

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 14-11891-GAO

JOHN WILLIAM CRANNEY and NEVENA NICHOLE CRANNEY,
Appellants,

v.

LYNNE F. RILEY,
Appellee.

ORDER
April 29, 2014

O'TOOLE, D.J.

In November 2013, the Trustee sought the bankruptcy court's approval to sell an asset of the Chapter 11 debtors, the master coordinator level Shaklee distributorship. In December 2013, the Trustee moved for the bankruptcy court's approval to sell the debtors' interest in property on Concord Avenue in Belmont, Massachusetts. Both motions were made under 11 U.S.C. §§ 363(b) and (f) and Bankruptcy Rule 6004.

On April 1, 2014, after careful review of the sale procedures and the objections to the sale, the bankruptcy court granted both motions. See Bankruptcy Court docket numbers 276 and 277. The debtor moved to stay both orders pending appeal. That motion was denied. See Bankruptcy Court docket number 294. The debtor and a number of creditors filed a notice of appeal with this Court along with two motions to stay the sale of the assets pending appeal.

Motions for a stay of judgment pending appeal are governed by Bankruptcy Rule 8005 and Federal Rule of Civil Procedure 62(c). In order to succeed, the moving party must demonstrate (1) there is a likelihood of success on the merits of the appeal, (2) the moving party will suffer irreparable harm if a stay is not granted, (3) the harm to the moving party if the stay is

not granted is greater than the injury to the opposing party if the stay is granted, and (4) the public interest would not be adversely affected by the issuance of the stay.

After review of the motions and the Trustee's opposition, I conclude that the appellants have not carried their burden. I agree with the bankruptcy court's ruling denying the stay pending appeal. The appellants have not addressed the most critical factor, likelihood of success on the merits. Not only have they not shown a likelihood of success, they have failed to set forth what the grounds for the appeal would be. The Motions to Stay Pending Appeal (dkt. nos. 4 and 6) are DENIED.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge