

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

IN RE: DAVENPORT HOTEL BUILDING COLLAPSE	:	Consolidated for Pretrial and Discovery
	:	Purposes Under
	:	
	:	Law No. LACE137119
This Filing Applies to:	:	
<i>All Consolidated Actions</i>	:	PLAINTIFFS' PETITION TO
	:	APPOINT RECEIVER AND A
	:	CONSTRUCTIVE TRUST¹

Plaintiffs, by and through their undersigned attorneys, pursuant to §§ 680.1 and 684 of the Iowa Code and §§ 1.1502(2) and 1.1502(3) of the Iowa Rules of Civil Procedure, hereby petition this Court for appointment of a receiver and a constructive trust over any and all assets and/or monies arising from real estate transactions which occurred after the partial collapse of The Davenport Hotel on May 28, 2023, by and between Andrew Wold, individually, Andrew Wold Investments, LLC, Andrew Wold as Trustee for 3320 W. Harbor Drive Revocable Trust, QC Rental Group, LLC, Kyle Robinson, Dorothea, LLC, 2200 11th, LLC, and 246 W. 3rd Street Cooperative (collectively, “The IVTA Defendants”). In support of this petition, Plaintiffs state as follows:

INTRODUCTION

After the west exterior wall of The Davenport collapsed on May 28, 2023, Andrew Wold knew without question that he and his companies would be subject to massive liabilities. So, beginning a matter of days after the collapse, Wold and his companies initiated a scheme to sell off their real estate assets. This series of transactions — which has gone on since the building’s collapse and continues to date — violates the Iowa Voidable Transactions Act (“IVTA”) and, in the absence of court

¹ This motion should not be subject to the discovery stay the Court entered, first, because it does not involve the City Defendants, and second, because the Court expressly recognized that “plaintiffs have adequate remedies to address this concern” in its Order Granting the Motion to Stay Discovery Pending Appeal. *See* D0425 at 4.

intervention, may well leave Plaintiffs without a collectable remedy against Andrew Wold and Andrew Wold Investments, LLC, two of the most culpable defendants in this case. This petition is intended to stop that from that happening.

Andrew Wold was the de facto owner and operator of The Davenport.² He knew first-hand that the west exterior wall was in horrific condition and that its collapse was imminent, but did nothing to protect the tenants or, at a minimum, warn them that they were in danger. Ex. A, MCP, at Cts. 3 and 4. Andrew Wold Investments, LLC. (“AWI”) is one of several alter ego companies Andrew Wold operated. Beginning in September 2022, AWI was the landlord for The Davenport and, as such, had a duty to exercise ordinary care to maintain The Davenport in a reasonably safe condition, to repair any unsafe conditions, and to warn the tenants of any dangers existing on the premises. Ex. A, MCP at ¶¶ 12, 140, 142-144.

At the time of the building’s collapse, AWI owned 22 properties in the City of Davenport. Since the collapse, AWI has sold 20 of those properties, almost all for less than market value. AWI has two remaining properties that, upon information and belief, have been on the market. Given the timing of the sell-off (beginning shortly after The Davenport’s collapse) and its rapid and continuing nature, the overwhelming inference is that this is a calculated effort by Andrew Wold and AWI to liquidate their assets so that Plaintiffs cannot collect on them.

With discovery stayed, Plaintiffs only have access to publicly available information concerning real estate transactions, but even that shows a disturbing trend. The 20 properties AWI has sold since the collapse returned \$2,205,800.00. Two AWI properties previously on the market (but which have not yet sold) were listed for \$4,000,000.00 and \$895,000.00, respectively. See Ex. A, MCP at ¶¶ 521

² The legal owner of The Davenport was Davenport Hotel, L.L.C., but it was managed by Andrew Wold and, as discussed below, Count 24 of Plaintiffs’ Master Consolidated Complaint (“MCP”) states a claim for piercing the corporate veil against Davenport Hotel, L.L.C., among other Wold-owned entities, all of which are sham corporate entities functioning as Andrew Wold’s alter ego. Ex. A, MCP, at Ct. 24.

