



IT IS ORDERED as set forth below:

Date: August 26, 2013

Mary Grace Diehl

**Mary Grace Diehl
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In Re:	:	Case No. 09-68613-MGD
	:	
DIPLOMAT CONSTRUCTION, INC.,	:	Chapter 7
	:	
Debtor.	:	Judge Mary Grace Diehl
	:	
PAUL H. ANDERSON, Chapter 7	:	
Trustee for the Estate of Diplomat	:	
Construction, Inc.,	:	
	:	
Plaintiff,	:	Adversary Proceeding
v.	:	Nos. 11-5609 and 11-5610
	:	
MUKESH C. PATEL AKA MIKE	:	
PATEL and RAJESH C. PATEL	:	
AKA R.C. PATEL,	:	
	:	
Defendants.	:	

MEMORANDUM OPINION

A joint two-day trial was held in the above-styled adversary proceeding.¹ The Chapter 7 Trustee seeks to avoid and recover alleged fraudulent transfers from Debtor to Defendants within

¹ The trial included another similar action against Jagdeep “Rick” Patel and a separate opinion has been entered. (Adversary Proceeding No. 11-5611; Docket No. 25).

the four-years prior to bankruptcy under §§ 544 and 550 of the Bankruptcy Code and Georgia's Uniform Fraudulent Transfer Act or within the two-years preceding bankruptcy pursuant to §§ 548(a)(1)(b) and 550. Alternatively, Trustee seeks avoidance and recovery of purported preferential transfers to Defendants in the 1-year period preceding the Debtor's bankruptcy filing under §§ 547 and 550. The reach-back period for which Trustee seeks to avoid the preferential transfers is based upon his allegations that Defendants are statutory insiders of the Debtor, as an officer, director or relative of an officer or director under § 101(31)(B).

The Court has jurisdiction pursuant to 28 U.S.C. § 1334, and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(F) and (H).

James Schulz of Merritt Watson, LLP represented Trustee and Defendants represented themselves *pro se*. The Court heard testimony from Defendants, Paul Jones, forensic accountant, and Paul Anderson, Chapter 7 Trustee. Plaintiffs Exhibits 1 through 20 were admitted into evidence without objection.

This order constitutes findings of fact and conclusions of law pursuant to Rule 52(a)(1) of the Federal Rules of Civil Procedure, made applicable to this proceeding by Rule 7052 of the Federal Rules of Bankruptcy Procedure.

Findings of Fact

Debtor filed a Chapter 11 voluntary petition on April 3, 2009. Debtor owned and operated a 192-room hotel known as the Red Roof Inn-Atlanta Airport (the "Hotel") located near Hartsfield-Jackson Atlanta International Airport. Debtor acquired the Hotel in 1998 in a tax free exchange under I.R.C. § 1031. Debtor's principals were Rajesh and Mukesh Patel ("R.C." and "Mike," respectively). R.C. and Mike Patel are brothers. They have and continue to operate a number of hotels through different, but related, entities. This structure seems to have contributed to the

ambiguity regarding the source of funds and characterization of such funds at issue in this action.

The subject of this action are the payments made by Debtor to R.C. and Mike Patel. Defendants do not contest the payments and the amounts. Debtor's general ledger shows monthly debits to R.C. Patel in the amount of \$5,174.32. R.C. Patel testified that payments on the note began in 1998 and the amount was "arbitrary." There was testimony that due to a change in Debtor's computer system the financials were only available beginning in approximately 2002. In the general ledger beginning in February 2003, the \$5,174.32 debits attributed to R.C. are categorized as an "interest expense" in the "payroll journal" under the sub-category of "resident" or "desk clerk." Debtor's general ledger shows the same \$5,174.32 monthly debits for Mike Patel, which are also coded as "resident" or "desk clerk" beginning in February 2003. Paul Jones, Trustee's forensic accountant, was certified as an expert. Mr. Jones testified that although the general ledger showed monthly debits, the payroll records and operating account showed that R.C. and Mike Patel were each paid twice monthly to total \$5,174.32 per month. Mr. Jones testified that these amounts paid to Defendants matched what Debtor claimed as interest expense on its tax returns.

