IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL TRIAL DIVISION

MAURICE ROMY, M.D.,	:	DECEMBER TERM, 1999
RIVERSIDE MEDICAL CENTER, P.C.,	:	
ALLEGHENY PAIN INSTITUTE, P.C.,	:	
RMC NORTH ASSOCIATES, P.C.,	:	
SPINE CENTER-Northfield Division, P.C.,	:	
SPINE CENTER Lehigh Valley, P.C., and	:	
RIVERSIDE MEDICAL SERVICES	:	
CORPORATION	:	
Plaintiffs	:	
	:	
v.	:	NO. 0752
	:	
AMERICAN LIFE CARE, INC.,	:	
L-FOUR FIVE, LLC., TSC MANAGEMENT	:	
OF PENNSYLVANIA, INC.,	:	
WARREN H. HABER,	:	
JOHN L. TEEGER, and	:	
ERIC D. ROSENFELD	:	Control Number: 120723
Defendants	:	

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION IN SUPPORT OF ORDER DENYING THE PETITION FOR A PRELIMINARY INJUNCTION

Sheppard, Jr., J. ..... March 7, 2000

This court denies the Petition for a Preliminary Injunction, primarily on the ground that plaintiffs/petitioners have failed to demonstrate that such denial will result in immediate and irreparable harm.

The court submits the following Findings of Fact and Conclusions of Law in support of its contemporaneous Order embodying the denial of the request for injunctive relief.

FINDINGS OF FACT

1. Plaintiffs, Maurice Romy, M.D. ("Dr. Romy") and Riverside Medical Center, P.C., Allegheny Pain Institute, P.C., RMC North Associates, P.C., Spine Center-Northfield Division, P.C., Spine Center Lehigh Valley, P.C. ("Romy PCs") and Riverside Medical Services Corporation ("RMSC"), filed a Petition seeking a Preliminary Injunction as a result of a dispute concerning a complex Asset Transfer Agreement.

2. Plaintiffs also filed a Complaint against Defendants American Life Care ("ALC"), L-Four Five, LLC ("LFFC"), TSC Management of Pennsylvania, Inc. ("TSC"), Warren Haber, John Teeger and Eric Rosenfeld, seeking monetary damages, rescission of their agreements and an order enjoining ALC from continuing to collect and retain the accounts receivable of the Romy PCs. Defendants Haber, Teeger and Rosenfeld are the officers of LFFC and the Founders' Group. (1/19/2000; N.T. 66 ("N.T.").

3. In their Petition for a Preliminary Injunction, Plaintiffs assert that Defendant ALC "continues to collect and disburse funds from liquidation of the accounts receivable of the Romy PCs despite the fact that said receivables are the lawful property of the Romy PCs and not ALC." (Petition at ¶ 2).

4. The specific relief that Plaintiffs seek in their proposed order[4] is:

    1. Defendant ALC is ordered immediately to cease and desist from disbursing any funds collected from liquidation of the accounts receivable of the Romy PCs;

    2. Defendant ALC is ordered to make a written accounting of monies received by defendant ALC from the Romy PCs after May 1, 1998.

5. A hearing was conducted on January 19, 2000. The following facts were adduced at that hearing.

6. In May 1998, the Plaintiffs entered into an agreement, entitled the Amended and Restated Asset Transfer Agreement ("Second Agreement"), with Defendant ALC that replaced an earlier agreement entered into in April 1997.[5] (Plaintiffs' Exhibit P-1).

7. Pursuant to the Second Agreement, ALC was to purchase and lease certain assets of the Romy PCs. (See Complaint & Answer, ¶ 29). The Romy PCs and RMSC, [6] in exchange, would receive 15% of ALC's shares issued and outstanding of common stock. (P-1, ¶ 2.1(a)). The "Purchased Assets" were to be transferred subject to liens of the PNC Bank.

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[4]In the "wherefore"clause of their Petition for Preliminary Injunction, Plaintiffs ask this court to enter the Order in the form proposed.

