



The relief described hereinbelow is SO ORDERED.

Signed August 26, 2011.

A handwritten signature in black ink that reads "Robert D. Berger".

ROBERT D. BERGER
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

In re:

**CELERITAS TECHNOLOGIES, LLC, and
CELERITASWORKS, LLC,
Debtors.**

**Case No. 10-22381
Substantively Consolidated
Chapter 11**

**CARL R. CLARK,
Chapter 11 Trustee for Debtors,
Plaintiff,**

v.

Adv. Pro. No. 11-6199

**BRETT LESTER and
JOHN DOE,
Defendants.**

ORDER GRANTING MOTION FOR PRELIMINARY INJUNCTION

The Trustee moves for a preliminary injunction. Defendant Brett Lester received notice, and an evidentiary hearing was held on August 24, 2011. Having considered the pleadings, evidence, counsel's argument, and being duly advised in the premises, the Court grants the motion as follows:

Findings of Fact

Debtors CeleritasWorks, LLC, and Celeritas Technologies, LLC, filed for Chapter 11 bankruptcy on July 13, 2010. The Court approved the appointment of the Chapter 11 Trustee on March 14, 2011. On August 12, 2011, simultaneous with the filing of this adversary proceeding, the Trustee filed a motion seeking approval of a §363 sale of Debtors' assets to The Paradigm Alliance, Inc., or its designee. As part of the sale, the Trustee found it necessary to terminate the employment of Debtors' president, Brett Lester. Personal, strong animosity exists between Lester and Paradigm as evidenced in the underlying district court litigation between Debtors and Paradigm, and more recently, as documented by this Court in its Order appointing a Chapter 11 trustee. Additional evidence adduced at trial demonstrates Lester still poses an imminent threat to the success of Debtors' bankruptcy and the §363 sale even after his termination. Lester testified about his desire to contact Debtors' former customers, vendors, and employees to tell his side of the story. Lester does not have a good opinion of the incoming new ownership and management. The Court is confident, if given the opportunity, Lester would do whatever he could to derail the §363 sale and implode the bankruptcy. The Court has had several occasions to observe Lester on the stand and does not find him to be a credible witness when it comes to matters involving Paradigm.

Conclusions of Law

Fed. R. Civ. P. 65 is made applicable to adversary proceedings under Fed. R. Bankr. P. 7065, with the exception that "a temporary restraining order or preliminary injunction may be issued on application of a debtor, trustee, or debtor in possession without compliance with Rule 65(c)," which requires security prior to the issuance of injunctive relief. In order to establish a preliminary injunction is necessary, the Trustee must establish the (1) Debtors' estates will suffer

irreparable harm if the relief is not granted; (2) the injury to the Debtors' estates outweighs the harm caused to Lester if the injunction issues; (3) the injunction is not adverse to the public interest; and (4) the Trustee has a substantial likelihood of success on the merits of his case. A preliminary injunction is an extraordinary remedy, and its sole purpose is to preserve the status quo pending a trial on the merits. It should be granted only when the party seeking the relief carries the burden of persuasion with clear and convincing evidence. Since a preliminary injunction is intended to be temporary, to meet the exigencies of the situation, it necessarily at times lacks the degree of precision that may be required in a final decree granting injunctive relief.

Based upon the above findings of fact, the Trustee is entitled to a preliminary injunction.

IT IS ORDERED Defendants Brett Lester and John Does (as defined by the Complaint and upon receiving notice of this injunction), and all those in active concert or participation with them, be, and are, enjoined and restrained for a period of nine months or until further order of this Court from the following conduct.

1. Entering into or remaining within any office or other business premises of Debtors, including, but not limited to, Debtors' offices at 7101 College Blvd., Suite 600, Overland Park, Kansas 66210, unless accompanied by the Trustee or his designee;
2. Concealing, misappropriating, damaging, or destroying any assets that Debtors own, control, or have access to that Lester has in his possession or control;
3. Using or accessing (remotely or locally) any electronic system that Debtors own, control, or have access to, including, but not limited to, email systems, servers,

computers, network systems, word processing programs, financial programs, or any other electronic programs or files;

4. Soliciting any person employed by or affiliated with Debtors or their affiliated companies and any of Debtors' customers or vendors, including, but not limited to, TESS, and those employees, customers, or vendors as they existed on August 12, 2011.
5. Communicating with any person employed by or affiliated with Debtors or their affiliated companies and any of Debtors' customers or vendors as they existed on August 12, 2011, for the purpose or effect of maligning, disparaging, or negatively impacting Debtors, Paradigm, or Paradigm's designee, whether in person, by telephone, by email, text message, facsimile, social media, or by any other medium or means whatsoever.

IT IS FURTHER ORDERED, to enforce the foregoing proscription, Lester's communications regarding COBRA, 401(k), and other similar rights necessary for the orderly wind-up of his post-employment affairs shall be done in writing and copied to Paradigm's counsel of record. In the event Lester has reason to contact any person employed by or affiliated with Debtors or their affiliated companies and any of Debtors' customers or vendors as they existed on August 12, 2011, for a purpose that does not involve Debtors, Paradigm, Paradigm's designee, the §363 sale, or this bankruptcy, Lester and Lester's counsel shall attempt to work out an agreeable manner for the communication with Paradigm and the Trustee. The parties are expected to use their common sense and common decency to ensure innocuous communications are allowed (for example, seeking a letter of reference for employment); and the parties are likewise ordered to obey and comply with the terms and spirit of this injunction. In the event,

the parties cannot agree, the Court will provide further guidance upon request and by telephone conference.

IT IS FURTHER ORDERED Defendant Brett Lester shall:

1. Surrender, to the Chapter 11 Trustee or his designee, all assets owned or leased by the Debtors that are in the possession or control of Lester, whenever created or wherever held or located.
2. Provide all logins, user names, passwords, passcodes, or other items or statements, including his personal passwords for email and electronic files, that would allow Lester to have control or access to assets of the Debtors. Lester must provide these to the Trustee or designee of the Trustee.

IT IS SO ORDERED.

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ROBERT D. BERGER
U.S. BANKRUPTCY JUDGE
DISTRICT OF KANSAS