No note or other writing was introduced as evidence at trial, except for a promissory note dated May 20, 1997 in the amount of \$501.00 from Debtor to R.C. Patel. In response to a question of whether this promissory note was the only note made by Debtor to R.C. Patel, R.C. stated that, "There may be an update since then."

Neither Defendant could recall their exact initial investment into Debtor. Defendants did assert that they made a \$3 million investment for the purchase of a Ramada, which was later sold before the Hotel was purchased. R.C. Patel testified that a promissory note was executed in 1997 with R.C. and Mike as lenders. It was an open-ended note in the principal amount of "whatever the equity in the hotel was" and provided for 8% interest. R.C. Patel testified that this note was part of

Debtor's Chapter 11 filing and was also turned over to Debtor's accountant, Sean Pennix. R.C. Patel also testified that this same note included a future advances clause and was payable on demand. R.C. Patel testified that the total current outstanding loan balance owing to Defendants is \$2,293,745.00.

Mike Patel testified that he had seen a promissory note with his name on it, along with R.C.'s, and that it was in his office or on his computer. His testimony also included that the interest rate was 8% or "whatever the property can afford." The term on the note was "infinity" or until the Hotel was sold.

Mr. Jones testified that in his thorough review of Debtor's available financial records from the Trustee and Defendants, as principals of Debtor, that there was no evidence of an underlying note made by Debtor to Defendants, except for the \$501.00 note entered into evidence as Plaintiff's Exhibit 20. Mr. Jones detailed the numerous requests he made to R.C. Patel regarding production of the note and any other obligation by Debtor. Mr. Jones also testified that he had made these same requests to Debtor's and Defendants' accountant, Sean Pennix, and no note was produced. Mr. Jones testified that in his opinion the payments to Defendants resembled more of an investment dividend as opposed to a loan repayment, and that he had found no evidence of a loan amortized over the period he investigated Debtor's books and records.

Mr. Jones testified that he looked into insider payments and was never able to decipher how the payments to Defendants related to the terms of the purported note he was told about by R.C. Patel. Mr. Jones testified that R.C. Patel explained that such monthly amount would remain constant because it would function more like preferred stock, instead of loan balance that is paid back over time.

R.C. Patel testified that the checks were not used for his personal benefit from 2007 or 2008 until Debtor's bankruptcy filing. He explained that if the checks were cashed, then they were

deposited back into Debtor's account. R.C. Patel testified that the bank statements would show the redeposit. R.C. Patel testified as to 6 specific dates and amounts of redeposits that totaled \$338,345.36.² R.C. Patel testified that these amounts were further loans to Debtor to allow it to pay its bills. Mike Patel testified that he does not recall whether checks were issued. He testified that he redeposited checks to Debtor that totaled \$198,170.43.³

Mr. Jones explained that he investigated on three separate occasions whether Defendants redeposited their checks based on R.C. Patel's statements prior to trial. Mr. Jones was not able to trace a redeposit of the interest checks into the operating account. Mr. Jones explained his process for looking into deposits and tracing payments and that he saw no evidence in the books and records of any setoff to interest or registered gifts to Debtor. Mr. Jones testified that he looked at every bank account associated with Debtor and did not rule out that these redeposits could have been deposited into the account of a related entity. Mr. Jones testified that his investigation included looking at the twice monthly checks issued to Defendants and could not recall whether there were endorsements on the reverse side of the checks. Mr. Jones also testified that there was no evidence of a redeposit when he examined R.C. Patel's personal income tax returns, which reported interest income consistent with general ledger debits and payroll checks issued to R.C. Patel.

Mr. Jones testified that some deposits by Defendants were traceable to one of Debtor's accounts. Debtor's general ledger shows a March 17, 2008 deposit of \$100,034.08, which resulted

²R. C. Patel recounted the following deposits: (1) March 17, 2008 deposit for \$50,017.04, (2) April 21, 2008 deposit for \$125,000; (3) February 28, 2009 deposit for \$5,748.36; (4) November 30, 2009 deposit for \$86,166.11; (5) December 30, 2010 deposit for \$62,513.85; and (6) December 31, 2010 deposit for \$8,900.

