UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLORADO

# Jeffrey A. Weinman, Chapter 7 Trustee v. Scot Seevers; Seevers Transfer & Storage, LLC; Gary M. Buchholtz; Buchholtz TLC Commercial LLC; Buchholtz LLC; and Bittersweet Liquor Investments LLC

Case No. 23-14158 MER; Adversary Proceeding No. 24-1126 MER · No. Case No. 23-14158 MER; Adversary Proceeding No. 24-1126 MER · Decided June 2, 2026

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## SUMMARY

This is an order from the United States Bankruptcy Court for the District of Colorado addressing the Chapter 7 trustee's motion for partial summary judgment in an adversary proceeding arising from the bankruptcy of MER Worldwide Moving Systems LLC. The trustee sought to avoid alleged preferential transfers and obtain judgment on an aiding-and-abetting fraudulent-transfer claim involving rent payments and the sale of substantially all of the debtor's assets. The court discusses summary-judgment procedure, the defendants' failure to properly controvert material facts, and the elements of preference avoidance under 11 U.S.C. § 547.

## CASE DETAILS

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| COURT | United States Bankruptcy Court for the District of Colorado |
| WRITING FOR THE COURT | Michael E. Romero |
| JURISDICTION | United States Bankruptcy Court for the District of Colorado |
| DECIDED | June 2, 2026 |
| DOCKET | Case No. 23-14158 MER; Adversary Proceeding No. 24-1126 MER |
| DISPOSITION | other |
| PROCEDURAL POSTURE | The Chapter 7 trustee moved for partial summary judgment in an adversary proceeding on a preference-avoidance claim under 11 U.S.C. § 547 and an aiding-and-abetting fraudulent-transfer claim. The Buchholtz defendants opposed the motion and asserted an ordinary-course defense. |
| STANDARD OF REVIEW | Summary judgment is proper under Federal Rule of Civil Procedure 56 when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views the |

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| | record and draws reasonable inferences in favor of the nonmovant, but unsupported conclusory assertions and arguments of counsel do not create a genuine factual dispute. |
| **PRECEDENTIAL VALUE** | Unknown; bankruptcy court order with no stated precedential designation |

## TOPICS

summary judgment | preferences | fraudulent transfer | chapter 7 | adversary proceedings

## PRACTICE AREAS

Bankruptcy | Civil procedure | Commercial litigation | Fraudulent transfers | Preference avoidance

## QUESTIONS PRESENTED

1. Whether the trustee was entitled to summary judgment on the § 547(b) preference claim as to the February 2023 and April 2023 rent payments and the $57,500 down payment.
2. Whether genuine disputes of material fact precluded summary judgment on the § 547(b) preference claim as to the September 2022 through January 2023 rent payments.
3. Whether the Buchholtz defendants waived or established the ordinary-course defense under § 547(c)(2).
4. Whether the trustee was entitled to summary judgment on the aiding-and-abetting fraudulent-transfer claim.
5. Whether the debtor was insolvent as of February 10, 2023.

## HOLDINGS

1. A party opposing summary judgment cannot create a genuine dispute by merely labeling facts untrue or by presenting unsupported factual assertions. Under Rule 56(e) and Local Bankruptcy Rule 7056-1(d), the court may deem properly supported facts undisputed when the nonmovant fails to properly controvert them, but it must still determine whether the undisputed facts establish entitlement to judgment as a matter of law.
2. The trustee established all required elements of § 547(b) as to the February 2023 rent payment of $16,900, the April 2023 rent payment of $45,000, and the $57,500 down payment paid to TLC on March 20, 2023; summary judgment was therefore granted as to those transfers.
3. Summary judgment was denied as to the five rent payments totaling $62,500 because genuine disputes remained regarding whether the payments were made on account of antecedent debts and whether the debtor was insolvent when those payments were made.
4. The ordinary-course defense was not waived merely because it was first raised in opposition to summary judgment, because the trustee showed no prejudice or unfair surprise. Nevertheless, the Buchholtz defendants were not entitled to the defense because they offered no competent evidence establishing its elements.

5. Summary judgment was denied on the trustee's aiding-and-abetting fraudulent-transfer claim because disputed issues of material fact concerning whether the underlying transfers were fraudulent also created disputes concerning the Buchholtz defendants' awareness of the alleged wrongful conduct.
6. The debtor was insolvent as of February 10, 2023.

