

IN THE CIRCUIT COURT OF BUCHANAN COUNTY, MISSOURI

COREFIRST BANK & TRUST,)	
)	
Plaintiff,)	
)	
v.)	Case No. 23BU-CC00725
)	
ARK CAPITAL BROOKSIDE, LLC, et. al.)	
)	
Defendants.)	
)	

FILED
 8/30/2023
 10:43 AM
 ASHLEY THRASHER
 CLERK CIRCUIT COURT
 BUCHANAN COUNTY, MO

ORDER GRANTING MOTION FOR ORDER IN CONTEMPT AND SANCTIONS

This matter is before the Court on the motion by CoreFirst Bank & Trust (“CoreFirst”) and James MacLaughlin, in his capacity as Limited Receiver (“Limited Receiver”), for an order finding Defendant Amogh Karney (“Karney”) in contempt of Court and imposing sanctions on him for violations of the Court’s Order for Appointment of Receiver.

After having been properly noticed, this matter came before the Court for hearing on August 30, 2023. Based upon the information presented to the Court at the hearing and the record in this matter, the Court finds and orders as follows:

1. CoreFirst initiated this action on May 3, 2023, seeking, *inter alia*, the appointment of a Limited Receiver over an apartment complex located at 1602 Brookside, Drive, St. Joseph, Missouri (the “Property”).

2. As set forth in both the Verified Petition and the Motion for Appointment of Limited Receiver, one basis for seeking the appointment of a Limited Receiver was that CoreFirst had determined that Karney was failing to remit cash rents received by ARK Capital Brookside, LLC from tenants of the Property to CoreFirst, despite the fact that such rents were the property of CoreFirst pursuant to the Assignment of Rents attached to the Verified Petition as Exhibit C.

3. The Court entered its Order for Appointment of Receiver on May 19, 2023 (the “Receivership Order”), appointing James MacLaughlin as the Limited Receiver.

4. Pursuant to Paragraph 13 of the Receivership Order:

Defendants and its agents, servants, employees, representatives, attorneys, officers, directors, managers, members, partners, or other individuals exercising or having the power to exercise control over the affairs of Defendants are hereby enjoined from:

- (a) Collecting or attempting to collect Income and are hereby further directed to deliver to the Receiver all Income which has or may come into its possession; and
- (b) Interfering in any manner whatsoever with the Receiver in the performance of his responsibilities and duties under this Order.

5. CoreFirst served Karney with a copy of the motion to appoint the Limited Receiver and the Receivership Order, and Karney appeared personally at the hearing on the motion to appoint the Limited Receiver, indicating that he had no objection to the Limited Receiver’s appointment. Therefore, Karney had direct and personal knowledge that the Limited Receiver had been appointed and the terms, conditions, and prohibitions contained within the Receivership Order.

6. Upon taking control of the Property in his role as Limited Receiver, the Limited Receiver left in place Criss Eighmy (“Eighmy”), who was serving as the property manager prior to the Limited Receiver’s appointment, and Maggie McDowell (“McDowell”), who was serving as the office manager prior to the Limited Receiver’s appointment.

7. On August 14, 2023, the Limited Receiver, with the written consent of CoreFirst, retained the services of Berkshire Hathaway HomeServices Stein & Summers Real Estate (“Berkshire Hathaway”) to serve as the new property manager for the Property. Based upon the retention of Berkshire Hathaway, the Receiver informed Eighmy that his services as property

manager were being terminated effective immediately. Berkshire Hathaway, in consultation with the Limited Receiver, elected to retain McDowell's services, with Berkshire Hathaway making her the on-site manager for the Property.

8. On August 15, 2023, McDowell informed the Limited Receiver via email that on or about August 12, 2023, Eighmy instructed her to retrieve any cash that was being held in the safe at the Property and to give it to Karney who was on his way to the Property.

9. McDowell did as instructed by Eighmy – she retrieved all of the cash from the safe in the amount of \$650.00, which was the August rent for Apartment 101, and delivered that cash to Karney.

10. By intercepting the cash rents before the Limited Receiver could remit them to Plaintiff, Karney directly violated the Receivership Order, specifically the prohibitions contained in Paragraph 13.

11. The \$650.00 that McDowell was instructed to give to Karney is the property of CoreFirst pursuant to the Assignment of Rents, and Karney had no right, title, or interest in those funds.

12. Further, on August 16, 2023, the Limited Receiver was informed by McDowell that Karney intends to bring individuals onto the Property at an undisclosed date and time in the near future to perform an inspection, without any notice or coordination with the Limited Receiver.

13. CoreFirst and the Limited Receiver do not oppose potential lenders or investors having access to the Property for legitimate inspection purposes. They do, however, object to Karney effectively performing an end-run around the Limited Receiver and reaching out directly to McDowell to gain access to the property. The Court finds that any visitation of the Property needs to be coordinated and supervised by the Limited Receiver or his designee.

14. The Court finds that Karney has directly violated the Receivership Order, and should be, and hereby is, found in contempt of the Court for said violation.

15. The Court further finds that sanctions are necessary to remedy the conversion of rents that took place on August 12, 2023, and to prevent any future violations of the Receivership Order.

IT IS, THEREFORE, BY THE COURT ORDERED that the Motion for Order in Contempt and Sanctions filed by the Limited Receiver and CoreFirst is hereby granted.

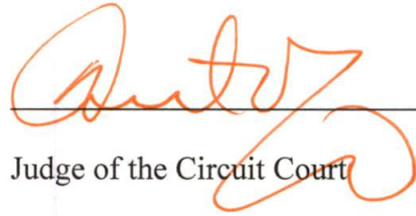
IT IS FURTHER ORDERED that Amogh Karney is hereby found in contempt of this Court for his willful violation of the Receivership Order in this case by intentionally taking possession of cash rents which rightfully belonged to CoreFirst.

IT IS FURTHER ORDERED that Karney is to pay sanctions for his contempt in the amount of \$950.00, which shall be paid to CoreFirst within 10 days of the entry of this Order. Said sanctions include the amount of \$650.00 necessary to reimburse CoreFirst for the converted rents, and an additional \$300.00 for attorney fees incurred by CoreFirst in bringing this motion before the Court.

IT IS FURTHER ORDERED that neither Amogh Karney or Criss Eighmy, or anyone acting on their behalf, are to have any contact, directly or indirectly, with Maggie McDowell or any other person employed, or contracted, by the Limited Receiver or Berkshire Hathaway to the extent such contact in any way relates to the Property, the management of the Property, or the business affairs of the Property, other than contacts with the attorney of record for the Limited Receiver.

IT IS SO ORDERED.

Dated: 30 AUG 2023


Judge of the Circuit Court

PREPARED AND APPROVED BY:

/s/ R. Patrick Riordan

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BUCHANAN COUNTY