[5]The Second Agreement closed by mail on May 29, 1998, but was effective as of May 1, 1998. (N.T. 28).

[6] The Second Agreement refers to the Spine Center-Northfield Division, P.C., Riverside Medical Center, P.C., Allegheny Pain Institute, P.C., RMC North Associates, P.C. and the Spine Center-Lehigh Valley, P.C. collectively as the "PCS"; it then refers to these entities and Riverside Medical Services Corporation ("RMSC") as the "SC Companies". (See P-1 at 1). In their Petition, however, Plaintiffs refer to the first five entities as the "Romy PCs" and their Complaint characterizes Riverside Medical Services as the management company for the "Romy PCs". (Complaint, ¶ 11). For consistency, therefore, references in the Second Agreement to the "SC Companies" will be presented in this opinion as the "Romy PCs and RMSC".

(P-1, ¶ 1.1(b)). The Second Agreement also provided that Dr. Romy, as "Stockholder," would fund a "Stockholder Working Capital Loan" in an amount not to exceed $1,230,000 during the period between the May 1998 closing and the anticipated IPO. (P-1, ¶ 5.11(d)).

8. Various documents were presented at the time of the closing of the Second Agreement. Included among these documents were the Officer's Certificate by the Founders' Companies, the Billing and Collection Agreement and the Stockholders Agreement. (See Plaintiffs' Exhibits P-2, P-3, and P-4, respectively).

9. Pursuant to the Second Agreement, an initial public offering ("IPO") was contemplated to take place in May 1999. The Romy PCs were to receive $1,500,000 from the proceeds of the completed IPO. These proceeds were designated to satisfy and discharge all outstanding PNC Debt, and the Stockholders Working Capital Loan. (P-1, ¶¶ 1.1(a); 2.1(a); 5.9 and 5.11(e)). The IPO has not yet occurred, nor does the present record reflect when, if ever, it will take place. (N.T. 152).

10. Prior to May, 1998, Dr. Romy owned one hundred percent (100%) of RMSC which was the management company for the Romy PCs. (N.T. 38; Complaint at ¶¶ 11; 18-23). The Romy PCs are professional corporations engaged in the business of providing medical services to patients. (Complaint at ¶¶ 6-11).

11. Defendant ALC is a Delaware corporation with its principal place of business in Philadelphia. It is engaged in the business of owning, managing and financing medical practice centers within the Commonwealth of Pennsylvania. (Complaint & Answer at ¶¶ 5; 12). Generally, ALC is not an operating company that would have bills to pay in its daily functions.

(N.T. 31; 127-128).

12. Defendant TSC Management acts as the operating and management company of the new Spine Center PCs, which are, respectively, the Spine Center-Northfield Division, P.C. and the Spine Center Lehigh Valley, P.C. ("Spine Center PCs"). (Complaint & Answer at ¶ 14; N.T. 60; 118; 128).

13. Defendant LFFC was to act as the venture capital entity and investment vehicle that would fund ALC's acquisition of Plaintiffs' assets. (Complaint at ¶ 13; N.T. 38).

14. The Second Agreement required LFFC to pay $1,000,000 to ALC for the remaining 85% of its common stock at the closing of the transactions contemplated by the agreement. The Officer's Certificate, signed on May 29, 1998, represents that the Founders Companies have complied in all material respects with all covenants and conditions required by that agreement. (See P-1, ¶ 5.8; P-2; N.T. 11). The parties disagree on whether LFFC paid $1,000,000 to ALC at the closing. (See Complaint & Answer, ¶ 75). This issue, however, is not dispositive in considering the Plaintiffs' requested relief involving the accounts receivable.[7]