(a)-(b). At the same time, Andrew Wold and his other companies are engaging in a similar effort to liquidate assets. Andrew Wold sold his own home for \$2,350,000.00 in December 2023. Other Andrew Wold companies, including The Dorothea, L.L.C., 2200 11th, LLC, and 246 W. 3rd Street Cooperative—all of whom are defendants in this case—had properties on the market listed for a total of \$4,125,000.00.³ Plaintiffs have also recently discovered (and will be adding to their forthcoming Amended Master Consolidated Petition) that Andrew Wold has additional alter ego companies, including: (1) 307 Harrison Street Cooperative, which has properties on the market totaling \$1,795,000.00; (2) 1505 Jersey Ridge LLC, which sold a property on October 4, 2024, for \$266,000.00; and (3) Harrison Street Cooperative, which sold a property on May 7, 2024, for \$290,000.00.⁴ Thus, all told, Wold and his companies have already liquidated more than \$5,100,000.00 from real estate assets and have had another \$10,815,000.00 on the market.

The Iowa Voidable Transactions Act (“IVTA”), § 684.1, *et seq.*, is intended to prevent the very conduct that Wold and his companies have engaged in since The Davenport’s collapse. Debtors, like Andrew Wold and AWI, cannot transfer assets with the actual intent to hinder the ability of creditors, like Plaintiffs, from recovering. IVTA §684.4 (1)(a). Nor can debtors, like Andrew Wold and AWI, transfer assets without receiving reasonably equivalent value when they know, as they do here, that they owe debts beyond their ability to pay. IVTA §684.4 (1)(b)(2).

As this Court is aware, there are numerous plaintiffs in this consolidated case and the damages are catastrophic. The liability of Andrew Wold and AWI is all but certain, they are woefully

³ Plaintiffs allege in their Master Consolidated Petition that all of the companies owned by Andrew Wold are sham companies and alter egos of Andrew Wold. See e.g., Ex. A, MCP at Ct. 24 (Piercing the Corporate Veil). The Dorothea, L.L.C. and 2200 11th, LLC use the same “home office” as almost all of Andrew Wold’s companies, which happens to be Andrew Wold’s former residence (3320 W. Harbor Drive in Bettendorf). The Dorothea, L.L.C. and 246 W. 3rd Street Cooperative use the same PO Box as the Davenport Hotel, L.L.C. and AWI. Ex. A at ¶ 521(c)-(e).

⁴ 307 Harrison Street Cooperative uses the same PO Box as the Dorothea, L.L.C., 246 W. 3rd Street Cooperative, Davenport Hotel, L.L.C., and AWI. 1505 Jersey Ridge LLC and Harrison Street Cooperative use the same “home office” — 3320 W. Harbor Drive — as almost every Wold-owned company.

underinsured, and they face judgments far exceeding their assets. In the exercise of this Court's discretion and to best ensure Plaintiffs do not lose the opportunity to recover from these very culpable defendants, it should stop Wold's and AWI's efforts to liquidate, deplete, and/or shield their otherwise collectable assets. While there are several options available to this Court; Plaintiffs propose the following:

1. That Andrew Wold and AWI be required to deposit all funds acquired through the recent sales of their real estate holdings into a constructive trust;
2. That a receiver be appointed by the Court to manage the constructive trust, with the discretion to allow Wold and/or AWI to access funds upon a petition to the receiver establishing a legitimate need;
3. That Andrew Wold and AWI be enjoined from transferring any real estate or assets without approval from the receiver that the transfer is for reasonable value;
4. That funds from any future sale by Wold or AWI of any real estate or assets (as provided for in paragraph (3)) be deposited into the constructive trust managed by the receiver; and
5. That any company owned by Andrew Wold (or, in the case of a limited liability company, which he is a manager of), including but not limited to The Dorothea, L.L.C., 2200 11th, LLC, and 246 W. 3rd Street Cooperative, be enjoined from selling any real estate or assets without petitioning this Court for approval, in which instance Plaintiffs will have the opportunity to file a resistance and/or seek a restraining order or injunction.

