

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

ALDRICH PUMP LLC and MURRAY BOILER LLC,

Plaintiffs,

v.

THOSE PARTIES TO ACTIONS LISTED ON
APPENDIX A TO THE COMPLAINT AND JOHN
AND JANE DOES 1-1000,

Defendants.

Chapter 11

Case No. 20-30608 (JCW)

(Jointly Administered)

Adversary Proceeding

Case No. 20-03041 (JCW)

**FUTURE ASBESTOS CLAIMANTS' REPRESENTATIVE'S OMNIBUS REPLY IN
SUPPORT OF THE DEBTORS' (I) PRELIMINARY INJUNCTION MOTION AND
(II) MOTION FOR PARTIAL SUMMARY JUDGMENT**

For the reasons stated in *The Future Claimants' Representative's Initial Submission on the Debtors' Preliminary Injunction Motion*² (Adv. Pro. Dkt. No. 129) and *Joinder in Support of the Debtors' Motion for Partial Summary Judgment*³ (Adv. Pro. Dkt. No. 105), Joseph W. Grier, III, the representative for future asbestos claimants in the above-captioned cases (the "FCR") urges

¹ The Debtors are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Aldrich Pump LLC (2290) and Murray Boiler LLC (0679). The Debtors' address is 800-E Beaty Street, Davidson, North Carolina 28036.

² The "Preliminary Injunction Motion" refers to the *Debtors' Motion for an Order (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) Declaring that the Automatic Stay Applies to Such Action, and (III) Granting a Temporary Restraining Order Pending a Final Hearing* (Adv. Pro. Dkt. No. 2).

³ The "Motion for Partial Summary Judgment" refers to the *Debtors' Motion for Partial Summary Judgment That All Actions Against the Protected Parties To Recover Aldrich/Murray Asbestos Claims Are Automatically Stayed by Section 362 of the Bankruptcy Code* (Adv. Pro. Dkt. No. 90).



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the Court to enter the preliminary injunction and grant the Debtors' Motion for Partial Summary Judgment.

First, as to the preliminary injunction, there is nothing about the facts and circumstances of these Debtors' cases that suggests there should be a different result here from the dozens of other asbestos bankruptcy cases where preliminary injunctions were granted without objection.⁴ In each of those cases, the preliminary injunction facilitated the creation of an asbestos trust, as it will here. It is true that these Debtors' cases followed a pre-petition corporate restructuring – the stated purpose of which is to resolve legacy asbestos tort liabilities in bankruptcy – but while that is an unusual posture, it is not unique. Moreover, that posture only requires answers to three factual questions: (1) whether the Debtors have access to funding from their affiliates to pay their allocated tort liabilities in full; (2) whether the affiliates have the wherewithal to satisfy those funding obligations; and (3) whether the affiliates intend to honor those obligations. The FCR asked those questions of multiple representatives of the Debtors and their affiliates during pre-trial discovery. Each representative, under oath, answered each question in the affirmative.⁵ The

⁴ See *The Future Claimants' Representative's Initial Submission on the Debtors' Preliminary Injunction Motion*, Adv. Pro. Dkt. No. 129, at 15-16, n.41.

⁵ See, e.g., Amy Roeder Dep. Tr., March 16, 2021, 240: 2-7 (“Q: The funding agreements are the vehicle whereby Aldrich and Murray will have assurances that there will be enough money to pay the asbestos liabilities that have been assigned to them? A: Yes, that’s correct.”), 240:16-26, 241:2-4 (“Q: Can you help the Court understand the financial wherewithal of the two payers under the funding agreements such that they will have the ability to pay the debtors’ asbestos liabilities when that comes due? A: I’ve reviewed the most recent financial statements of both Trane Technologies – ‘recent being they submitted their Q3 2020 financial statements’ – and I reviewed both of those from Trane Technologies LLC and Trane U.S. Inc. and in both of those, there is more than enough cash available to be able to fund this.”), 241:17-25, 242:2-4 (“Q: But that review of those financial statements is what gives you confidence that the payers can and will honor obligations under the funding agreement? A: That gives me comfort from just a pure financial view in looking at the statements. What gives me more comfort is that, quite frankly, I’ve been with the company for 25 years, and the company – they want to do what’s right, and they’ve committed to funding this. And that’s the one thing I know that they will do.”). See also Chris Kuehn Dep. Tr., March 19, 2021, 290:12-25, 291:2 (“Q: What could you tell me, as the most senior financial officers, as to the financial ability of those payers to honor their obligations under the funding agreement? A: My understanding is either the payors or the parents to those payors make up the operating companies of Trane Technologies LLC, a roughly close to \$13 billion revenue company. So between the entities or the entities that own them, there’s sufficient capital to fund those funding agreements. Q: And there’s no cap on those payors’ obligations under the funding agreement, correct? A: I’m not aware of any caps.”).

presence of the Funding Agreements and the equity value of the Debtors' parent company, Trane Technologies, PLC (\$41 billion as of April 22, 2021),⁶ validates the first two answers. The validity of the third answer lies in the credibility of those representatives, which the Court can assess during the hearing on the Preliminary Injunction Motion. In the end, the Debtors' ability to pay valid asbestos tort claims in full, combined with the good faith intention to do so, renders the ACC's myriad objections to the Preliminary Injunction Motion moot. That the Debtors engaged in a corporate restructuring *before* the bankruptcy, as was also true in Garlock and Paddock, is irrelevant to the merits of the Preliminary Injunction Motion, and most certainly does not justify a wholesale return to the tort system for current claimants. To the contrary, what matters is how the Debtors *exit* bankruptcy, which lies within this Court's full control, subject to the ACC's substantial influence. If, during the reorganization process, individual claimants are allowed to pursue derivative claims against non-Debtors outside of this Bankruptcy Court, those claimants will receive disparate recoveries when compared to not only each other, but also to both classes of asbestos claimants, current and future. That result is antithetical to the most basic of bankruptcy principles (equal treatment) and the very purpose of Section 524(g) (payment of all claims through a trust), which makes the pursuit of that result by a creditor class fiduciary all the more perplexing.

Second, as to the Motion for Partial Summary Judgment, nothing in the ACC's objection and supplemental objection changes the legal reality that derivative claims based on the rights of a debtor belong to that debtor and, therefore, constitute property of the estate, fully protected by the automatic stay. That straightforward, black letter legal reality determines the disposition of the Motion for Partial Summary Judgment. The Debtors, in seeking both a declaration that the automatic stay applies to derivative claims and a preliminary injunction, have

⁶ Nasdaq, Trane Technologies plc (TT) (April 22, 2021, 5:00 p.m.), <https://www.nasdaq.com/market-activity/stocks/tt>.

adopted a belt and suspenders approach. In truth, they only needed the belt. The automatic stay is sufficient.

Accordingly, the FCR respectfully requests that the Court grant the Preliminary Injunction Motion and the Motion for Partial Summary Judgment and award such other relief as may be just and proper.

Dated: April 23, 2021
Charlotte, North Carolina

Respectfully submitted,

/s/ A. Cotten Wright

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