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17 APR 27 PM 8:00
DIVISION OF CORPORATIONS
TALLHASSEE, FLORIDA

DIRECT ALL CORRESPONDENCE TO: Post Office Box 1279 • Bartow, Florida 33831-1279

April 26, 2017

Attn: Diane Cushing

Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

RE: Avery's Used Cars & Trucks, Inc.
FEIN No. 65-0790472
Document No.: P97000084078

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
17 APR 27 PM 12:52

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Dear Ms. Cushing:

I represent Avery's Used Cars & Trucks, Inc. in an action against Arthur B. Avery, Jr. Enclosed you will find a Temporary Injunction entered against Avery, Jr. by the Honorable Keith Spoto on April 24, 2017.

Pursuant to the enclosed Injunction, the unauthorized and attempted dissolution of Avery's Used Cars & Trucks, Inc. is null and void, the corporation is reinstated and my client may take all necessary steps to reinstate the corporation.

Therefore, pursuant to the Court's Injunction, please immediately reflect the reinstatement of the corporation in your records and on Sunbiz and allow my client to amend the Annual Report to reflect the proper officers/directors.

Thank you for your prompt attention to this matter.

Sincerely,



K.C. Bouchillon

KCB/clk
Enclosure: as indicated
cc: Arthur B. Avery, III

Amended Annual Reports were removed (hidden) (4/12/17 & 4/14/17) per court order.

APR 28 2017

D CUSHING

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

EVERY'S USED CARS &
TRUCKS, INC.

v.

CASE NO. 2017CA-001268-0000-00

ARTHUR B. AVERY, JR.
_____ /

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
17 APR 27 PM 12:52

TEMPORARY INJUNCTION

THIS MATTER came on for hearing on April 21, 2017, on the Plaintiff's Verified Complaint ("Complaint"), and Plaintiff's Verified Motion for Temporary Injunction and Plaintiff's Verified Supplemental Motion for Temporary Injunction (collectively, "Verified Motions"), and the Court, having heard argument of counsel, having reviewed the evidence at the hearing, and being fully advised in the premises, finds and orders as follows:

FINDINGS

Based upon the Verified Motions, which is further supported by the Complaint, and the testimony at the hearing, the Court makes the following findings:

1. The Plaintiff corporation has a clear legal right in the subject matter of this action. Its governance and very existence are at stake.
2. As noted in the Complaint, if the Defendant is permitted to continue filing corporate papers with the State of Florida declaring him the president of the Plaintiff corporation, he could wreak havoc with the Plaintiff's finances (which he has already done to a significant degree), cause confusion in all of Plaintiff's business relations, call into question the legitimacy and enforceability of any contracts, agreements, commitments, sales, purchases and other business dealings of the Plaintiff, and generally undermine, if not destroy, the Plaintiff.

3. These actions will affect not only the business itself, but its employees and the other 50% shareholder of the business, Robert Abbott.

4. There is no legal remedy that can undo this kind of damage, and the injury to the Plaintiff corporation is immeasurable and significant. As noted, its very existence is at stake.

5. Plaintiff has demonstrated a substantial likelihood of success on the merits.

6. Plaintiff established that Arthur B. Avery, III (the "Son") has been the sole director of the corporation since 2007.

7. The Son, as sole director of Plaintiff corporation, held a meeting of the Board of Directors, during which he removed Defendant, ARTHUR B. AVERY, JR., as president and appointed himself as president. (Exhibit 18).

8. Defendant was notified of his removal as president and further advised to cease acting on behalf of or purporting to represent the Plaintiff corporation and to turn over all corporate books and assets. (Exhibit 19) Defendant has refused to do so.

9. Instead, Defendant admitted that he filed with the State of Florida what purports to be Articles of Amendment to the Articles of Incorporation of the Plaintiff corporation. (Complaint, Exhibit F)

10. In the amended Articles, Defendant, as "Registered Agent/President," attempted to remove the Son, Robert Abbott, and Phyllis Avery (Defendant's own wife) as Officers of the Plaintiff corporation.

11. Defendant admitted in the filing and at the hearing that he attempted to make these changes without shareholder action.

12. Nowhere in Chapter 607, *Fla. Stat.*, is Defendant, who by his own admission is only a 50% shareholder, permitted to unilaterally remove any officers or directors (or to amend

the articles of incorporation for that purpose) without notice (or proper waiver), shareholder action, a shareholder's meeting, and a majority vote or consent of the shareholders.