ARGUMENT

In Counts 26 through Count 28 of the MCP, Plaintiffs assert claims under the Iowa Voidable Transactions Act alleging that the IVTA Defendants have violated and/or are attempting to violate the IVTA with regard to certain real estate transactions.

A. Plaintiffs are “Creditors” and Andrew Wold and AWI are “Debtors” under the IVTA

“Creditors” are defined under the IVTA as any person who has a “claim.” § 684.1(3). A “claim” is defined as “a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.” § 684.1(3); *see Hindman v. Hindman*, 988 N.W.2d 420, 426 (2022) (acknowledging that “claim” is broadly defined under the IVTA). Given that the defendants have answered the MCP by denying all material allegations, Plaintiffs’ claims here are best defined as disputed rights to payment.

A “debtor” is a person that is liable on a claim. § 684.1(6). Just as a claim need not be mature or secured, liability need not be reduced to judgment for someone to be a debtor; otherwise, it would defeat the purpose of the IVTA and its prohibition that certain transfers are voidable even when a claim is disputed and unsecured. All IVTA Defendants are debtors as Plaintiffs have asserted claims against them; certainly, Wold and AWI, who Plaintiffs allege are directly liable for the collapse of The Davenport, are debtors.

B. The real estate transactions by Andrew Wold and AWI violate the IVTA and are therefore voidable

There are two circumstances set forth in the IVTA that make a debtor’s transfer voidable.⁵ One is where a transfer is voidable if it is done “[w]ithout receiving a reasonably equivalent value in exchange for the transfer” when the debtor “believed or reasonably should have believed that the debtor would incur debts beyond the debtor’s ability to pay as they became due.” § 684.4(1)(b)(2).

Starting with the second prong, there can be little doubt that Andrew Wold and AWI reasonably believed that they would incur debts beyond their ability to pay. As this Court is aware, this case involves three deaths, a woman who lost her leg and endured unimaginable levels of

⁵ A “transfer” includes any disposition of or parting with an asset or an interest in an asset. § 684.1(16). The real estate transactions discussed herein are transfers under the IVTA.

conscious pain and suffering, and scores of victims who endured emotional distress, have PTSD, were displaced from their homes, and who lost the value of their personal belongings. The collective value of these claims reasonably exceeds \$100,000,000.00. As the owner and landlord of The Davenport who knew, beyond any reasonable dispute, that the west exterior wall was in an extraordinarily precarious condition and that its collapse was imminent, Andrew Wold and AWI are both target defendants and subject to a considerable allocation of fault. At the same time, there is no indication they have sufficient assets to cover their liabilities. With this being the case, Plaintiffs need only show that a transfer was done “without receiving a reasonably equivalent value in exchange” for it to be voidable under the IVTA. § 684.4(1)(b).

The following real estate transactions made in the months after the May 28, 2023 partial collapse were not for “reasonably equivalent value” because they were all sold at less than their assessed value, and in many instances far less.⁶

Date	Address	Seller	Buyer	Purchase Price	Assessed Value	Exhibit
10/18/2023	1028 Harrison St.	AWI	QC Rental Group	\$97,500.00	\$125,910.00	B
10/18/2023	1315 Belle Ave.	AWI	QC Rental Group	\$73,000.00	\$87,140.00	C
10/18/2023	1440 Jersey Ridge	AWI	QC Rental Group	\$30,000.00	\$150,740.00	D
10/18/2023	2224 Iowa St.	AWI	QC Rental Group	\$85,000.00	\$131,700.00	E
10/18/2023	2215 Jefferson Ave.	AWI	QC Rental Group	\$90,000.00	\$123,590.00	F
10/18/2023	2415 Farnam St.	AWI	QC Rental Group	\$86,000.00	\$115,500.00	G
10/18/2023	221 W. Pleasant St.	AWI	QC Rental Group	\$88,500.00	\$139,880.00	H
10/30/2023	1427 Jersey Ridge	AWI	Turn-Key Properties	\$65,000.00	\$114,430.00	I
02/08/2024	923 E. 6 th St.	AWI	MBSC Investments	\$75,000.00	\$88,080.00	J
02/08/2024	317 Kirkwood Blvd.	AWI	Maria Ramos	\$117,900.00	\$133,090.00	K
02/08/2024	201 E. Dover Ct.	AWI	Ronald Price	\$154,000.00	\$169,360.00	L
02/08/2024	2602 Harrison St.	AWI	Wandering Toes, LLC	\$115,000.00	\$134,890.00	M
02/28/2024	633 Kirkwood Blvd.	AWI	VPWW Wilderness	\$112,000.00	\$125,360.00	N
03/06/2024	801 E. Rusholme St.	AWI	Suzette Jacques	\$120,000.00	\$149,890.00	O
04/10/2024	2631 Main Street	AWI	Danielle Ellis	\$120,000.00	\$137,760.00	P
05/17/2024	314 E. Rusholme St.	AWI	Twisted Metal America	\$110,000.00	\$144,500.00	Q
05/17/2024	211 E. Dover Ct.	AWI	Twisted Metal America	\$100,000.00	\$132,920.00	R
07/02/2024	2801 Harrison St.	AWI	2801 Harrison LLC	\$179,900.00	\$192,250.00	S

⁶ Printouts from a Scott County Parcel Search for each property are attached as exhibits. Plaintiffs request that this Court take judicial notice of those records pursuant to Iowa R. Evid. 5.201 as the accuracy of the information contained within Scott County’s records “cannot reasonably be questioned.” *Id.* at (b)(2).

All 18 of the above transfers: (1) were made in the months following the partial collapse of the Davenport; (2) were made after Andrew Wold and AWI had been named as defendants in multiple lawsuits; and (3) were not for reasonably equivalent value according to the Scott County Assessor’s Office. The combined value of the amount received by AWI for these 18 real estate transfers is \$1,818,800.00. In contrast, the value of these same 18 properties according to the Assessor’s Office is \$2,396,990.00. By short selling these properties by nearly \$600,000.00 AWI did not receive reasonably equivalent value. These transactions are therefore voidable under to IVTA § 684.4(1)(b)(2), without regard to whether AWI had an actual intent to hinder, delay, or defraud its creditors — a circumstance that also applies, as discussed immediately below.

A transfer is also voidable is when it was done “with actual intent to hinder, delay, or defraud any creditor or debtor.” IVTA § 684.4(1)(a). The IVTA enumerates several “badges” or factors that may be considered, among others, as to whether or not the debtor had actual intent to hinder, delay, or defraud. IVTA § 684.4(1)(b)(2). Before applying the factors to the transactions, it is important to note that there are four additional transfers at issue (in addition to the 18 transfers identified above). These transfers are listed separately because, unlike the 18 above, Wold and AWI received reasonably equivalent value. Therefore, for these transactions, Plaintiffs must establish that the defendants had an actual intent to hinder Plaintiffs’ ability to collect.

Date	Address	Seller	Buyer	Purchase Price	Assessed Value	Exhibit
06/07/2023	3320 W. Harbor	Andrew Wold	3320 W. Harbor Revocable Trust ⁷	\$0.00 Quit Claim	\$1,907,700.00	T
12/12/2023	3320 W. Harbor	3320 W. Harbor Revocable Trust	Kyle Robinson	\$2,350,000.00	\$1,907,700.00	U
05/16/2024	311 Kirkwood	AWI	VPWW Wilderness, LLC	\$237,000.00	\$66,470.00	V
05/16/2024	2702 Leclair St.	AWI	Wandering Toes, LLC	\$150,000.00	\$145,750.00	W

⁷ Andrew Wold is the Trustee for 3320 W. Harbor Revocable Trust. *See* Ex. EE, Real Estate Installment Contract, at pp. 1 & 7.

A discussion of the applicable badges or factors relevant to establishing their actual intent under IVCA §684.4(1)(b)(2) follows next:

Andrew Wold and AWI had been sued before the transfers were made⁸

Every transfer occurred after Andrew Wold and AWI had been sued. The most notable, perhaps, was the transfer of his own home just 10 days after the building collapse. On June 7, 2023, Andrew Wold transferred his multi-million-dollar home from his own name into the name of 3320 W. Harbor Revocable Trust, of which Andrew Wold is the sole Trustee. That Andrew Wold transferred his largest personal asset from his own name to a trust just days after the collapse is compelling circumstantial evidence that he knew he was subject to liability and was trying to shield his most valuable asset.

The transfers occurred shortly after a substantial debt was incurred⁹

The real estate transfers began 10 days after the partial collapse and are continuing to date. The timing of these transfers relative to the debt strongly supports the inference that they were done with the intention to hinder Plaintiffs ability to collect on these assets.

The value of the consideration received by AWI was not reasonably equivalent to the value of the assets transferred¹⁰

As detailed above, for 18 out of the 22 transactions at issue, the real estate was sold for less than its appraised value, and often markedly less.¹¹ This is an important factor because it indicates that the debtor, in this case AWI, was taking whatever money it could get and was more concerned about the expediency in liquidating the assets than it was about getting reasonably equivalent value. That

⁸ IVTA § 684.4(2)(d).

⁹ IVTA § 684.4(2)(j).

¹⁰ IVTA § 684.4(1)

¹¹ One real estate transfer had no consideration; it was a quit claim for \$0.00 from Andrew Wold to 3320 W. Harbor Drive Revocable Trust, where Andrew Wold served as the Trustee.

many of the transactions occurred on the same day – seeming to be a package discount deal – further supports this point.

The transfer was to an insider and/or Andrew Wold retained control of the property after the sale¹²

Discovery will ultimately determine whether there were transfers to “insiders,” however certain evidence strongly supports that inference. First, Andrew Wold sold his home at 3320 W. Harbor Drive in Bettendorf to Kyle Robinson, who happened to be the real estate listing agent for several high value properties that Andrew Wold’s companies sold or had on the market. Notably, even though that real estate transaction occurred on December 12, 2023, many of Andrew Wold’s companies – including Defendants AWI, Davenport Hotel, L.L.C., Village Property Management, LLC, Alliance Contracting, L.L.C., and Dorothea, L.L.C., — continue to use his former residence, 3320 W. Harbor Drive, as their home office. *See* Exhibits Y, Z, AA, BB, and CC. Further, the deed on the house remains under the name 3320 W. Harbor Drive Revocable Trust (Ex. DD) and the real estate contract prohibits Robinson from making any material alterations to the premises without the express written consent of the Trust, i.e., Andrew Wold (Ex. EE, Real Estate Contract, at ¶ 7). That Wold maintains a deed on the house, continues to use it as the home office for his businesses, and will not allow any material alterations without his approval is not only suggestive of an insider transaction but reflects that Wold has retained significant control over the property.

Similarly, even though AWI sold 1315 Belle Ave. to QC Rental Group on October 18, 2023, AWI continues to exercise control over the property. On November 16, 2023, about one month *after* the purported sale of the property, the City of Davenport issued a building permit to “Andrew Wold Investments, LLC” — which identifies AWI as both the owner and the contractor for the project. Two weeks later, the City of Davenport notes that the contractor, AWI — who purportedly sold the

¹² IVTA § 684.4 (2)(a), (2)(b).

property on six weeks earlier — reported the work was complete. See Ex. FF, 11/16/2023 Permit. Likewise, even though AWI sold 211 W. Pleasant St. to QC Rental Group on October 18, 2023, on November 21, 2023, the City of Davenport issued an electrical permit to AWI, who is designated as the owner of the property. See Ex. GG, 11/21/2023 Permit.

The transfers were for substantially all of AWI and Andrew Wold’s assets¹³

At the time of the partial collapse, AWI owned 22 real estate properties. It has since transferred ownership of 20 properties, one is on the market for \$795,000.00, and the other was on the market for \$3,495,000.00.¹⁴ As for Andrew Wold, he sold his single biggest asset, his home. A parcel search on Scott County’s website does not reveal any other real estate owned by Andrew Wold or his wife, Megan.

AWI and Andrew Wold were insolvent or became insolvent shortly after the transfers were made¹⁵

“A debtor is insolvent if, at a fair valuation, the sum of the debtor’s debts is greater than the sum of the debtor’s assets.” IVTA § 684.2(1). While Plaintiffs do not know the value of the assets currently possessed by AWI and Andrew Wold (or what AWI and Andrew Wold have done with the cash received in consideration for the sale of 20 properties), it is evident that the “fire sale” of whatever properties they own continues. More importantly, the combined value of Wold’s and AWI’s real estate assets – both sold and currently on the market – is approximately \$8,845,800.00.¹⁶ That figure pales in comparison to Wold and AWI’s liability to Plaintiffs. While there are many culpable defendants, no

¹³ IVTA § 684.4 (2)(e).

¹⁴ AWI owns 307 W. 6th Street and 518 Harrison Street – which is ostensibly one property. This property was previously on the market for \$3,495,000.00, through listing agent Kyle Robinson. See Exhs. HH and II. AWI also owns 217 Brady Street, which is currently on the market for \$795,000.00. See Exhs. JJ and KK.

¹⁵ IVTA § 684.4 (2)(i)

¹⁶ Wold and AWI have already sold 20 properties for a combined value of \$4,555,800.00. AWI has two additional properties, one on the market for \$795,000.00, and the other previously on the market for \$3,495,000.00.

one can plausibly deny that Wold and AWI are at or near the top of the list in terms of culpability. Both were acutely aware that the west exterior wall of The Davenport was in danger of collapsing; both had the wherewithal and authority to warn those living about the dangerous condition and that their lives were in peril; and both made the conscious and purposeful decision to not warn those who they knew were in danger. The damages are catastrophic. Even if Wold and AWI were only 10% liable (which is very conservative by any objective evaluation), they would be insolvent as defined under the IVTA.

C. The remedies Plaintiffs seek are provided for under Iowa law and the IVTA and, in the exercise of this Court's discretion, should be ordered so as to preserve Plaintiffs' ability to recover

The activities of Andrew Wold and AWI since the The Davenport collapsed gives every indication that they are liquidating assets in effort to hinder Plaintiffs from recovering. Consider the following:

- It is all but guaranteed that Wold and AWI will be held liable;
- Collective judgments may well exceed \$100,000,000.00;
- Wold and AWI are grossly underinsured for their liabilities;
- The properties owned by Wold and AWI would be subject to recovery by Plaintiffs;
- Wold and AWI have sold 20 of the 22 properties they own—almost all of which were sold for less than their reasonably equivalent value—and Plaintiffs do not know what they have done with the money;
- The real estate transactions that have occurred since The Davenport collapsed were aberrant, in that they are not something that Wold or AWI previously did in the ordinary course of business; and
- Between the properties already sold and those remaining on the market, Wold and AWI would be left with no or substantially no assets.

The worst-case scenario is that by the time this case is tried Wold and AWI have no assets whatsoever and Plaintiffs will be left with the paltry insurance policies that will not remotely, or even fractionally, account for the damages they have sustained. To be blunt, that is a very real possibility if this Court does not intervene. Iowa law gives this Court the ability to appoint a receiver and preserve the status quo and Plaintiffs respectfully urge this Court do so.