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[7]The Plaintiffs contend that the $1,000,000 payment was never made while Defendants argue that the money was placed into an account used for the benefit of ALC. Defendant Teeger testified that $1,200,000 was raised and put into an escrow account. Approximately $908,000 after expenses was disbursed out of the $1,200,000 and placed into an account in LFFC's name. From May of 1998 until September of 1999, a certain percentage of the $908,000 was then split in various payments between an ALC account and an LFFC account; both accounts were located at Chase Manhattan Bank and were allegedly used as if one account. Defendants attribute the percentage split to certain monies going to merger and acquisition (M & A) and IPO expenses and certain monies going to the costs of the transaction. (N.T. 68-99). Under the Stockholders Agreement, negative covenants prohibited payment of compensation or advances to the Founders Group other than fees and reimbursements. (P-4, ¶ 2). By splitting the disbursements, Defendants contend they did not violate these covenants. (N.T. 91-99). See also Defendants' Exhibits 1-3c and Plaintiffs' Exhibits 6-7 (listing

15. The Second Agreement required Dr. Romy to keep the PNC Debt current pending the contemplated IPO in May of 1999. (P-1, ¶ 5.11(a); N.T. 15). Dr. Romy was also obligated to lend or cause the Romy PCs to lend from the proceeds of the accounts receivable up to $1,230,000, which represented the Stockholder Working Capital Loan. (P-1, ¶ 5.11(d)).

16. The method of financing of this Working Capital Loan and the PNC Debt is set forth in the Billing and Collection Agreement. (See P-3, ¶ 3). It provides that money due on the accounts receivable of the SC Companies[8] would be collected by TSC[9] and deposited into a single joint account with a bank or other financial institution. The Billing and Collection Agreement provides that only Dr. Romy or his designee has authority to make withdrawals which were required to be applied to repayment of PNC debt until it had been paid in full. (Id). However, Plaintiffs' own witness, Aiden Flatley, who is an accountant employed by Dr. Romy, testified that despite this agreement (P-3) "there had always been a lock box system" in effect. (N.T. 116). An account was never established that only Dr. Romy could draw upon. (N.T. 129).

17. Under this lock box system, money was deposited into an account in the name of Riverside Medical Center, which was owned by Dr. Romy. (N.T. 129-131). TSC would write out the checks and pay off the PNC Debt; debt upon which only Dr. Romy was liable as the sole

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computer-generated statements that purport to show disbursements made out of 2 bank accounts, but are neither authentic bank statements nor canceled checks).

[8]"SC Companies" in the Billing and Collection Agreement refers to the Spine Center-Northfield Division, P.C.; Riverside Medical Center, P.C., Allegheny Pain Institute, P.C., RMC North Associates, P.C. and the Spine Center-Lehigh Valley, P.C.

[9]The Billing and Collection Agreement refers to the "Manager" which is TSC in this instance.

owner of Riverside Medical Center. (Id). The money in the account was partly derived from the older accounts receivable of the Romy PCs and partly from the new receivables of the Spine Center PCs. (Id). In his testimony, Mr. Flatley conceded that "the TSC Management controlled the checking account that was in the name of Riverside Medical Center." (N.T. 131). After making payments on the PNC debt, TSC would use a proportion of the monies to pay the operational costs of TSC not to exceed the amount of the Stockholders Working Capital Loan, pursuant to the Second Agreement. (N.T. 131-132).

18. The parties eventually recognized that they could not complete the IPO before the one year anniversary of the closing date of the Second Agreement. Thus, in January 1999, they entered into a third agreement, entitled the Amendment to the Amended and Restated Asset Transfer Agreement ("Third Agreement"). Under the Third Agreement, Dr. Romy's obligation to fund the Working Capital Loan through the liquidated accounts receivable increased to $1,840,000.[10] (Plaintiffs' Exhibit P-5, ¶ B, amending subsection (d) of ¶ 5.11). In exchange, the Romy Pcs and RMSC [11] would receive an additional 3% of the issued and outstanding shares of ALC's common stock. (Id. at ¶ 2). The Third Agreement also provided that if the new Spine Center PCs required additional working capital during the pre-IPO period, the PCs and ALC agreed that they would mutually be responsible for a certain proportion of the necessary advances. (Id. at ¶ B).

