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## BLOGS

Post-Termination Injunctions

# Bankruptcy Court Grants Franchisor's Motion for Relief From Automatic Stay to Enforce Post-Termination Obligations Against Terminated Former Franchisee

In *PuroSystems, Inc. v. John Fralc (In re Fralc)*, 2008 WL 1932311 (Bankr. D. Ariz. April 28, 2008), PuroSystems made a motion to the bankruptcy court seeking relief from the automatic stay in order to enforce injunctive relief, granted through arbitration, against its former franchisee. The bankruptcy court granted PuroSystems' motion for relief from the automatic stay so that it could seek confirmation of its arbitration award in federal district court.

In 2006, PuroSystems terminated John Fralc after he failed to pay royalties due under the franchise agreement. Following termination, an arbitration panel entered an award in favor of PuroSystems. The franchisee did not participate in the arbitration proceeding, so the award was taken by default. Subsequently, PuroSystems filed an action in the federal district court seeking to confirm the arbitration award and to gain jurisdiction over the franchisee to enforce the award. In response, the franchisee filed a Chapter 7 bankruptcy proceeding.

PuroSystems brought a motion for relief from the automatic stay imposed by the Bankruptcy Code, and it requested that the automatic stay be lifted so that it could return to the federal district court in order to enforce the injunctive relief provisions of the arbitration award. The bankruptcy court questioned whether it was appropriate for the arbitration panel to have moved the two-year non-compete period from "time of termination" (as described by the franchise agreement) to "time of the arbitration award." The franchisee argued that under the terms of the franchise agreement, the two-year period following termination had already passed and therefore the arbitration panel did not have the power to extend the length of a non-compete provision in the parties' franchise agreement. There was no testimony or evidence on this issue before the bankruptcy court because the arbitration award was taken by default. There was also no indication that the franchisee had complied with the non-compete provision at any time.

The bankruptcy court, while it questioned the authority for the arbitration panel to grant relief beyond the scope of the parties' franchise agreement, held that these issues would be properly before the federal district court. As a result, relief from the automatic stay was appropriate.