³ Mike Patel's stated deposits were (1) December 31, 2006 deposit for \$23,153.39; March 17, 2008 deposit for \$50,017.04; and (3) April 21, 2008 deposit for \$125,000.

in a credit to each Defendant's loan account in the amount of \$50,017.04. On April 21, 2008, there was a \$125,000.00 special deposit to both loan accounts of R.C. and Mike Patel. However, on December 31, 2008, the general ledger shows a distribution of \$1,007,828 to Mike Patel and resulted in his loan account balance becoming \$0. And, also on December 31, 2008, there was a distribution to R.C. Patel of \$2 million. Mr. Jones testified that these distribution amounts related to R.C. Patel's buyout of Mike Patel and related to a complicated Croyden Investment transaction by Debtor. Mr. Jones testified that when these amounts were traced as reinvested in Debtor, it was followed by a distribution by Debtor to Defendants. Mr. Jones testified that the remaining redeposits were not traceable to an account and only appeared on the general ledger.

Mr. Jones testified that Debtor was insolvent during all relevant periods to this action. For the year ending 2004 to 2009, Mr. Jones presented that Debtor's liabilities exceeded Debtor's assets. Mr. Jones' insolvency analysis valued the building at approximately \$9.5 million for each year from 2004 to 2009. Under Mr. Jones' insolvency analysis, Debtor's liabilities exceeded its assets by amounts ranging from \$4.8 to \$6.3 million during this same period. To determine the Hotel's book value, Mr. Jones testified that he considered that the Hotel was refinanced in 2001 for \$10.5 million and foreclosed in 2010 for \$4.6 million. He testified that he used these values as the upper and lower limits of value. Mr. Jones stated that his building valuation is an accurate fair market value but made with assumptions favorable to Defendants.

Defendants assert that the value assigned to the building is undervalued. R.C. Patel testified that he believed that the Hotel was valued at \$14-15 million in 2008 and at the time of the Chapter 11 filing. R.C. Patel also testified that Trustee's insolvency analysis is flawed based on the retained

earnings line item, which he thought likely considered an Orlando, Florida property that was sold by Debtor at a “huge loss.”

The parties stipulated that there was at least one creditor holding an allowed unsecured claim in the case when each transfer was made.

Mr. Anderson became the Chapter 7 Trustee in May 2010 after the case was converted following the denial of Debtor’s Chapter 11 plan confirmation.

Conclusions of Law

Trustee alleges that undisputed payments made by Debtor to Defendant constitute constructive fraudulent transfers because there is no underlying obligation to support such payments. Trustee asserts that such payments to Defendant were not in exchange for reasonably equivalent value. Defendants assert that Debtor was not insolvent during the four-year period preceding the Chapter 11 filing by contesting the value of the Hotel used by Trustee’s expert. Defendants make two additional factual arguments in their defense. First, Defendants assert that the checks they received from Debtor in the one to two-years preceding bankruptcy were redeposited into Debtor’s bank account. Second, Defendants assert that the twice monthly payments constituted repayment of Debtor’s obligation to them under a promissory note. Alternatively, Trustee seeks to avoid the transfers as preferences and extends the avoidance period for the alleged preferential transfers based on Defendants’ insider status. Under the relevant portions of 11 U.S.C. § 101(31)(B), an individual is an insider of a debtor corporation if that individual is a director, officer, or the relative of a director or officer.

Fraudulent Transfers Claims under Georgia's Uniform Fraudulent Transfer Act

Trustee seeks avoidance of undisputed transfers from Debtor to Defendants R.C. and Mike Patel as constructive fraudulent transfers under § 544(b) in the total amount of \$248,367.36 each. Section 544(b) of the Bankruptcy Code allows a trustee to use applicable state law avoidance claims when certain conditions are met. 11 U.S.C. § 544; *Westgate Vacation Villas, Ltd. v. Tabas (In re Int'l Pharmacy & Discount II, Inc.)*, 443 F.3d 767, 770 (11th Cir. 2005). Trustee claims that the transfers are avoidable under Georgia's Uniform Fraudulent Transfer Act, O.C.G.A. §§ 18–2–70 *et seq.* Here, Trustee seeks to recover the transfer of the Property under O.C.G.A. §§ 18-2-74(a)(2)(B) and 18-2-75.

Section 18–2–74(a)(2)(B) states that a transfer is fraudulent if made “[w]ithout receiving a reasonably equivalent value in exchange for the transfer” and the debtor “[i]ntended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.”⁴ Section 18–2–75(a) states that a transfer is fraudulent if the

⁴ The full text of O.C.G.A. 18-2-74(a)(2)(B) provides:

(a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

(2) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:

. . . .

(B) Intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.

debtor made the transfer without receiving a reasonably equivalent value in exchange and “the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer.”⁵

Both § 18-2-74(a)(2)(B) and § 18-2-75 substantially mirror the constructive fraud claims under the Bankruptcy Code, yet a creditor may recover property up to four years after the transfer occurred, instead of two years under § 548. *Compare* O.C.G.A. § 18-2-79 with 11 U.S.C. § 548(a)(1).

Under § 544, the trustee has the burden of demonstrating both (1) the existence of a creditor holding an allowable unsecured claim and (2) the creditor's right to avoid a transfer under state law. There was a stipulation regarding the existence of a creditor holding an allowable unsecured claim and for the reasons set forth below, Trustee has carried his burden that the payments to each Defendant are avoidable under O.C.G.A. § 18-2-75.

There is no question that Debtor made transfers to Defendants in the twice monthly form of checks, totaling \$5,174.32 per month for each Defendant. The issues raised at trial and discussed below are whether Debtor was insolvent during the relevant four-year period preceding bankruptcy and whether Debtor received less than reasonably equivalent value in exchange for such payments to Defendants.

The Bankruptcy Code defines insolvency as “a financial condition such that the sum of such entity's debts is greater than all of such entity's property, at a fair evaluation. . . .” 11 U.S.C. §

⁵ The full text of O.C.G.A. § 18-2-75(a) is:

(a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

101(32). The Trustee may use any appropriate means when presenting evidence to support an insolvency finding. *In re Gulf N. Transp., Inc.*, 323 B.R. 786, 790 (Bankr. M.D. Fla. 2005) (citing *In re Roblin Indus., Inc.*, 78 F.3d 30, 35 (2d Cir. 1996)).

Based on the facts in evidence, Debtor was insolvent during the four-year period preceding bankruptcy. Trustee's expert Mr. Jones testified that Debtor was insolvent at least beginning in 2005. Mr. Jones' insolvency analysis was admitted into evidence. Defendants dispute that Debtor was insolvent for some of this four-year period, although Defendants provided no clear position on when, if ever, Debtor became insolvent. Defendants question the insolvency analysis on two grounds: the value assigned to the Hotel and the retained earnings loss reported in Mr. Jones' insolvency analysis.

Defendants questioned the approximate \$9.5 million value assigned to the Hotel in the insolvency analysis. The evidence as to the value of the Hotel is Mr. Jones' expert insolvency analysis and R.C. Patel's testimony as principal of the owner. Mr. Jones testified that he based his value of the Hotel by considering, in part, the 2010 foreclosure sale price of \$4.6 million and the 2001 refinancing loan for \$10.5 million. R.C. Patel essentially testified as a rebuttal witness to Mr. Jones. Lay witnesses may testify as to their opinions or inferences regarding the value of property if they are "(a) rationally based on the perception of the witness ... and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702." FED. R. EVID. 701; *James River Ins. Co. v. Rapid Funding, LLC*, 658 F.3d 1207, 1213 (10th Cir. 2011) (referring to Advisory Committee Notes in support of the majority of courts permitting an owner or officer of a business to testify to value). R.C. Patel testified that the Hotel was more accurately valued at \$14-15 million. His testimony was based on his perception of market conditions and the amounts initially loaned for the purchase of Hotel.

The weight given to R.C. Patel's value determination does not carry the same weight as the testimony provided by expert Mr. Jones regarding his determination of value. *In re Roblin Indus., Inc.*, 78 F.3d at 35 (when possible a determination of insolvency should be based upon expert testimony). R.C. Patel's testimony alone does not overcome Trustee's satisfactory presentation of evidence regarding the reasonable value of the Hotel. R.C. Patel's reasoning was less credible based, in part, on his bias as Debtor's former principal and Defendant.

Defendants also assert a flaw with the retained earnings line item on the insolvency analysis. Defendants argue that this amount includes an Orlando, Florida hotel, which was sold at a loss and did not accurately pertain to the insolvency of Debtor. No evidence was presented to verify Defendants' assumption regarding the inclusion of the other property. Defendants' position is also not supported by law. An insolvency analysis as to a debtor includes all the property and liabilities of such debtor. 11 U.S.C. § 101(32)(A).

Although Defendants' attack of the insolvency report is not wholly without merit, there is simply a lack of credible, admissible evidence to alter Mr. Jones' ultimate conclusion of Debtor's insolvency beginning in January 2005. *See In re Manchester Oak Homeowners Ass'n, Inc.*, 469 B.R. 631, 643 (Bankr. E.D. Va. 2012) (holding that expert's valuation prevailed although rebuttal witness attacked expert's methodology for valuation because there was not sufficient testimony contradicting the ultimate conclusion). The evidence is sufficient for a determination that Debtor was insolvent in the relevant four-year period preceding Debtor's Chapter 11 filing.

The next part of the fraudulent transfer analysis involves whether Debtor's transfers or obligations to Defendants were made for less than reasonably equivalent value. "The purpose of voiding transfers unsupported by reasonably equivalent value is to protect creditors against the

depletion of a bankrupt's estate. Therefore, this provision does not authorize voiding a transfer which confers an economic benefit upon the debtor.” *In re Rodriguez*, *1256 895 F.2d 725, 727 (11th Cir. 1990) (internal quotations and citations omitted). The concept of reasonably equivalent value does not require a dollar-for-dollar transaction. *In re Advanced Telecomm. Network, Inc.*, 490 F.3d 1325, 1336 (11th Cir. 2007). The issue of whether a debtor received reasonable equivalent value is a question of fact that is evaluated at the time of the transaction. *Kipperman v. Onex Corp.*, 411 B.R. 805, 837 (N.D. Ga. 2009).

The facts presented at trial demonstrate that the transfers or obligations incurred by Debtor were made for less than reasonably equivalent value. Here, there is no evidence of whether value was provided in exchange for the transfers to Defendants. Defendants referenced their work for Debtor in vague terms but did not seek to argue that these amounts constituted salary for their work or that the payments otherwise constituted reasonable equivalent value for Debtor.

Most notably, the Court finds that Debtor was under no obligation to make payments to Defendants. There is no documentary evidence of a promissory note from Debtor to either or both Defendants, save the \$501.00 promissory note from Debtor to R.C. Patel. Although both Defendants stated there was such a note in the approximate amount of \$2.2 to \$3 million, no note was produced at trial by Defendants. Additionally, the testimony by Mr. Jones that he requested production of such note without avail and that he was unable to find any evidence of such note is more convincing than Defendants’ testimony. Defendants’ testimony about the location and the terms of such note is suspect. It may be that Defendants intended for their contribution to Debtor to be repaid, but that is not the legal equivalent of Debtor having an executed promise to pay.

The Eleventh Circuit has noted that several factors should be examined to determine whether a transfer is in the form of debt or equity. *See Lane v. United States*, 742 F.2d 1311, 1313-14 (11th Cir.1984)(within the context of determining whether a transfer is a debt for federal income tax purposes). In *Ellinger v. U.S.*, the Court found that a fixed maturity date is a “highly significant feature of a debtor-creditor relationship.” 470 F.3d 1325, 1334 (11th Cir. 2006)(quoting *Sinnett's Pontiac Serv., Inc. v. Comm'r*, 730 F.2d 634, 638 (11th Cir.1984)). The *Ellinger* court also stated that courts must look beyond the “self-serving declarations of the parties” and examine “the objective facts to determine whether the parties intended the advances to constitute debt.” *Id.* at 1335 (quoting *Lane v. United States*, 742 F.2d at 1316).

Here, Defendants’ testimony regarding the obligation from Debtor is vague, at best. There is no documentary evidence of an actual promissory note beyond the \$501.00 note entered into evidence. Defendants could not provide basic terms of the note, including the principal amount, the maturity date, and interest rate. Also, Mr. Jones testified that he could not find any evidence or reasoning in support of the twice monthly amount paid by Debtor to Defendants through the payroll system. In consideration of all the facts in evidence, Defendants’ testimony and the accounting records referring to Defendants’ loan accounts are insufficient to establish any obligation by Debtor, especially given the inconsistent and questionable accounting and tax practices of Debtor.

