

The Center for Special Needs Trust Association, Inc.

CSNTA is a 501(c)(3) non-profit Florida corporation that provides comprehensive trust services for beneficiaries and their representatives related to the formation and administration of Special Needs Trusts.

1

Agenda

- Introduction
- CSNTA
- Discovery of the "Loan"
- Bankruptcy Case
 - Trustee
 - Official Committee of Unsecured Creditors
 - Adversary Proceedings
 - Class Action
 - Automatic stay
- Winding Down the Center
- Litigation and what is next for the Victims


2



CSNTA

- Special Needs Trusts
- Structured Settlements
- Specialty Settlement Trusts
- Trust Services
- Disability benefits

3



CSNTA

- Pooled Trusts
- Individual Standalone Trusts
- Medicare set-aside Trusts
- Trust management services

4

2009 - 2011

- Between 2009 – 2011, \$100,000,000 of funds from Beneficiaries (Victims) and the Debtor were loaned to Boston Financial Group, a group controlled by the Debtor's founder Leo Govoni, which loan remains outstanding in an amount of not less than \$150 million ("Loan").
- Govoni personally guaranteed all amounts due under the Loan.
- Loan showed up as "Investment" on statements for various trusts where the Debtor is "trustee."

5

In re The Center for Special Needs Trust Association, Inc.

Bankruptcy Case No. 8:24-bk-676

- Officers and Directors resign
- Chapter 11 Trustee – Michael Goldberg appointed
- Unsecured Creditors Committee appointed
- Chief Restructuring Officer, Bill Long appointed to run the Center, Trust Distributions proceed under Court supervision
- Goldberg files "Adversary Proceeding" under the Loan Documents
- Proof of Claim process (ongoing)
- Collection efforts

6

In re The Center for Special Needs Trust Association, Inc.
Bankruptcy Case No. 8:24-bk-676

- Bankruptcy Schedules:
 - Asset: \$106,709,004 (face amount of BFG Loan)
 - Liabilities: 2000+ unsecured creditors (“victims” – the trusts and their beneficiaries)
 - Other: \$94 million - Assets held in actual accounts for special needs trusts (as of January 30, 2024) not including BFG loan amount
 - Funds in trust generally other people’s money
 - See 11 U.S.C. § 541

7

In re The Center for Special Needs Trust Association, Inc.
Bankruptcy Case No. 8:24-bk-676

- 11 U.S.C. § 541
 - (a)The commencement of a [bankruptcy case] creates an estate. Such estate is comprised of all the following property, wherever located and by whomsoever held:
 - (1)Except as provided in subsections (b) and (c)(2) of this section, **all legal or equitable interests of the debtor in property as of the commencement of the case.**
 - (d) Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, ...becomes property of the estate under subsection (a)(1) or (2) of this section **only to the extent of the debtor’s legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.**

8

Adversary Proceeding

8:24-ap-00139 - Goldberg, as Chapter 11 Trustee of the estate of D v.
Boston Finance Group, LLC et al

- This is the Trustee’s first lawsuit
- **Defendants:** Boston Financial Group, LLC.; Leo Govoni
- **Counts:** Breach of Contract (Loan; Guaranty) (\$100,000,000 loan plus interest, fees, etc.); Accounting; Turnover of Property of the Estate

9

Class Action

8:24-cv-00438 - Chamberlin et al v. Boston Finance Group, LLC et al

- **Defendants:** Boston Financial Group, Boston Asset Management Group, Prospect Funding Holdings, LLC, Prospect fundings Partners, LLC, Prospect Funding Holdings (NY) III, LLC, Leo Govoni, John Staunton, Jonathan Golden, American Momentum Bank
- **Counts:** Conversion, Breach of Fiduciary Duty, Negligence, Violation of Fla. Stat. 726.105 (Fraudulent Transfer), Unjust Enrichment, Alter Ego
- **Automatic Stay 11 U.S.C. § 362**

10

Class Action

8:24-cv-00438 - Chamberlin et al v. Boston Finance Group, LLC et al

- **Automatic Stay 11 U.S.C. § 362**
- **(a)**A petition ... operates as a stay, applicable to all entities, of—
 - **(1)**the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title...