Section 680.1 provides as follows:

On the petition of either party to a civil action or proceeding, wherein the party shows that the party has *a probable right to, or interest in, any property which is the subject of the controversy, and that such property, or its rents and profits, are in danger of being lost or materially injured or impaired*, and on such notice to the adverse party as the court shall prescribe, the court, if satisfied that the interest of one or both parties will be thereby promoted, and the substantial rights of neither unduly infringed, may appoint a receiver to take charge of and control such property under its direction during the pendency of the action, and may order and coerce the delivery of it to the receiver.

(emphasis added)

Section 684.7(1) of the IVTA provides, in pertinent part, that: “In an action for relief against a transfer or obligation under this chapter, a creditor . . . may obtain any of the following:

- (1) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property.
- (2) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee.
- (3) Any other relief the circumstances may require.

Under Iowa Rules of Civil Procedure **Section 1.1502(2) and (3)**, a temporary injunction may be allowed under the following circumstances

- (2) Where, during the litigation, it appears that a party is doing, procuring or suffering to be done, or threatens or is about to do, an act violating the other party’s right respecting the subject of the action and tending to make the judgment ineffectual.

(3) In any case specially authorized by statute.

Both Section 1.1502(2) and (3) are implicated with regard to the current matter, as it is readily apparent that the Wold and AWI have engaged in transactions that are violating Plaintiffs' recovery rights in a manner that is designed to make any judgment ineffectual. Further, as detailed above, Plaintiffs have established a prima facie case beyond a preponderance of the evidence that the real estate transactions at issue violate the IVTA.

It is within the trial court's discretion to issue a temporary injunction and "[g]enerally, the issuance of an injunction invokes the equitable powers of the court and courts apply equitable principles." *Max 100 L.C. v. Iowa Realty Co.*, 621 N.W.2d 178, 181 (Iowa 2001). A temporary injunction "requires a showing of the likelihood of success on the merits." *Id.* Concerning the issue of likelihood of success on the merits, the transfer of 18 properties shortly after the collapse of The Davenport for a total of \$1,818,800.00, despite such properties having appraised values totaling \$2,396,990.00, presents strong evidence that (1) they did not receive reasonably equivalent value for the sales and (2) the sales were done with the "actual intent to hinder" Plaintiffs' ability to recover. A showing of either is sufficient to support a remedy under the IVTA; Plaintiffs have shown both.

Plaintiffs' requested relief, that a receiver be appointed and that the proceeds of all real estate transactions be deposited in a constructive trust, is appropriate under the circumstances presented. The appointment of a receiver, as is specially authorized under § 680.1 and §684.7(1)(c)(2), will ensure that the proceeds received and assets subject to claims under the IVTA are only transferred under circumstances of an arms-length transaction and at fair market value providing the reasonable equivalent value in exchange for the transfer. Equally, if not more important, is that a receiver can assure that whatever proceeds remain from the sale of the 20 properties will not be depleted so as to hinder Plaintiffs' ability to recover. And, at the same time, Wold and AWI are not left without rights

as they can petition the receiver to use funds from the restricted account or constructive trust if they are able to establish a legitimate need.

The establishment of a constructive trust managed by a court-ordered receiver is authorized by §§ 680.1 and 684.7(1)(c)(3) as a relief required under the circumstances. The Iowa Supreme Court has long held that a constructive trust can serve as an appropriate equitable remedy. *Grand Lodge of Iowa of the Independent Order of Odd Fellows v. Osceola Lodge No. 18*, 247 Iowa 525 (1970). In *Osceola Lodge*, the Court discussed utilization of a constructive trust as an equitable remedial device for the purpose of ensuring that the rights of a party having a beneficial interest in property are protected against fraud, stating:

A good general definition as to constructive trusts appears in 89 C.J.S. Trusts s 139a: “A constructive trust is a creature of equity, defined *** as a remedial device by which the holder of legal title is held to be a trustee for the benefit of another who in good conscience is entitled to the beneficial interest. So, the doctrine of constructive trust is an instrument of equity for the maintenance of justice, good faith, and good conscience, resting on a sound public policy requiring that the law should not become the instrument of designing persons to be used for the purpose of fraud. * * * The feature which distinguishes constructive trusts from express trusts and resulting trusts is that the former do not arise by virtue of agreement or intention, either actual or implied, but by operation of law, or, more accurately, by construction of the court, and that result is reached in such instances regardless of, and ordinarily contrary to, any intention to create a trust. Such trusts are entirely in invitum, and are forced on the conscience of the trustee in favor of the person defrauded, for the purpose of working out right and justice and preventing fraud, or, as frequently stated, for the purpose of preventing unjust enrichment.”

