

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT  
NEW HAVEN DIVISION**

**In re**

**Chapter 7 (Involuntary)**

**TAOM Heritage New Haven, LLC,**

**Case No. 25-30605 (AMN)**

**Debtor.**

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**UNITED STATES TRUSTEE’S RESPONSE TO PETITIONING  
CREDITORS’ MOTION FOR APPOINTMENT OF INTERIM TRUSTEE**

William K. Harrington, the United States Trustee for Region 2 (“United States Trustee”), in furtherance of his duties and responsibilities set forth in 28 U.S.C. § 586(a), files this response to the Petitioning Creditors’ Motion for Appointment of an Interim Chapter 7 Trustee filed on July 1, 2025 (ECF 5). In support of this statement, the United States Trustee, through the undersigned counsel, respectfully represents and states the following:

**PRELIMINARY STATEMENT**

The Petitioning Creditors in this involuntary chapter 7 seek the expedited appointment of an interim trustee during the gap period between the filing of the involuntary petition and the entry of order for relief under 11 U.S.C. § 303(g), based on the alleged continuing deterioration of the Debtor’s real property and apparent dissipation of the Debtor’s funds. The Petitioning Creditors, however, have not met their burden of proof to show that an interim trustee is necessary during the gap period to preserve the property of the estate or to prevent loss to the estate. Here, it appears, (i) the Debtor’s real property, a former clock factory, has been deteriorating and partially contaminated with radium for many years, (ii) the Debtor has no funds that it could potentially dissipate, (iii) an interim trustee, stepping into the shoes of the Debtor, would have no funds to preserve the real property or undertake remediation efforts, (iv) an interim trustee would have

insufficient knowledge of the real property to undertake either preservation or remediation even if funds were available, (v) an interim trustee would be likely unable to obtain property and liability insurance even if funds were available, and (vi) the Debtor's real property is the subject of a foreclosure action pending in the State of Connecticut Superior Court.<sup>1</sup>

## **I. BACKGROUND**

### **A. Involuntary Chapter 7 Case**

1. On June 26, 2025, petition creditors C. William Kraus, d/b/a C.W. Kraus Preservation & Development, Rescue 1 Pest and Termite Control, LLC, Decontamination Decommissioning and Environmental Services, LLC, and T.S.J., Inc. (collectively, "Petitioning Creditors") filed a chapter 7 involuntary petition against TAOM Heritage New Haven, LLC ("Debtor") under case number 25-30605. ECF 1. The Petitioning Creditors are represented by Attorney Jeffery Hellman ("Attorney Hellman").

2. The deadline for the Debtor to file an Answer to the Involuntary Petition is July 18, 2025. ECF 4.

3. On July 1, 2025, the Petitioning Creditors filed a motion for appointment of an interim chapter 7 trustee pursuant to 11 U.S.C. § 303(g), along with a memorandum of law and exhibits (collectively, the "Motion"). ECF 5. According to the Motion:

- a. The Debtor owns real property located at 133 Hamilton Street, New Haven, CT 06510 ("Property"). ¶ 1
- b. The Property is the site of a former clock company factory which used radium. ¶ 3.
- c. The Property is contaminated despite some remediation efforts. ¶¶ 3-4.

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<sup>1</sup> See *City of New Haven v. TAOM Heritage New Haven, LLC, et al*, State of Connecticut Superior Court for Judicial District of New Haven, Case Number NNH-CV22-6122582-S ("State Foreclosure Action").

- d. The Property is the Debtor's only asset. ¶ 24
  - e. The Debtor has no cash on hand. ¶ 24.
  - f. In 2021, the City of New Haven reissued<sup>2</sup> a Notice of Unsafe Structure. ¶ 9.
  - g. In 2022, the City of New Haven issued a Notice of Violation Anti-Blight and Property Maintenance Ordinance. ¶ 10.
  - h. In 2022, the Property was damaged during break-ins. ¶12.
  - i. In the summer of 2024, several unhoused people were living at the Property, and there were two fires. ¶ ¶14, 19 and 20.
  - j. In July 2024, the City of New Haven issued an order for the Debtor to secure the property, but the Debtor failed to do so. ¶¶16 and 18.
  - k. Since purchasing the Property, the Debtor received government funds and other loans and grants exceeding \$5 million of which \$570,000 appears to have been misappropriated by the Debtor's management. ¶ 22.
  - l. The Property is continuing to deteriorate and is unsafe. ¶ 21.
  - m. In March 2023, the state court issued a Judgement of Foreclosure by Sale of the Property, and in connection with the foreclosure judgment the Property was appraised at over \$3 million. ¶ 23.
4. On July 3, 2025, a Joinder of Creditors to the Involuntary Petition was filed by Attorney Hellman on behalf of Sydney Simpkins d/b/a Sydney Simpkins Associates and CT Environment and Demo Limited Liability Co. ECF 6.

