IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	§	**Chapter 11**
	§	
CHI-CHI'S, INC., *et al.*,	§	**Case No. 03-13063 (RB)**
	§	**(Jointly Administered)**
Debtors.[1]	§	
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF CHI-CHI'S INC., *et al.*, on behalf of the estates of Chi-Chi's, Inc., *et al.*,	§	**Adversary Proceeding No 05-_____**
Plaintiffs,	§	
v.	§	
MARK VII DISTRIBUTORS, INC.,	§	
Defendant.	§	

COMPLAINT TO AVOID AND RECOVER PREFERENTIAL AND/OR FRAUDULENT TRANSFERS

COMES NOW, the Official Committee of Unsecured Creditors of Chi-Chi's, Inc., *et al.* (the "***Committee***") of the above-captioned, debtors and debtors in possession, Chi-Chi's, Inc., *et al*. (collectively, the "***Debtors***") and files this Complaint To Avoid and Recover Preferential and/or Fraudulent Transfers (the "***Complaint***"), on behalf of the Debtors and their estates, and alleges as follows:

[1] CCMR of Catonsville, Inc., CCMR of Cumberland, Inc., CCMR of Fredrick, Inc., CCMR of Greenbelt, Inc., CCMR of Harford County, Inc., CCMR of Maryland, Inc., CCMR of Ritchie Highway, Inc., CCMR of Timonium, Inc., Chi Chi's of West Virginia, Inc., CMM Dissolution, Inc., Koo Koo Roo, Inc., Maintenance Support Group, Inc., Koo Koo Roo Licensing Systems, Inc., The Hamlet Group, H.H. of Maryland, Inc., and H.H.K. of Virginia, Inc.

I. PARTIES

A. The Plaintiff

1. This is an adversary proceeding brought by the Committee on behalf of the Debtors.

B. The Defendant

2. Mark VII Distributors, Inc. (the "***Defendant***") is a person, as defined by Section 101(41) of the United States Bankruptcy Code (the "***Bankruptcy Code***"), who received payments or transfers of property from one or more of the Debtors.

3. The Defendant maintains an address at 475 N. Prior Avenue, St. Paul, MN 55104.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157(a) and 1334(a) because it relates to the chapter 11 cases of the Debtors jointly administered in this Court under Case No. 03-13063. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(f).

5. Venue of this adversary proceeding is proper in this district pursuant to 28 U.S.C. § 1409(a).

6. This adversary proceeding is commenced pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure. By this adversary proceeding, the Committee seeks to avoid and recover, pursuant to Sections 502, 542, 544, 547, 548, and 550 of the Bankruptcy Code and applicable state law, certain preferential and/or fraudulent transfers that one or more of the Debtors made to the Defendant.

III. GENERAL ALLEGATIONS

7. On October 8, 2003 (the "***CC Petition Date***"), Chi-Chi's, Inc., Koo Koo Roo, Inc. and twelve of the other Debtors filed their respective voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

8. On October 21, 2003 (collectively, with the CC Petition Date, the "***Petition Date***") The Hamlet Group, Inc., H.H.K. of Virginia Inc., and H.H.K. of Maryland Inc. filed their respective voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

9. On October 20, 2003 the Office of the United States Trustee for the District of Delaware appointed the Committee pursuant to Section 1102 of the Bankruptcy Code.

10. By order dated September 28, 2005, the Court granted the Committee leave, standing and authority to prosecute any and all of the Debtors' causes of action arising under Chapter 5 of the Bankruptcy Code.

11. Prepetition the Defendant provided goods and/or services to one or more of the Debtors.

12. During the ninety (90) days immediately preceding the Petition Date (the "***Preference Period***"), one or more of the Debtors transferred not less than the amount set forth on the attached **Exhibit A**, which is incorporated herein by reference, (together, with all other transfers to or for the benefit of the Defendant by the Debtors, the "***Transfers***"), to the Defendant.

13. The Transfers were made to the Defendant on account of an antecedent debt.

IV. COUNT ONE – AVOIDANCE OF PREFERENTIAL TRANSFERS

14. The Committee repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.

15. During the Preference Period one or more of the Debtors transferred, and/or caused to be transferred, property to the Defendant in the form of the Transfers.

16. The Transfers constitute a transfer of an interest of the property of one or more of the Debtors.

17. The Transfers were made by one or more of the Debtors to or for the benefit of the Defendant, in its role as a creditor.

18. The Transfers were made, or caused to be made, for or on account of an antecedent debt owed by one or more of the Debtors to the Defendant prior to the date on which such Transfers were made.

19. The Debtors were insolvent for purposes of Section 547(b) of the Bankruptcy Code when each of the Transfers were made.

20. The Transfers enabled the Defendant to receive more than it would receive if (a) the Debtors' bankruptcy cases were cases under chapter 7 of the Bankruptcy Code, (b) the Transfers had not been made, and (c) the Defendant received payment of the debt relating to the Transfers to the extent provided by the provisions of the Bankruptcy Code.

21. The Transfers constitute an avoidable transfer within the meaning of Section 547 of the Bankruptcy Code.

22. Accordingly, the Debtors are entitled to an order and judgment against the Defendant avoiding the Transfers under Section 547 of the Bankruptcy Code.

V. COUNT TWO – FRAUDULENT TRANSFERS

(BANKRUPTCY LAW)

23. The Committee repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.

24. Alternatively, the Debtors whose property or whose interest in property was transferred in the Transfers received less than a reasonably equivalent value in exchange for such Transfers.

25. The Transfers were made (a) at a time when the Debtors were engaged or were about to engage in a business or transaction for which the remaining assets of the Debtors were unreasonably small in relation to the business or transaction, (b) at a time when Debtors intended to incur, or believed or should have reasonably believed that they would incur, debts beyond their ability to pay as they became due, (c) at a time when Debtors were insolvent, or (d) with the result that the Debtors became insolvent as a result of such transfer.

26. Accordingly, each of the Transfers should be avoided and set aside as fraudulent under Section 548 of the Bankruptcy Code.

VI. COUNT THREE – FRAUDULENT TRANSFERS

(STATE LAW)

27. The Committee repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.

28. Alternatively, the Debtors whose property or whose interest in property was transferred in the Transfers received less than a reasonably equivalent value in exchange for such Transfers.

29. The Transfers were made (a) with actual intent to hinder, delay or defraud any creditor of the Debtors; (b) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the Debtors (i) were engaged or were about to engage in a business or transaction for which the remaining assets of the Debtors were unreasonably small in relation to the business or transaction, or (ii) intended to incur, or believed or reasonably should have believed that they would incur, debts beyond their ability to pay as they became due.

30. A creditor exists that could avoid each of the Transfers.

31. Accordingly, each of the Transfers should be avoided and set aside as fraudulent under applicable state law.

VII. COUNT FOUR – RECOVERY OF ESTATE PROPERTY

32. The Committee repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.

33. The Debtors are entitled to avoid the Transfers described above pursuant to Sections 544, 547 and/or 548 of the Bankruptcy Code.

34. The Defendant was the initial transferee of the Transfers, the intermediate or mediate transferee of the initial transferee of the Transfers, or the person for whose benefit the Transfers were made.

35. Pursuant to Section 550 of the Bankruptcy Code, the Debtors are entitled to recover from the Defendant an amount to be determined at trial that is not less than the sum of the Transfers, plus interest to date of payment, and the cost of this action.

VIII. COUNT FIVE – TURNOVER OF ESTATE PROPERTY

36. The Committee repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.

37. Alternatively, the Defendant is in possession of the Transfers.

38. The Defendant is an "entity" as defined in Section 101(15) of the Bankruptcy Code.

39. The Transfers are property of the Debtors' estates as defined in Section 541 of the Bankruptcy Code.

40. The Transfers are property that may be used, sold or leased pursuant to Section 363 of the Bankruptcy Code.

41. The Defendant's interest, if any, in the Transfers is adequately protected as required by Section 363 of the Bankruptcy Code.

42. The Debtors are entitled to a judgment for the immediate unencumbered relief, release and return of the Transfers from the Defendant pursuant to Section 542 of the Bankruptcy Code.

IX. COUNT SIX – DISALLOWANCE OF CLAIM

43. The Committee repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.

44. The Defendant is the transferee of Transfers by one or more of the Debtors avoidable under Sections 544, 547 and/or 548 of the Bankruptcy Code and/or applicable state law, which are recoverable from the Defendant pursuant to Section 550 of the Bankruptcy Code. Pursuant to Section 502(d), in the event that the Defendant is liable for any avoidable Transfers under Sections 544, 547 and/or 548 of the Bankruptcy Code and/or applicable state law, any claims held by the Defendant against the Debtors (collectively, the "***Claims***") must be disallowed unless the Defendant pays the amount of the Transfer and recoverable property to the Debtors.

X. RESERVATION OF RIGHTS

45. The Committee reserves the right to bring all other claims or causes of action that the Committee might have against the Defendant, on any and all grounds, as allowed under the law or in equity. Additionally, nothing contained in this Complaint shall be construed as a waiver of the Committee's, the Debtors', or any other party's right to object to any proof of

claim asserted by the Defendant or any other party on behalf of the Defendant. For such objections to claims, a separate notice will be given and a separate hearing will be scheduled.

WHEREFORE, the Committee requests entry of judgment against the Defendant as follows:

a. For avoidance and recovery of the Transfers, or the value thereof;

b. For disallowance of the Defendant's Claims pursuant to Section 502(d) of the Bankruptcy Code unless the amount of the judgment for avoidance of the Transfers is paid;

c. For prepetition and postpetition interest on the amounts owed by the Defendant to the full extent allowable under applicable law at the highest legal rate;

d. For all costs under applicable law; and

e. Granting the Committee such other and further relief as the Court deems just and proper.

Dated: October 6, 2005.

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