

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE

In re:

**CATE STREET CAPITAL, INC.,
Debtor.**

Chapter 7

Case No. 20-10506

**XPRESS NATURAL GAS, LLC,
Plaintiff,**

v.

**CATE STREET CAPITAL, INC.,
Defendant.**

Adversary No. 20-

NOTICE OF REMOVAL

Cate Street Capital, Inc. (“Cate Street” or “Debtor”), files this Notice of Removal based on the following grounds:

1. On March 7, 2018, Xpress Natural Gas, LLC (“XNG”) initiated a post-judgment proceeding against Cate Street in the New Hampshire Superior Court. This action, now pending as docket number 218-2018-CV-00283 is entitled *Xpress Natural Gas, LLC v. Cate Street Capital, Inc.* (the “State Court Proceeding”).

2. In the above-referenced action, XNG is seeking to collect the balance of a judgment awarded to it against Cate Street after arbitration and an appeal to the Maine Supreme Court through the appointment of a receiver. The judgment predates the filing of Cate Street’s bankruptcy case.

3. In addition, XNG has sought appointment of a receiver over assets belonging to a

third party, CS Operations, Inc.

4. Cate Street has objected to the appointment of a receiver.

5. On May 12, 2020, Cate Street file a petition for relief in this Court under Chapter 7 of the Bankruptcy Code.

I. Removal under 28 U.S.C. § 1452

6. The State Court Proceeding may be removed to this Court pursuant to 28 U.S.C. § 1452, which provides in pertinent part:

A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit's police of regulatory power, to the district court for the district where such action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title. 28 U.S.C. § 1452(a).

Based on the language of § 1452, a party may remove any civil action over which a bankruptcy court has jurisdiction under 28 U.S.C. § 1334. Pursuant to 28 U.S.C. § 1334, this Court has original jurisdiction over all civil proceedings “arising under title 11, or arising in or related to cases under Title 11.” 28 U.S.C. § 1334(b).

7. The State Court Proceeding is related to Cate Street's bankruptcy case within the meaning of 28 U.S.C. § 1334 because it is a post-judgment collection proceeding, which is itself the fundamental purpose of a bankruptcy proceeding.

8. The State Court Proceeding is a civil action within the meaning of 28 U.S.C. § 1452 because: a) it is a private party dispute; and (b) is it not an action before the Tax Court or a civil action by a governmental unit to enforce a police or regulatory power.

9. Based on the foregoing, the State Court Proceeding may be removed to this Court pursuant to 28 U.S.C. § 1452.

II. Compliance with F. R. Bank. P. 9027

10. This Notice of Removal is timely pursuant to F. R. Bank. P. 9027(a)(2) because it is filed within ninety (90) days of entry of the order for relief in Cate Street's bankruptcy proceeding.

11. The United State Bankruptcy Court for the District of New Hampshire is the proper court in which to remove this action because the State Court Proceeding is pending in this district.

12. The State Court Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), (E) and (O). Moreover, because the State Court Proceeding is a post-judgment collection proceeding against the Debtor, it necessarily implicates the bankruptcy claims process and is therefore constitutionally as well as statutorily "core". *See Stern v. Marshall*, 131 S. Ct. 2594 (2011).

13. **Upon removal of the State Court Proceeding, Cate Street consents to the entry of final orders or judgment by the bankruptcy court.**

14. A copy of all process and pleadings in the State Court Proceeding has been ordered from the Rockingham County Superior Court, but the timing of the receipt of same is uncertain because of COVID staffing levels. It will be filed with the Court as soon as possible.

WHEREFORE the Debtor hereby removes the State Court Proceeding to the United States Bankruptcy Court for the District of New Hampshire pursuant to 28 U.S.C. § 1452 and F. R. Bankr. P. 9027.

Respectfully Submitted,
Cate Street Capital, Inc.

Dated: May 13, 2020

By: /s/ Peter N. Tamposi
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Certificate of Service

I, Peter N. Tamposi, hereby certify that, on May 13, 2020, I caused a true and accurate copy of the foregoing to be delivered to all parties in the Court's CM/ECF system.

By: /s/ Peter N. Tamposi

Peter N. Tamposi (BNH #04931)