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[10]Although, the Agreement contains a typographical error where it lists the new figure as $1,480,000, Plaintiffs' Exhibit P-10, the Promissory Note, lists the correct amount of the loan.

[11] The Third Agreement refers to the "SC Companies," which represents the Romy PCs and RMSC. (P-5 at 1). See note 2, *supra*.

19. Under the Third Agreement, the PNC Debt was refinanced with the HCR Pool III Funding Corporation ("HCR") pursuant to a new Loan and Security Agreement. (P-5 at 1-2). The obligation of Dr. Romy on the PNC Debt was extinguished by the refinancing arrangement and transferred to HCR. (N.T. 135).

20. Under the new financing arrangement, the lock box system remained in place whereby TSC would collect the liquidated accounts receivable from both the old Romy PCs and the new Spine Center PCs and deposit them in the lock box. The funds would then be applied to two new loans. One loan was a term loan of $1,500,000, of which Dr. Romy through Riverside Medical Center and TSC are the borrowers.[12] (N.T. 133-135). The second loan is the revolving line of credit under which the bank decides to lend money to the new Spine Center PCs on a periodic (weekly) basis, depending upon a formula that consists of taking a percentage of the "eligible receivables," which are those receivables acquired within ninety days or less, along with the current financial stability of the company. (N.T. 137-141). The bank and TSC developed this formula. Dr. Romy had nothing to do with its computation. (N.T. 122).

21. As of December 1999, Dr. Romy had fully funded the Stockholder Working Capital Loan of $1,840,000 as required by the Third Agreement. (Plaintiffs' Exhibits P-8 and P-9; N.T. 111-112; 141-143). Plaintiffs' accountant, Aiden Flatley, calculated that Dr. Romy exceeded his

[12]Both the accounts receivable of the old Romy PCs and the new Spine Center PCs would be applied to the term loan on a periodic basis. (See N.T.133-135). However, only the accounts receivable of the new Spine Center PCs are calculated in the formula for the revolving line of credit. (N.T. 137-141). The old Romy PCs serve as the guarantee or collateral for the line of credit. (N.T. 116-117, 133).

obligation on the $1,840,000 Working Capital Loan by $517,000, while he interpreted documents produced by the defendant companies as calculating the excess to be $388,000. (N.T. 109-112; 115). The parties dispute the extent that Dr. Romy has exceeded his obligation on the Working Capital Loan. This amount has yet to be determined.

22. Despite having exceeded his obligation on the Working Capital Loan, Dr. Romy remains liable on the HCR debt, because he had pledged the receivables of the Romy PCs as collateral to guarantee the term loan and the revolving line of credit. Only Dr. Romy is personally liable on this debt. (N.T. 116-118).

23. Plaintiffs did not join the finance company and/or bank as parties to this action. The agreement with the bank that pledges the receivables as security for the new loans is also not before the Court.

24. Plaintiffs have failed to demonstrate that they are entitled to the liquidated accounts receivable of the Romy PCs, or that Defendants' collection of said receivables is clearly wrongful since these monies are pledged as collateral for separate loan obligations under the term loan and the revolving line of credit; loans upon which both Dr. Romy and TSC are obligated. (N.T. 133-135).

25. Plaintiffs have failed to demonstrate that any excess in the funding of the Stockholders Working Capital Loan to which they may be entitled could not be calculated in monetary terms.

26. Plaintiffs have also failed to demonstrate that the Defendants' use of the accounts receivable of the Romy PCs threatens the future existence of the Spine-Center PCs. Rather, the accounts receivable used in the weekly calculation of the revolving line of credit are those that are currently generated by the Spine-Center PCs under the management of TSC.