11

Class Action

8:24-cv-00438 - Chamberlin et al v. Boston Finance Group, LLC et al

- **Judge Colton:**
 - "At the heart of the Trustee's Motion is the creation of a bankruptcy estate and the automatic stay that arises to protect the estate. The bankruptcy estate is created to facilitate a centralized administration of all assets of a debtor and all claims against the debtor... In this way, "[t]he bankruptcy system works to preserve a bankrupt company's limited assets and to then fairly and equitably distribute those assets among the creditors."
 - "[T]he Chamberlin Class Action Plaintiffs seek recovery of the same funds owed to Debtor under the Loan Documents, i.e., the \$100 million in principal amount loaned by Debtor to BFG. And yet, the legal claims based on the Loan Documents are property of the bankruptcy estate and are to be administered by the Chapter 11 Trustee."

12

Class Action

8:24-cv-00438 - Chamberlin et al v. Boston Finance Group, LLC et al

- Judge Colton:**
 - "Comingled funds generally constitute property of the bankruptcy estate unless and until they can be traced."
 - "[W]hat the CCC really alleges is that Debtor breached its fiduciary duty to the Beneficiaries by making an improper loan to an insider, and that the measure of damages is in large part the amount represented by the BFG Loan. In this respect, the claims against the defendants in the CCC are so intertwined with the claims that the Beneficiaries have against Debtor that they are effectively claims against Debtor."
 - "Moreover, the CCC seeks to recover those funds by impugning the validity of the Loan Documents, as the CCC's claims are necessarily based on the premise that the BFG Loan and the Loan Documents are a sham...Accordingly, the Court agrees with the Trustee and concludes that the Class Actions, as currently pled, violate the automatic stay."

13

Winddown Efforts: Trusts by State (the \$94 million)

As of August 2024:

2028 Trusts:

1,261 pooled trusts,

755 individual stand-alone trusts,

12 other non-pooled trusts

14

Winddown Efforts: Trusts by State (the \$94 million)

AK	1	IL	16	NH	1
AL	7	IN	16	NY	10
AR	1	KS	3	NY	403
AZ	12	KY	96	OH	67
CA	88	LA	14	OR	2
CO	4	MA	17	OK	4
CT	10	MD	7	OR	6
DC	1	ME	1	PA	15
DE	2	MI	21	SC	28
FL	543	MO	17	TN	46
FL	4	ND	6	TX	92
Fla	1	MO	1	UT	5
GA	41	MS	7	VA	21
GA	2	MT	1	VA	1
HI	1	NC	151	WI	1
Honduras	1	NC	1	WIS	4
IA	36	NE	29	WI	19
ID	2	NH	2	WV	11
		NI	26	WY	3

15

Winddown Efforts

- Motion to Wind Down Center
- By December 31, 2024
- CPT Institute
 - Opt out options

16

What Is Next for Victims?

- New Trustee and Trust Administration for Victims (personal choice)
- Plan of Liquidation
 - Pro rata accounting
- Goldberg Litigation / Recovery efforts
- Distributions after Recovery

17

Special Needs Trust – Lessons Learned

- Trustee Selection / Underwriting
 - Transparency
 - Reporting
 - Navigation Medicare and Social Security
 - Familiarity with State Rules and Regulations
- Oversight – Trust protector, removal
 - Ethical violations / lawsuits
 - License and regulation
 - Bonding & insurance

18

Special Needs Trust – Lessons Learned

Special Needs Trust Requirements

- Eligibility: not over 65 for 42 U.S.C. 1396p(D)(4)(A) trusts and many (D)(4)(C) trusts
- Funding: from beneficiary assets (or third party assets)
- Repayment of remaining funds to state if beneficiary received assistance during lifetime
- Trust responsibilities: Fiduciary duties, distributions, investment management
- Res use: For beneficiary needs only!
- Irrevocable: cannot be revocable to the beneficiary

19

Special Needs Trust – Regulatory Changes

- Current status: No regulatory rules after funding:
- 42 U.S.C. 1396p(D)(4)(a) – First Party SNT (assets which belong to beneficiary, self settled)
- 42 U.S.C. 1396p(D)(4)(c) – Pooled first party SNT
- Little oversight after funding
- Go to your local lawmakers

20

Thank you

21