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<sup>2</sup> In 2020, the City of New Haven issued a Notice of Unsafe Structure. ECF 5-1 at p. 2, n.1.

5. On July 3, 2025, the Petitioning Creditors filed a motion for an expedited hearing on the Motion, and the same day, the Court granted it and entered an order scheduling a hearing on the Motion for July 11, 2025. ECF 7 and 8.

B. State Foreclosure Action

6. On April 13, 2022, the City of New Haven filed a foreclosure complaint against the Debtor (“Foreclosure Complaint”). *See City of New Haven v. TAOM Heritage New Haven LLC et al*, Case No. NNH-CV22-6122582-S.

7. According to the Foreclosure Complaint:

- a. On October 1, 2018, the Debtor was the record owner of the Property.<sup>3</sup>
- b. As plaintiff, the City of New Haven has an interest in the Property based on unpaid taxes constituting a lien on the Property.
- c. Seven other defendants have encumbrances subsequent and subordinate to the interest of the plaintiff before foreclosed including South Central Connecticut Regional Water Authority, Greater New Haven WPCA, Agnes Yagovane, State of Connecticut Department of Economic and Community Development, City of New Haven, State of Connecticut Department of Environmental Protection, and Sprint Spectrum, LLC f/k/a Sprint Spectrum, L.P.<sup>4</sup>
- d. The City of New Haven claims or may claim some interest in the Property based on an Open-ended Mortgage Deed with an original principal of \$800,000 dated September 27, 2019.

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<sup>3</sup> According to the Connecticut Assessor’s Database for New Haven, CT, on June 29, 2018, the Debtor purchased the Property from T.S.J., Inc. for \$1,400,000. <https://gis.vgsi.com/newhavenct/Parcel.aspx?Pid=10595>

<sup>4</sup> All defendants have filed appearances. *See* State Foreclosure Action Docket generally.

- e. The City of New Haven claims or may claim some further interest in the Property by virtue of Notice of Unsafe Structure dated June 22, 1989, Unsafe Notice and Order to Demolish dated October 24, 2002, Unsafe Notice dated April 2, 2007, Unsafe Notice dated April 20, 2007, Unsafe Notice and Order to Demolish on March 6, 2008, Notice of Unsafe Structure dated October 9, 2020, Notice of Unsafe Structure dated January 22, 2021, Notice of Unsafe Structure dated July 2, 2021, and Notice of Unsafe Structure dated January 11, 2022.
  - f. Agnes Yagovane claims or may claim some interest in the Property by virtue of a Mortgage Deed from T.S.J., Inc. to Anthony Yagovane, Sr. and Agnes Yagovane in the original principal amount of \$1,250,000 date March 31, 2005, as assigned to Agnes Yagovane by that certain Assignment of Note, Mortgage and Assignment of Leases dated June 28, 2018, and as modified by virtue of an Assignment and Assumption and Note and Mortgage Modification Agreement dated June 29, 2018. *Id.* at p. 3.
  - g. The State of Connecticut, Department of Economic and Community Development, claims or may claim some interest in the Property by virtue of a Negative Pledge and Agreement dated June 4, 2018, and by virtue of an Amended and Restated Negative Pledge and Agreement dated November 20, 2018.
8. On June 14, 2022, the State of Connecticut Department of Energy and Environmental Protection filed an amended answer raising a special defense that its interest in the Property by virtue of Administrative Order No. PCB91-01, a pollution abatement order entered due to spill of polychlorinated biphenyl (“PCB”) from an electrical transformer issued against T.S.J., Inc., the Debtor’s predecessor, runs with the land and may not be extinguished by foreclosure. *See* State Foreclosure Action, Entry No. 108.

9. On September 15, 2022, the City of New Haven filed a withdrawal of action against the State of Connecticut, Department of Energy and Environmental Protection. *See* State Foreclosure Action, Entry No. 118.

10. On May 17, 2023, the state court issued a Judgement of Foreclosure by Sale. *See* State Foreclosure Action, Entry No. 125.25.

