

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR CITRUS COUNTY, FLORIDA

CASE NO.: 2009-CA-4285

Karen O. Gaffney, P.A.
Courthouse Box Copy

CITRUS COUNTY ASSOCIATION
FOR RETARDED CITIZENS, INC.,
A Florida Not-for-Profit Corporation,

Plaintiff,

Vs.

NATURE COAST BROADCASTING,
INC., a Delaware Corporation,

Defendant.

ORDER ON PLAINTIFF'S MOTION FOR THE APPOINTMENT OF A RECEIVER

THIS CAUSE, having come before the Court for hearing on December 6, 2010, on the Plaintiff's Motion for the Appointment of a Receiver, the Affidavit of Steve Schurdell, Business Manager of Shadavrus Capital Trust, Inc. dated September 1, 2010, the Affidavit of Jerrold Miller, Esquire, dated September 23, 2010, testimony from both parties, William Caldwell and Steve Schurdell, and the Court having reviewed the Motion, testimony and Affidavits, the file, and having heard argument from counsel to the Plaintiff and counsel to the Defendant, and the Court having been duly apprised in this premises, the Court makes the following findings of fact:

1. The Court entered its Final Summary Judgment in favor the Plaintiff herein on October 6, 2010.
2. Within the Court's Final Summary Judgment, the Court ordered that the Plaintiff is entitled to possession of the following personal property (hereinafter referred to as "Property"):
 - a. All machinery, equipment, furniture, furnishings, fixtures, tools, motors, motor vehicles and other goods whether now owned or hereafter acquired, relating to the operation of the Station, including without limitation, amplifiers, transmitters, converters, cables, antennas, radio broadcast facilities, connections, towers, studios.

decoder boxes, converter boxes, microwave parts, improvements, additions, attachments, replacements and accessories, substitutions thereto and proceeds thereof (the "Equipment");

- b. All inventory, merchandise and goods in all of its forms, whether now existing or hereafter acquired, relating to the operation of the Station, and the proceeds and products thereof (the "Inventory");
 - c. All general intangibles and, contract rights, and other intangible personal property, whether presently existing or hereafter acquired or arising, relating to the operation of the Station, including, without limitation, rights under all present and future authorizations, permits, licenses, franchises, government authorizations, and all rights incident or appurtenant to such authorizations, permits and licenses, including without limitation, the right to receive all proceeds derived from or in connection the sale, assignment or transfer of such authorizations, permits and licenses, whether now owned or hereafter acquired by Nature Coast Broadcasting, Inc. (the "General Intangibles");
 - d. All of Nature Coast Broadcasting, Inc.'s accounts and rights to payment, arising out of the sale or lease of goods, tower space, or air time or the retention of services by Nature Coast Broadcasting, Inc., now existing or hereinafter acquired, relating to the operation of the State (these "Accounts");
 - e. All books, records and other property relating to or referring to any of the foregoing, including, without limitation, all books, records, ledger cards and other property and general intangibles at any time evidencing or relating to the General Intangibles, and the proceeds thereof (the "Instruments"); and
 - f. All insurance policies held by Nature Coast Broadcasting, Inc. or naming Nature Coast Broadcasting, Inc. as loss payee relating to the operation of the Station, including, without limitation, casualty insurance, property insurance and business interruption insurance, and all such insurance policies entered into after the date hereof, and the proceeds thereof (the "Insurance").
3. The Court further ordered that the Plaintiff recover from the Defendant the total sum of \$624,661.03.
 4. The Plaintiff requested the appointment of Burt Sherwood as a receiver for the purpose of taking actual or constructive possession of the Defendant's property, protecting any equity in the property, maintaining an account for all sums

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- received, collection of income, and establishing a basis and means for funding of the receivership.
5. The Affidavit and testimony of Steve Schurdell, Business Manager of Shadavrus Capital Trust, Inc., which is the owner of the tower located at 11131 North Sunfire Point, Inglis, Florida, which tower is necessary to be the operation of the Defendant's only business as a radio station operator, establishes that the Defendant is unable to support the continued operation of the business or provide payment to any creditor, including the Plaintiff.
 6. The property of the business comprises of business assets, equipment, and intangible assets utilized in the operation of the Radio Broadcast Station *WIFL FM*.
 7. Pursuant to Florida Statute 56.10, the Plaintiff is entitled to the appointment of a receiver, in so much as, the Final Summary Judgment entered by this Court on October 6, 2010, and execution thereon can not be satisfied, in whole or in part, due to the lack of property and assets of the Defendant corporation subject to levy and sale. Furthermore, the Court finds based upon the Court's Final Summary Judgment, testimony, and the Affidavits of record herein, that the Defendant is essentially insolvent. The Court further finds that upon the Defendant's default on the payment of its regular business expenses, together with this Court's entry of a Final Summary Judgment, the Plaintiff, as a creditor, is entitled to the appointment of a receiver. See, *Mayflower Associates, Inc. v. Elliott*, 81 So.2d 719 (Fla 1955).
 8. The Court finds that Burt Sherwood is qualified to act as a receiver in this matter.

IT IS THEREFORE, ORDERED AND ADJUDGED as follows:

1. That Burt Sherwood be appointed receiver for the Defendant, NATURE COAST BROADCASTING, INC., for the following purposes:
 - (i) Taking actual or constructive possession of The Property and to thereafter operate, insure, and maintain The Property;
 - (ii) Protecting any equity in The Property;
 - (iii) Maintaining an account for all sums received for The Property;
 - (iv) Collecting all rents, revenues, income, and profits generated by The Property and apply the same, after payment of necessary operating expenses, to insurance premiums, ad valorem taxes, receivership costs, and outstanding indebtedness owed under the Promissory Note;
 - (v) To the extent a reasonable offer to purchase any unit (s) comprising of The Property is received, to assist in completing a transfer of such unit(s).
 - (vi) To operate the business of Nature Coast Broadcasting, Inc., including the operation of a Radio Broadcast Station *WIFL F.M.* with all powers, duties and authority necessary to so operate the business;
 - (vii) The receiver shall have immediate access to the physical location of Nature Coast Broadcasting, Inc. and access to the radio station itself.
 - (viii) The receiver shall further have power and authority to enter into a Lease with the Plaintiff to allow the business to continue to utilize The Property described within the Court's Final Summary Judgment, portions of which, was determined by the Court to be awarded to the Plaintiff.

DONE AND ORDERED in Chambers, at Inverness, Citrus County, Florida, on this
10 day of Dec, 2018.

/s/ PATRICIA THOMAS

PATRICIA THOMAS, Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to: Karen O. Gaffney, Esquire, of Karen O. Gaffney, P.A. 221 West Main Street, Suite D, Inverness, FL 34450 and to William J. Grant, Esquire, of Grant & Samargya, LLC, Attorney for the Defendant, 123 North Apopka Avenue, Inverness, FL 34453 via Courthouse Box Delivery and Via U.S. Mail Delivery to Sebastino Cupelli, Nature Coast Broadcasting, Inc., 3792 E. Gulf to Lake Highway, Inverness, FL 34453 on this 15 day of Dec, 2010.

Naureen Edwards DC

Judicial Assistant/Deputy Clerk

BETTY STRIFLER, Clerk of Courts

This Order Prepared By:
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