, which provides:

A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.¹

In addition to the *Third Amended Complaint* attached as Exhibit A, a copy of *Defendant’s [Kennedy’s] Answer and Affirmative Defenses to Plaintiff’s [Debtor’s] Third Amended Verified Complaint* filed in the State Court Action is hereto as **Exhibit “B”**.

WHEREFORE, by way of this *Notice*, Debtor, by and through undersigned counsel, removes to this Honorable Court the State Court action identified herein.

¹ As a result of Local Rule 87.2 of the United States District Court for the Southern District of Florida, this *Notice* and the removal are automatically lodged in this Court.

Dated this 25th day of August, 2022.

LORIUM LAW

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the Court's CM/ECF system to all those listed below and via email to Edward F. Holodak, Esq., attorney for Pompano Senior Squadron Flying Club, Inc., edward@holodakpa.com, and Scott Kalish, Esq., attorney for Carl Kennedy, scott@scottkalishlaw.com on this 25th day of August, 2022.

By: /s/ Jason E. Slatkin
Jason E. Slatkin

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