DISCUSSION

Plaintiffs' Petition for a Preliminary Injunction asks this court to enjoin the Defendant, ALC, from disbursing any of the funds collected from the liquidated accounts receivable of the Romy PCs and to order ALC to make a written accounting of any monies received by ALC from the Romy PCs after May 1, 1998. In support, Plaintiffs contend that ALC's continued collection and retention of the Romy PCs' accounts receivable threatens the future existence of the PCs and a preliminary injunction is necessary to avoid further immediate and irreparable harm to Plaintiffs' business. (Pl. Memorandum of Law in Support of their Petition, at 5-6).

This court denies the request for injunctive relief holding that plaintiffs have failed to demonstrate the requisite immediate and irreparable harm.

In determining whether a preliminary injunction should be granted, the court may rely on the averments of the pleadings or petition and may consider affidavits of the parties or any other proof which the court may require. Pa.R.Civ.P. 1531. A preliminary injunction is regarded as "a most extraordinary form of relief which is to be granted only in the most compelling cases." Goodies Olde Fashion Fudge Co. v. Kuiros, 408 Pa.Super. 495, 597 A.2d 141, 144 (1991). See also Soja v. Factoryville Sportsmen's Club, 361 Pa.Super. 473, 522 A.2d 1129, 1131 (1987). Our Supreme Court recently noted that "[t]he purpose of a preliminary injunction is to preserve the status quo as it exists *or previously existed before the acts complained of*, thereby preventing irreparable injury or gross injustice." Maritrans GP Inc. v. Pepper, Hamilton & Scheetz, 529 Pa. 241, 602 A.2d 1277, 1286 (1992) (citation omitted) (emphasis in original).

The court may grant the preliminary injunction only if the moving party has sufficiently established the following five elements:

> (1) that relief is necessary to prevent immediate and irreparable harm which cannot be compensated by damages;
> (2) that greater injury will occur from refusing the injunction than from granting it;
> (3) that the injunction will restore the parties to the status quo as it existed immediately before the alleged wrongful conduct;
> (4) that the alleged wrong is manifest, and the injunction is reasonably suited to abate it; and
> (5) that the plaintiff's right to relief is clear.

Cappiello v. Duca, 449 Pa.Super. 100, 672 A.2d 1373, 1376 (1996) (citing Lewis v. City of Harrisburg, 158 Pa.Cmwlth. 318, 631 A.2d 807, 810 (1993)). See also Valley Forge Historical Society v. Washington Memorial Chapel, 493 Pa. 491, 426 A.2d 1123, 1128 (1981). These requisite elements "are cumulative, and if one element is lacking, relief may not be granted." Norristown Mun. Waste Authority v. West Norriton Twp. Mun. Authority, -- Pa.Cmwlth. --, 705 A.2d 509, 512 (1998).

Generally, Pennsylvania equity courts are authorized to enjoin wrongful breaches of contract where money damages are an inadequate remedy. See, e.g., Sovereign Bank v. Harper, 449 Pa.Super. 578, 674 A.2d 1085, 1093 (1996) (requiring mortgagor to withdraw recorded revocation of deed and prohibiting interference with sale of property to third party, finding irreparable harm in that the land suffered environmental problems, the Bank could not find another buyer, and the Bank would otherwise lose a business opportunity); Straup v. Times Herald, 283 Pa.Super. 58, 423 A.2d 713, 718 (1980) (enjoining newspaper from depriving plaintiffs of ownership of distributorships where owners had conditional property right from newspaper's actions that could not be terminated at will).

Here, the Plaintiffs' Complaint sets forth, essentially, a breach of contract claim and fraud allegations and seeks monetary damages, rescission of their agreements with Defendants and the same injunctive relief sought in the Petition that is presently before the Court. See Complaint, Counts I-V. The gravamen of the Complaint is that Defendant ALC breached its contractual obligations to provide evidence that LFFC paid $1,000,000 to ALC for 85% of its stock; that this payment was never made, and thus, Defendants obtained Plaintiffs' assets through fraud. See Complaint, Counts II-III. The parties dispute whether this payment was made and this issue will be determined at a later trial, but the issue is distinguishable from the present requested relief involving the accounts receivable. Rather, in Count I of the Complaint, the Plaintiffs allege that they have suffered monetary damages and that ALC has breached Section 5.11(d) of the Second Agreement, as amended by the Third Agreement, by retaining the Romy PCs' receivables despite the fact that Dr. Romy and the PCs have fully funded the Stockholders Working Capital Loan. See Complaint, ¶¶ 55-60. The present record reflects that Dr. Romy and the PCs have fulfilled their obligation on this loan. (N.T. 111-112; 141-143; P-8 & P-9). However, as noted below, the accounts receivable are pledged on other loan obligations, and thus, it is unclear that Plaintiffs would succeed on Count I of their Complaint.