Defendants also present an argument that they each made redeposits to Debtor during the one to two-year period preceding the Chapter 11 filing. Although Defendants testified that some of these amounts were redeposited into the Debtor’s account, no documentary evidence of such events was entered into evidence. Mr. Jones testified that he was never able to find evidence of redeposited interest checks.

Mr. Jones' testimony included that, in 2008, there were two traceable deposits that Debtor credited to each Defendant's respective loan account in the approximate total amount of \$175,000. Mr. Jones testified that the remaining deposits asserted by Defendants were not traceable to any account and only appeared on Debtor's general ledger.

Even upon consideration of these deposits by Defendants, Defendants did not provide reasonably equivalent value to Debtor because Mr. Jones also testified that these deposits were followed by distributions to Defendants. Mr. Jones testified that on December 31, 2008, Mike Patel was provided a \$1 million distribution, which zeroed-out his loan balance according to Debtor's records. Also, Debtor's records show a \$2 million distribution to R.C. Patel on December 31, 2008. Mr. Jones and R.C. Patel stated that these transactions include a buyout of Mike Patel's shares and involved a complex transaction between Debtor and Croyden Investments. Further, notwithstanding the determination that there is insufficient evidence of Debtor's underlying promise to pay Defendants, under Georgia's Uniform Fraudulent Transfer Act, transfers and additional obligations can constitute avoidable fraudulent transfers. O.C.G.A. §§ 18-2-74(a)(2)(B) and 75 (relevant statutory language is a "transfer made or obligation incurred"). Therefore, any additional indebtedness resulting from Defendants' deposited funds is also avoidable.

The defense of redepositing the funds lacks credible evidence to overcome the admitted exhibits and expert testimony, along with Defendants' own testimony regarding receipt of such payments, regarding the transfers. Any redeposit was characterized as an increase to Defendants' respective loan account in Debtor's books and records, as testified by Mr. Jones, and there were no argument or evidence as to how increasing purported debt conferred value to Debtor. Mr. Jones also explained that deposits were followed by distributions that exceeded the traceable deposit amounts.

There is no evidence that demonstrates how these purported redeposits provided economic benefit to Debtor. *In re Rodriguez*, 895 F.2d 725, 727 (11th Cir.1990). Therefore, the Court finds there was insufficient proof that such deposits represented signed over interest checks and that there is insufficient evidence to find that reasonably equivalent value was provided to Debtor. *In re Aqua Clear Technologies, Inc.*, 361 B.R. 567, 582 (Bankr. S.D. Fla. 2007) (“Once the Trustee has made his *prima facie* case that a transfer constitutes a fraudulent transfer, as the Trustee did here, the burden of producing evidence shifts to the transferee to demonstrate that the Debtor received a benefit or that there was some legitimate purpose for the transfer.”).

Trustee has satisfied his burden that Debtor made these transfers to Defendants while insolvent and without an exchange of reasonably equivalent value to Debtor. Therefore, Defendants’ liability under Bankruptcy Code § 544, applying O.C.G.A. §18-2-75, amounts to \$248,367.36 for each Defendant. Based on Trustee’s successful § 544 strong-arm state law fraudulent transfer claims, Trustee’s alternative avoidance and recovery theories under §§ 548(a)(1)(B) and 547 need not be determined.

For the reasons set forth, Trustee’s claims for fraudulent transfer pursuant to § 544 are granted. Judgment in favor of the Trustee in the amount of \$248,367.36 for each Defendant will be awarded by separate entry.

The clerk is directed to serve a copy of the opinion on the parties listed below.

END OF DOCUMENT

Distribution List

Paul H. Anderson, Jr.
Two Piedmont Center - Suite 315
3565 Piedmont Road, NE
Atlanta, GA 30305

James R. Schulz
Merritt Watson, LLP
Suite 500
200 Galleria Parkway
Atlanta, GA 30339-3183

Mukesh C. Patel
2860 Cravey Drive, N.E.
Atlanta, GA 30345-1420

Mike Patel
Diplomat Companies
2100 Parklake Drive, N.E.
Atlanta, GA 30345

Rajesh C. Patel
2253 Grady Ridge Trail
Duluth, GA 30097-5249

R.C. Patel
Diplomat Companies
2100 Parklake Drive, N.E.
Atlanta, GA 30345