### KEY QUOTATIONS

> *"a court may award summary judgment only when there is no genuine dispute as to any material issue of fact to be tried, and the movant is entitled to judgment as a matter of law."* (Summary Judgment Standard)

> *"Current rent payments are not on account of an antecedent debt; late rent payments are on account of an antecedent debt."* (Analysis, Preference Claim § 547)

> *"Pursuant to Rule 56(g), the Court finds that the Debtor was insolvent as of February 10, 2023."* (Conclusion ¶ 6)

### FACTUAL BACKGROUND

World Wide Moving Systems LLC operated a moving and storage business and filed Chapter 7 bankruptcy after a state-court jury verdict and judgment exceeding $1.5 million. Before bankruptcy, the debtor sold substantially all of its assets to Seevers Transfer & Storage, LLC under an asset-purchase agreement, receiving a cash payment that was directed to Buchholtz TLC Commercial LLC and a long-term promissory note whose present value was substantially below its face amount. The debtor also made rent payments to TLC, including payments for February and April 2023 and earlier monthly payments. The trustee sought to avoid the rent and down-payment transfers as preferences and alleged that the Buchholtz defendants aided and abetted fraudulent transfers of the debtor's assets and Department of Defense revenue.

### PROCEDURAL HISTORY

The debtor filed Chapter 7 bankruptcy on September 15, 2023. The trustee commenced this adversary proceeding against the defendants, and Seevers and Seevers Transfer & Storage, LLC failed to appear; the court entered a default judgment against them on the fraudulent-transfer claim on August 22, 2024. The trustee then sought partial summary judgment against the Buchholtz defendants on preference and aiding-and-abetting claims. The court granted the motion in part as to specified transfers and the ordinary-course defense, denied it as to other preference payments and the aiding-and-abetting claim, and found the debtor insolvent as of February 10, 2023.

### DISPOSITION

other

### REMAND INSTRUCTIONS

No remand was ordered. The court directed that a status and scheduling conference would be set by separate order, and the unresolved preference issues were left for trial.

## CASES CITED

- Celotex Corp. v. Cattrett, 477 U.S. 317, 322 (1986)
- Schwartz v. Bd. of Maint. of Way Emp., 264 F.3d 1181, 1183 (10th Cir. 2001)
- Sports Unlimited, Inc. v. Lankford Enter., Inc., 275 F.3d 996, 999 (10th Cir. 2002)
- Whitesel v. Sengenberger, 222 F.3d 861, 866 (10th Cir. 2000)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Bailey v. Big Sky Motors, Ltd. (In re Ogden), 314 F.3d 1190, 1196 (10th Cir. 2002)
- Hill v. Brewer Oil Co. (In re Indian Capitol Distributing, Inc.), 484 B.R. 394, 401 (Bankr. D.N.M. 2012)
- Peltz v. Edward C. Vancil, Inc. (In re Bridge Information Systems), 474 F.3d 1063, 1066-67 (8th Cir. 2007)
- Bernstein v. RJL Leasing (In re White River Corp.), 799 F.2d 631, 633 (10th Cir. 1986)
- Kim v. White Resources, LLC (In re Sklar Exploration Co., LLC), 649 B.R. 45, 50, 52 (Bankr. D. Colo. 2023)
- Connolly v. Asbestos Abatement, Inc. (In re Iley), 606 B.R. 871, 888-90 (Bankr. D. Colo. 2019)
- Creative Consumer Concepts, Inc. v. Kreisler, 563 F.3d 1070 (10th Cir. 2009)
- Ahmad v. Furlong, 435 F.3d 1196, 1201-02 (10th Cir. 2006)
- Holmes v. Young, 885 P.2d 305, 308 (Colo. 1994)
- Sender v. Mann, 423 F. Supp. 2d 1155, 1176 (D. Colo. 2006)
- Rajala v. Gardner, 661 F. App'x 512, 516 (10th Cir. 2016)
- Mrs. Condies Salad Co., Inc. v. Colorado Blue Ribbon Foods, LLC, 2012 WL 5354848, at *5 (D. Colo. Oct. 30, 2012)

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