Even assuming *arguendo* that Plaintiffs may prove some future right to relief on their allegations, the present inquiry turns on whether injunctive relief is necessary to thwart an immediate and irreparable harm which monetary damages could not remedy. Our Superior Court recently

reiterated the standard for irreparable harm, stating in pertinent part:

> "An injury is regarded as 'irreparable' if it will cause damage which can be estimated only by conjecture and not by an accurate pecuniary standard." *Sovereign [Bank v. Harper]*, 674 A.2d at 1093 (citation omitted). The plaintiff must demonstrate the likelihood of a loss that is not entirely ascertainable and compensable by money damages. *John G. Bryant Co. v. Sling Testing and Repair, Inc.*, 471 Pa. 1, 369 A.2d 1164 (1977).

Sheridan Broadcasting Networks, Inc. v. NBN Broadcasting, Inc., -- Pa.Super. --, 693 A.2d 989, 995 (1997) (affirming preliminary injunction where defendants refused to compensate employees or permit them access to their offices in contravention of management committee's resolutions which threatened potential loss of business opportunities or market advantages). Harm must be irreversible before it will be deemed "irreparable". Sovereign, 674 A.2d at 1093 (citing *Boehm v. University of Pennsylvania School of Veterinary Medicine*, 392 Pa.Super. 502, 505-06, 573 A.2d 575, 586, *appeal denied* 527 Pa. 596, 589 A.2d 687 (1990)). Pennsylvania courts have repeatedly held that "irreparable injury" may be found in the commercial context where there is an impending loss of business opportunities or market advantage. See, e.g., John G. Bryant Co., 369 A.2d at 1167 (affirming a preliminary injunction to enforce a restrictive covenant where the unwarranted interference with customer relations from breach of covenant constitutes irreparable harm); Sheridan, 693 A.2d at 995; Sovereign, 674 A.2d at 1093; Three County Services, Inc. v. Philadelphia Inquirer, 337 Pa.Super. 241, 486 A.2d 997, 1003 (1985) (Beck, J., concurring).[13]

Moreover, even when monetary damages are fully calculable, a preliminary injunction may be granted "when there is proof that the threatened monetary loss is so great as to threaten the existence

[13]Both parties in the present case refer to Three County Services in their respective memoranda. However, this case more strongly supports the Defendants' position.

of the business." Three County Services, 486 A.2d at 1001. In that case, our Superior Court vacated a preliminary injunction where the plaintiff/delivery service did not present sufficient evidence to show that defendant's actions threatened the existence of its business, which involved primarily past harms that included establishing an alternate delivery system, soliciting plaintiff's customers and maligning plaintiff's name. Id. at 1000-02. In making this determination, the court reviewed the testimony of plaintiff's accountant and principal who examined profit and loss statements of the plaintiff's business, and determined that there were no sufficient explanations attributing plaintiff's losses to defendant's actions. See Id.

Applying these criteria here, this court finds that the Plaintiffs have failed to sustain their burden of proof that they will suffer irreparable harm if ALC is not enjoined from disbursing the Romy PC's accounts receivable. At the January 19th hearing, the testimony of Plaintiffs' witness, Aiden Flatley, who has been Dr. Romy's accountant throughout the transactions between him and the defendants, demonstrates this failure. Mr. Flatley testified that the amount of Dr. Romy's payments in excess of his obligation on the Stockholders Working Capital Loan is calculable, and thus compensable in monetary terms. (N.T. 111-115). In addition, Counts I-IV of the Complaint state specifically claims for monetary damages. Even if the parties dispute the excess amount of Dr. Romy's loan obligation, this dispute would not constitute irreparable injury but, rather, could be determined later.

