

Not All (Protection) is Lost After Purdue: Non-Debtor Owner Shielded by Bankruptcy Stay for Duration of Reorganization of His Company

March 26, 2025
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Third-party releases may no longer provide a shield to owners and directors of a reorganized company. Still, a New York bankruptcy court recently paved the way for another constructive solution for the individual owner of a bankrupt company. Judge Mastando III confirmed the reorganization plan of the company and allowed the individual owner and president to stay under the company's automatic stay umbrella for the life of the 5-year reorganization plan, drawing on precedents that allow bankruptcy courts to issue temporary injunctions staying actions against non-debtors. *In re Hal Luftig Co., Inc.*, No. 22-11617 (JPM), 2025 WL 586757, (Bankr. S.D.N.Y. Feb. 24, 2025). Judge Mastando III noted that "[n]otwithstanding the wealth of precedents extending the automatic stay to non-debtors pursuant to Bankruptcy Code §§ 105 & 362(a), it appears to be an issue of first impression as to whether a non-debtor stay extension should remain in place for the life of a plan." *Id.* at *15 (Bankr. S.D.N.Y. Feb. 24, 2025). With respect to debtors, Bankruptcy Code § 362(c)(2) provides that the automatic stay under Code § 362(a) "continues until the earliest of — (A) the time the case is closed; (B) the time the case is dismissed; or (C) if a case is under ... chapter 11 ... of this title, the time a discharge is granted or denied[.]" 11 U.S.C. § 362(c)(2). When bankruptcy courts extend the automatic stay to non-debtor parties as preliminary injunctive relief, the durational limits of such stays are often not clear." *Id.* at *16. The court held that extending the automatic stay to the non-debtor for five years supported the reorganization purposes, as most of the debtor's business depended on the owner's efforts, and his ability to manage the debtor's business was critical to generating revenue. The court agreed that the extension was essential to prevent Mr. Luftig from being distracted by litigation and to allow the debtor to focus on reorganization. The court rejected objections that the extension was unfair or inequitable, as it did not discharge a creditor's claim against Mr. Luftig but temporarily suspended enforcement of the judgment for the duration of the debtor's reorganization plan.

Hal Luftig Company Inc. (HLC) was a notable Broadway production company. An arbitration award against the company and its owner forced it to seek bankruptcy protection in December 2022^[1]. The arbitration had awarded investor Warren Trepp's company FCP \$2.6 million, in addition to \$2.7 million previously received. In response, HLC filed for bankruptcy protection. The reorganization plan anticipated that Trepp would receive approximately \$720,000 over five years, about 25% of the arbitration award. Additionally, the plan included a non-consensual release, effectively shielding Hal Luftig personally from further liability related to Trepp's claims. Judge John P. Mastando III had previously approved in 2023 Hal Luftig Company, Inc.'s Chapter 11 reorganization plan, which included a non-consensual release of claims against non-debtor and owner Hal Luftig in exchange for a one-time cash contribution of \$500,000 (the "Initial Confirmation Opinion"). This release effectively shielded Luftig from the arbitration award. The Initial Confirmation Opinion included proposed findings of fact and conclusions of law, subject to approval by the District Court. FCP and the U.S. Trustee objected, and in a decision dated March 19, 2024, the District Court sustained the objections and rejected the findings of fact and conclusion of law in the Initial Confirmation

Opinion. Then, in June 2024, the United States Supreme Court issued its ruling in *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204 (2024). HLC was forced to revise its plan. In November 2024, HAP filed its Third Amended Plan that proposed a stay extension, which would terminate upon the earliest of this Chapter 11 case's closure, dismissal, or the grant or denial of discharge and clarified that the scope of the stay applied to FCP.

In confirming the new plan, the court relied on the Second Circuit's *Queenie, Ltd.* decision and a recent decision out of the Delaware bankruptcy court. *Queenie, Ltd. v. Nygard Int'l.*, 321 F.3d 282 (2d Cir. 2003); *In re Parlement Techs., Inc.*, 661 B.R. 722, 724 (Bankr. D. Del. 2024) ("cases have long recognized that bankruptcy courts may enter a preliminary injunction that operates to stay actions against non-debtors.").

The Second Circuit extends the automatic stay to non-debtors when a claim against them would have a direct negative financial impact on the debtor's estate, particularly in cases where the debtor and non-debtor are so closely connected that the debtor is essentially the real party being sued. Other courts have also acknowledged this exception, recognizing that bankruptcy courts can issue preliminary injunctions to stay actions against non-debtors. *Queenie, Ltd.*, 321 F.3d at 287–88 (quoting *A.H. Robins Co. v. Piccinin*, 788 F.2d 994, 999 (4th Cir. 1986)). The courts that have ruled on non-debtor stay extensions post-Purdue Pharma have reviewed such stay extensions as temporary injunctive relief to facilitate negotiations among the parties. *Parlement Techs., Inc.*, 661 B.R. at 724–25 (debtor sought to extend the automatic stay to its former officers as co-defendants in certain state court litigations while the bankruptcy case proceeded); see also *Purdue Pharma L.P. v. Massachusetts*, 2024 Bankr. LEXIS 2916, at *6–11 (granting a three-week non-debtor stay extension to allow the debtor and the interested parties to continue negotiations towards a global settlement).

In conclusion, the recent decision in *In re Hal Luftig Co., Inc.* highlights a constructive approach to balance the interests of creditors, the debtor, and non-debtor parties, helping to maintain the stability and success of reorganization efforts in complex bankruptcy cases. By allowing the individual owner to remain under the company's protective umbrella for the full duration of the plan, the court recognized the critical role that the owner played in the business's recovery. This decision aligns with precedents permitting bankruptcy courts to grant temporary injunctive relief for non-debtors, ensuring that litigation does not derail the reorganization process. While third-party releases may no longer serve as a shield for owners and directors of reorganized companies, the court's approval of a stay extension for Hal Luftig emphasizes the importance of safeguarding the debtor's reorganization efforts. Ultimately, this ruling offers guidance for future cases where non-debtors are integral to the debtor's ability to emerge from bankruptcy, establishing that the automatic stay can, in certain circumstances, be extended beyond traditional limits to support the reorganization process.

¹¹ On the date the company sought bankruptcy protection, it also commenced an adversary proceeding (the "Adversary Proceeding") seeking to extend the automatic stay to non-debtor Mr. Luftig and seeking a preliminary injunction enjoining FCP from executing on the Judgment against Mr. Luftig. See *Hal Luftig Company, Inc. v. FCP Entertainment Partners, LLC*, Case No. 22–01176. In support of its request for relief, the Debtor argued that there were unusual circumstances warranting an extension of the automatic stay to Mr. Luftig. Specifically, the Debtor argued that it derives profits from the shows produced by Mr. Luftig and that if Mr. Luftig was not protected by the stay, "he [would] be forced on a daily basis to deal with [FCP's enforcement collection efforts,]" which will "irreparably harm the Debtor's chance of a successful reorganization..." Mem. L. Supporting the Luftig Stay at 18, AP Docket No. 3. Moreover, the Debtor argued that the requisite elements for a preliminary injunction against FCP's efforts to enforce the Judgment were satisfied. Id. at *6. On January 23, 2023, the Court entered an order extending the automatic stay to Mr. Luftig (such stay, the "Luftig Stay") pursuant to Bankruptcy Code §§ 105 & 362, over FCP's objection (such order, the "Luftig Stay Order"). FCP did not appeal the Court's Luftig Stay Order.