Osceola Lodge, 247 Iowa at 371; *see also Homolka v. Drabos*, 247 Iowa 525 (1956). Under the circumstances of the present case, it is necessary to establish such a trust so that the monetary proceeds and assets related to the claimed fraudulent transfers are not depleted at the expense of Plaintiffs’ ability to recover for their considerable injuries.

In the instant case, it is especially important that this Court take action to prevent the depletion of whatever assets remain. This matter has been stayed while the City of Davenport appeals this

Court's qualified immunity ruling. Absent the relief requested, there will be an extended period of time while the appeal is pending during which Wold and AWI will have the opportunity to dissipate assets with no court oversight and potentially disastrous consequences to the Plaintiffs. Said a little differently, it would be a grave injustice if Plaintiffs are left without any remedy against Wold and AWI because they were permitted to dissipate almost \$10,000,000 in assets.

Finally, Plaintiffs also request that any company owned by Andrew Wold, including but not limited to Dorothea, L.L.C., 2200 11th, LLC, and 246 W. 3rd Street Cooperative, be enjoined from selling any real estate or assets without petitioning this Court for approval. The basis for Plaintiffs' request is that Plaintiffs have stated a viable cause of action that these parties are sham corporate entities and mere alter egos of Andrew Wold. Between these three Wold-owned companies they own three properties that may be worth as much as \$3,765,000.00.¹⁷ In the event that a sale of any such property becomes imminent (one is already pending), these Defendants should be required to petition this Court for approval for the sale, in which instance Plaintiffs should be entitled to file a resistance and/or seek a restraining order. This would allow the Court to exercise judicial oversight without depriving the parties of their rights.

WHEREFORE, for the reasons set forth herein, the Plaintiffs request that this Honorable Court enter an order, granting their PETITION TO APPOINT RECEIVER AND A CONSTRUCTIVE TRUST, and ordering as follows:

- a. That Andrew Wold and AWI be required to deposit all funds acquired through the recent sales of their real estate holdings into a restricted account or constructive trust;

¹⁷ Dorothea, L.L.C. owns 311 W. 3rd Street, which is valued at \$998,370.00, and was previously up for sale for \$1,795,000.00. *See* Exhs. LL and MM. 2200 11th, LLC owns 2200 E. 11th Street, which is valued at \$299,280.00, and has a sale pending for \$375,000.00. *See* Exhs. NN and OO. 246 W. 3rd Street Cooperative owns 246 W. 3rd Street, which is valued at \$541,170.00 and is on the market for \$1,595,000.00. Ex. PP and QQ.

- b. That a receiver be appointed by the Court to manage the restricted account or constructive trust, with the discretion to allow Wold and/or AWI to access funds upon a petition to the receiver establishing a legitimate need;
- c. That Andrew Wold and AWI be enjoined from transferring any real estate or assets without approval from the receiver that the transfer is for reasonable value;
- d. That all funds from any future sale by Wold or AWI approved by the receiver of any real estate or assets (as provided for in paragraph (c)) be deposited into the restricted account or constructive trust managed by the receiver; and
- e. That any company owned by Andrew Wold, including but not limited to The Dorothea, L.L.C., 2200 11th, LLC, and 246 W. 3rd Street Cooperative, be enjoined from selling any real estate or assets without petitioning this Court for approval, in which instance Plaintiffs will have the opportunity to file a resistance and/or seek a restraining order or injunction.

Dated this December 30, 2024.

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