11. On June 5, 2025, the state court entered an order modifying the Judgment of Foreclosure by Sale to extend the sale date to October 4, 2025.<sup>5</sup> *See* State Foreclosure Action, Entry No. 175.00.

## II. RESPONSE

“An involuntary petition is an ‘extreme remedy with serious consequences to the alleged debtor.’ As such, a court should not lightly enter an order for relief. An even more extreme remedy—the appointment of an interim trustee—is permitted by section 303(g) of the United States Bankruptcy Code.” *In re Diamondhead Casino Corporation*, 540 B.R. 499, 505 (Bankr. D. Del. 2015) (*quoting In re Forever Green Athletic Fields, Inc.*, 804 F.3d 328, 335 (3d Cir. Oct. 2015)).

Section 303(g) of the Bankruptcy Code governs the appointment of an interim trustee in an involuntary chapter 7 case. “At any time after the commencement of an involuntary case under chapter 7 of this title but before an order for relief in the case, the court, on request of a party in interest, after notice to the debtor and a hearing, and **if necessary to preserve the property of the estate or to prevent loss to the estate**, may order the United States Trustee to appoint an interim trustee under section 701 of this title to take possession of the property of the estate and to operate any business of the debtor.” 11 U.S.C. 303(g) (*emphasis added*).

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<sup>5</sup> The Judgment of Foreclosure by Sale was reopened and modified at the Debtor’s request and with the apparent consent of the City of New Haven. *See* State Foreclosure Action, Entry Nos. 174 and 174.10. No objections to the sale date being extended appear on the docket. *See* State Foreclosure Action Docket generally.

“There is limited case law applying section 303(g), no doubt because the request for such relief is rare. The case law that does exist counsels that a request for an interim trustee should be denied in ‘the absence of exceptionally strong need for doing so’ or ‘where no facts are alleged showing a necessity for the appointment.’ In order to appoint a trustee, a movant must show ‘a substantial risk of loss to the estate.’” *In re Diamondhead Casino Corporation*, 540 B.R. 499, 505 (*internal citations omitted*).

The Petitioning Creditors have not met their burden to show that there is a substantial risk of loss before the order for relief may enter. The Petitioning Creditors have stated that the Debtor has no funds and no other property, and, accordingly, there would be no funds for the Debtor to potentially dissipate in the gap period.

The Petitioning Creditors have not demonstrated a sudden deterioration of the Property. Rather, the Property has been in decline for decades as evidenced by the City of New Haven’s nine Notices of Unsafe Structure beginning on or about June of 1989 and continuing through September 11, 2022. Notably, five of the nine Notices of Unsafe Structure predate the Debtor’s purchase of the Property. Similarly, the presence of radium on the Property is not new—any radium on the Property has been lingering since it was the home to a former clock factory.

Further, the State Foreclosure Action reflects (i) all defendants alleged to have encumbrances on the Property have appeared, (ii) the aggregate effect of the encumbrances raises the possibility that the Debtor has little or no equity in the Property, and (iii) the state court entered an order modifying the Judgement of Foreclosure by Sale of the Property on June 5, 2025.

As it appears that the Debtor has no funds and no other assets, should an interim trustee be appointed to step into the shoes of the Debtor, the trustee would have no funds to meet the Petitioning Creditors stated goal of preserving the Property. Moreover, it is likely that a trustee,

with no funds to administer the estate, would quickly move to abandon the Property, with its inherent risk of liability and questionable equity, back to the Debtor.

### **CONCLUSION**

The burden to demonstrate that necessity of appointing an interim trustee is a difficult one and does not appear to have been met by the contents of the Motion.

Dated: July 8, 2025  
New Haven, Connecticut

Respectfully submitted,

WILLIAM K. HARRINGTON  
UNITED STATES TRUSTEE FOR REGION 2

By: /s/ Kim L. McCabe  
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Federal Bar No.: ct23661 (Connecticut)

### **CERTIFICATE OF SERVICE**

This certifies that a copy of the foregoing was served on all parties listed below on July 8, 2025 via the Electronic Case Filing System maintained by this Court or by first class mail on the parties listed as noted below:

- **Jeffrey Hellman** jeff@jeffhellmanlaw.com, christen@jeffhellmanlaw.com

### **Parties Served Via First Class Mail on July 8 , 2025:**

**TAOM Heritage New Haven LLC**  
Attn: Managing Member  
1050 SW 6th Avenue, Suite 1100  
Portland, OR 97204  
(Involuntary Debtor)

/s/ Kim L. McCabe  
Kim L. McCabe