13. Further, on April 12, 2017, Defendant by his own admission filed an Amended Annual Report for the Plaintiff corporation that removed the Son as President and Director (as well as removing Abbott as Vice President and Phyllis Avery as Secretary) and installing himself as president – without adequate notice or authority. (Exhibit 22)

14. On April 13, 2017, Plaintiff amended the Annual Report to reflect the proper status of the corporation. That is, the Son was president and director, Abbott was vice president, and Phyllis Avery was secretary. (Exhibit 23)

15. However, on April 14, 2017, after Plaintiff filed its Verified Motion for Temporary Injunction, Defendant admitted that he not only amended the Annual Report again (Exhibit 24) to illegally remove the officers and install himself as president and director, but he also dissolved the corporation altogether (Exhibit 34).

16. Under the facts as alleged in the Complaint and Verified Motions and the testimony and evidence at trial, pursuant to Chapter 607, *Fla. Stat.*, Defendant was not authorized to change the officers or directors of the Plaintiff corporation, was not authorized to install himself as president or director of the Plaintiff corporation, and was not authorized to dissolve the Plaintiff corporation.

17. Defendant further admitted that he ordered someone not only to block the gate to the vehicle lot at the Avon Park location, but also to ram the gate to prevent Plaintiff from moving vehicles in and out of the lot. The Son testified that as a result of these actions, the company has lost several sales worth tens of thousands of dollars.

18. Plaintiff offered testimony that the Defendant has a substance abuse problem with prescription opioids. Defendant admitted that he consumes approximately 120 Vicodin per month which are prescribed for him, and that he purchases or has purchased an additional 20 pain pills per month "on the street."

19. Inasmuch as the Verified Motions and the testimony at trial established that Defendant was already mismanaging the Plaintiff corporation's finances and assets, and Defendant demonstrated a willingness to take actions that violated Florida law once he was removed as president, the Court finds that there is a substantial risk that he will continue to do so unless ordered otherwise. Time is of the essence.

20. Finally, the Court finds that the Defendant did not have authority to file the amendments to the Annual Report, the amendments to the Articles of Incorporation, or to dissolve the corporation, and that it should be reinstated.

21. Accordingly, it is necessary for the Court to enter this Temporary Injunction immediately.

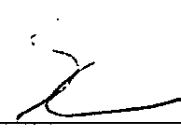
TEMPORARY INJUNCTION

It is, therefore, ORDERED AND ADJUDGED that:

- 1) The Defendant is immediately enjoined until further order of this Court from:
 - a) filing with the State of Florida or any other governmental entity any amendments, articles, annual reports, and/or corporate documents on behalf of the Plaintiff corporation;
 - b) Conducting business or acting on behalf of, or speaking for, Avery Used Cars & Trucks, Inc., in any capacity;
 - c) Entering into any contracts, agreements, notes, commitments, sales, purchases, or other obligations on behalf of Avery's Used Cars & Trucks, Inc., or to otherwise binding Avery Used Cars & Trucks, Inc.;

- d) Taking possession of, using, removing, transferring, or altering any of the assets, titles, licenses, or accounts of Avery Used Cars & Trucks, Inc.;
 - e) Using any signs and/or advertisements identifying the property and business located at 2901 Swindell Road, Lakeland, Florida, as Avery's Used Cars & Trucks, Inc., using the name of or holding himself out as Avery's Used Cars & Trucks, Inc., or using any dealer's license in the name of Avery's Used Cars & Trucks, Inc.
 - f) Entering, or having anyone on his behalf enter, the premises of Avery's Used Cars & Trucks, Inc., located at 2508 US Highway 27 South, Avon Park, Florida.
 - g) Continuing to use the telephone numbers that he improperly acquired from the account of Arthur B. Avery, III, Inc. Defendant shall immediately take all steps necessary to restore those telephone numbers to Arthur B. Avery, III, Inc. and shall be responsible for all costs associated with that transfer.
- 2) Defendant is further ordered to turn over to Plaintiff all corporate books, records, financial records, and other documents necessary to perform an accounting of the corporation.
 - 3) Defendant is further ordered to allow Plaintiff to marshal and take possession of all corporate assets.
 - 4) The filings made by Defendant in April 2017, and the Defendant's attempted dissolution are null and void. The corporation is hereby reinstated. Plaintiff may take all steps necessary to reinstate the corporation and is authorized to conduct business as an active corporation.
 - 5) This Temporary Injunction shall be conditioned upon Plaintiff posting a bond in the amount of \$360,000.00 with the Clerk as soon as possible but no later than ten (10) days from the date of this Temporary Injunction.

DONE AND ORDERED in Chambers, in Bartow, Polk County, Florida, this 24 day of April, 2017.



Circuit Judge

CC: K.C. Bouchillon, Esq.
Stephen F. Baker, Esq.