

IN THE CHANCERY COURT OF HICKMAN COUNTY, TENNESSEE

In re: SENTINEL TRUST CO. )  
 ) No. 4781  
 )  
 KEVIN P. LAVENDER, In his official )  
 capacity as Commissioner-In-Possession )  
 of Sentinel Trust Company and )  
 Receivership Management, Inc., Received )  
 of Sentinel Trust, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 4980  
 )  
 DANNY N. BATES, et al., )  
 )  
 Defendant. )  
 )

**STATUS REPORT AND REQUEST FOR STATUS CONFERENCE**

On August 11, 2009, the Court issued an Order requiring Counsel for the Sentinel Trust Receiver to file a report regarding the above-captioned cases and to set forth the:

status of the matter, the remaining tasks to close out the case, any other needed proceedings and an estimated date for closure of the case.

**a) Status of In re: Sentinel Trust Co. #4781**

The status of the In re: Sentinel Trust Co. matter (i.e., the Receivership Proceeding) is that once the final outstanding asset collection effort has been completed (the Lavender v. Bates #4980 case – “Bates Case”), the Receivership Proceedings will be ready for final distributions, final accountings and closure. The Sentinel Trust Receiver would estimate that once the Bates Case is decided with finality, a period of approximately six (6) months would be needed to address final distributions and other matters attendant to the closure of the Sentinel Trust Receivership. The tasks that would remain after the final disposition of the Bates Case would

include i) efforts relating to the establishment, approval and payment of a final distribution, ii) addressing logistics of the actual closing of the Receivership proceedings (e.g., disposition of unclaimed distribution funds, and document retention), iii) filing of a final accounting for approval of the Court, and iv) moving for (and obtaining) an order closing the estate, relieving the Commissioner-In-Possession of liability in connection with the receivership and cancelling the Sentinel Trust Company charter. T.C.A. §45-2-1504(k).<sup>1</sup> The Sentinel Trust Receiver knows of no other proceedings that would be needed in the Receivership Proceedings other than the proceedings necessary to approve the final distribution, approve a final accounting and issue orders that would close the Sentinel Trust Receivership.

**b) Status of Lavender v. Bates #4980**

The Court had an Order entered on January 29, 2009 which stayed all proceedings in the Bates Case until after the criminal trial of Danny Bates, which was then scheduled to go to trial on April 26, 2009 in the Criminal Court of Davidson County. On Friday, May 1, 2009, a Davidson County Criminal Court jury found Mr. Bates guilty of two felony counts of theft of over \$60,000.<sup>2</sup> On June 26, 2009, Bates was sentenced to two concurrent eight-year sentences, all of which to be served on probation after serving ten (10) days in jail. It is the understanding of the Sentinel Trust Receiver that Bates has already served his ten (10) day sentence. On July

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<sup>1</sup> Counsel to the Sentinel Trust Receiver has reviewed the files in this matter and, in good faith, has found only one other "open" matter that the Sentinel Trust Receivership will have to address -- and it is a small one. The City of Pearsall, Texas has had on file, since December 2007, a suit naming Sentinel Trust Co. and Receivership Management as defendants in a property tax collection action. The Sentinel Trust Receiver has investigated the matter and presented to the City of Pearsall's counsel information that would show that the parcel over which property taxes are being sought has never been titled in Sentinel Trust's name. While counsel for the City of Pearsall has said that they would not prosecute the action, they have, to date, refused to dismiss it either.

<sup>2</sup> Counsel for the Sentinel Trust Receiver notified the Court of this through letter (copied to all parties) dated May 13, 2009.

31, 2009, a hearing as to restitution was held in the Bates criminal matter. Restitution of \$600,000 was ordered, joint and several as to each of the two counts of which he was found guilty. Thirty (30) days has passed from that July 31, 2009 date without Bates filing a motion for new trial or filing a notice of appeal. With the criminal matter closed, the stay of proceedings in the Bates Case should be lifted.

The Bates Case was filed on May 17, 2005. Limited discovery has occurred, but because the progression of the case has been stayed only since this Court's January 29, 2009 Order, the opportunity to discover matters has been available since its mid-2005 filing.

Given the criminal conviction and factual determinations arising from it, as well as the factual determinations set forth in In re: Sentinel Trust Company, 206 S.W.3d 501 (Tenn. Ct. App. 2005), the Sentinel Trust Receiver wants the opportunity to move for summary judgment as to the bulk of the claims set forth against Danny N. Bates in the Bates Case. Summary judgment as to claims against various of the other defendants can also be sought at this time (e.g., unjust enrichment as to June Bates). There may also be dispositive motions that various of the Defendants may want to make (e.g., an affirmative defense of statute of limitations has been raised by Bates). The Sentinel Trust Receiver maintains that a motion for summary judgment could be on file within forty-five (45) days<sup>3</sup> and would address matters for which no further discovery would be needed.

In the alternative, or perhaps on a parallel track with the preparing of a motion for summary judgment, the Court could order the parties to mediation, but the Sentinel Trust

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<sup>3</sup> The Sentinel Trust Receiver would ask that the forty-five (45) day time frame be measured from the date of a status conference (as requested herein) or the date of entry of a Scheduling Order if the Court decides not to have a status conference.

Receiver would be in favor of that only if the Court, after a status conference and receiving statement from all concerned, is persuaded that such effort would be constructive.

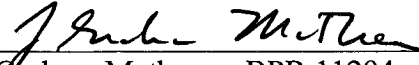
If the Court is predisposed to allow a period of time for summary judgment motions to be filed and/or for mediation to occur, then the Sentinel Trust Receiver would request that during that period further discovery be allowed only upon a showing that it is necessary to the summary judgment motions or mediation.

Otherwise, a Scheduling Order is needed in the Bates Case. The Sentinel Trust Receiver feels that one should be entered after a status conference is held -- one where all are instructed to bring calendars and be prepared to set dates. Consistent with its request set forth above, the Sentinel Trust Receiver would request a Scheduling Order to first allow a time (e.g., three months) for the filing, responding and deciding of dispositive motions. The Scheduling Order should then provide for a period for pleading amendment and discovery (e.g., six months) with either a subsequent case management conference set at the close of discovery or with a pre-trial conference, with parallel trial date, set for three and four months after the close of discovery.

**c) Request for Status Conference**

As referenced herein, the Sentinel Trust Receiver asserts that a Status Conference is needed in this matter so as to discuss setting of deadlines particularly in relation to the Bates Case. Through this filing, the Sentinel Trust Receiver requests such a conference be set at the earliest time available to the Court's schedule.

Respectfully submitted,



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J. Graham Matherne, BPR 11294

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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been served upon the following, via U.S. Mail and via Federal Express as noted, on this the 8<sup>th</sup> day of September, 2009.

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