Mr. Flatley also testified that despite the language in the Billing and Collection Agreement (P-3), Dr. Romy never had access to disbursement of his accounts receivable since they went into a lock box. (N.T. 116; 129). From this lock box, payments were made on the PNC debt, the subsequent HCR debt, and the Stockholders Working Capital Loan. (N.T. 131-133). Mr. Flatley further testified that Dr. Romy had guaranteed the PNC debt and subsequent HCR debt by pledging the accounts receivable of the

Romy PCs. (N.T.124; 133-135). Current disbursements on the revolving line of credit are based on a formula involving the most recent receivables generated by the new Spine Center PCs under the management of TSC and the current financial stability of the company. (N.T. 137-141). The bank and TSC devised this formula. Dr. Romy was not a party to this arrangement. (N.T. 121-122). Despite this testimony and the exhibits presented, the Plaintiffs did not adequately support their contention that Defendants' disbursements of the accounts receivable threaten the existence of the PCs. They, therefore fail to prove the threat of irreparable harm.

Moreover, Plaintiffs have failed to prove other requisite elements for an injunction. Specifically, they did not sufficiently show that they would be more greatly injured than Defendants, in that the requested relief would deprive the current Spine Center PCs of disbursements on the revolving line of credit. In addition, the status quo would not be restored since the accounts receivable of the Romy PCs are pledged to guarantee the HCR debt; debt that assumed the PNC debt, which predated the Second Agreement. Further, from the time of implementation of the Second Agreement, the accounts receivable were placed in a lock box. Payments on the debt were made by TSC in the name of Riverside Medical Center. Dr. Romy never had access to disbursement on his accounts receivable to pay off his debt. N.T. 116; 129-131. This debt would remain even if the court could order the requested relief. However, the court does not have jurisdiction over the bank nor the financing company, nor does the court have the power to rescind the debt arrangement through a preliminary injunction. Therefore, the requested injunction is not reasonably suited to abate the alleged wrong.

CONCLUSIONS OF LAW

For the foregoing reasons, the Plaintiffs have failed to satisfy the prerequisites of a preliminary injunction.

1. Plaintiffs have failed to show that they will suffer irreparable harm that could not be compensated by monetary damages if the liquidated accounts receivable continue to fund the working capital loan and to serve as collateral for the revolving line of credit.
2. Plaintiffs will not be more greatly injured if the injunction is denied.
3. Defendants will be injured if they are prevented from disbursing the liquidated accounts receivable which are partly pledged to fund the term loan and the revolving line of credit.
4. An injunction will not restore the parties to the status quo since the Court cannot negate the finance arrangement, under which the accounts receivable are pledged as collateral, where the Court does not have jurisdiction over the bank and/or the HCR Pool III Funding Corporation, which are not parties to the current action.
5. An injunction is not reasonably suited to provide relief in this instance.
6. On the basis of this record, this court will enter a contemporaneous Order Denying the Preliminary Injunction.

BY THE COURT,

ALBERT W. SHEPPARD, JR., J.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
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ERIC D. ROSENFELD	:	Control Number: 120723
Defendants	:	

O R D E R

AND NOW, this 7th day of March 2000, upon consideration of the Petition for a Preliminary Injunction, the Complaint in Equity and defendants' Answer to it, all other matters of record, after an evidentiary hearing on January 19, 2000, and based upon the Findings of Fact and Conclusions of Law filed contemporaneously with this Order, it is **ORDERED** that the Petition for a Preliminary Injunction is **Denied.**

BY THE COURT,

ALBERT W. SHEPPARD, JR., J.