

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

In re: Alliance Security, Inc.
Debtor

BK No. 17-11190
Chapter 11

Alliance Security, Inc. by and through the Official
Committee of Unsecured Creditors,
Plaintiff

v.

A.P. No. 19-01021

Jasjit Gotra, Brian Fabiano, Ricardo Diaz, Alliance
Holdings GFD, Inc., Power Home Technologies,
LLC, and Pramila Gotra,
Defendants

**DECISION AND ORDER DENYING DEFENDANT
PRAMILA GOTRA'S MOTION TO DISMISS**

(this relates to Doc. ## 7, 18)

I. INTRODUCTION

Plaintiff Alliance Security, Inc., by and through the Official Committee of Unsecured Creditors (“Plaintiff”), brought this adversary proceeding against defendants Jasjit Gotra, Brian Fabiano, Ricardo Diaz, Alliance Holdings GFD, Inc., Power Home Technologies, LLC, and Pramila Gotra to recover alleged fraudulent transfers made by Debtor Alliance Security, Inc. (“Debtor”), invoking Bankruptcy Code §§ 544 and 550¹ and R.I. Gen. Laws §§ 6-16-4 and 6-16-5. Defendant Pramila Gotra (“Ms. Gotra”) filed a motion to dismiss the Plaintiff’s complaint (Doc. #7) as it pertains to her, and the Plaintiff filed an objection to the motion (Doc. #18).

¹ Unless otherwise indicated, the terms “Bankruptcy Code,” “Code,” “section” and “§” refer to Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 37.

The Plaintiff asserts that Ms. Gotra is the recipient of fraudulent transfers made by the Debtor; that she received weekly checks of \$1,000 between July 18, 2014 and October 27, 2017, totaling \$171,000; that in exchange for such payments, she did not perform services for the Debtor of value or not of reasonably equivalent value; and that at all relevant times the Debtor was insolvent. In reality, the Plaintiff alleges, the payments were fraudulent transfers made under the guise of compensation for her services as a “spiritual advisor” and “life coach” to her son Defendant Jasjit Gotra, a principal of the Debtor and its CEO.

A. Ms. Gotra’s Motion to Dismiss

Ms. Gotra moves to dismiss under Federal Rule of Civil Procedure 12(b)(2) for lack of personal jurisdiction and under Rule 12(b)(3) for improper venue.² She contends that she is a full-time resident of Connecticut and does not have the requisite minimum contacts with Rhode Island to confer personal jurisdiction on the Court. She alleges that she does not conduct business personally in Rhode Island, she does not have any residences or offices in the state, and her employment with the Debtor ended on October 27, 2017. Furthermore, she states that while employed by the Debtor she was not required to report to Rhode Island.

B. Plaintiff’s Objection

The Plaintiff maintains that the motion fails as a matter of law because, under Federal Rule of Bankruptcy Procedure 7004, service of the complaint on Ms. Gotra at her Connecticut residence was proper and confers personal jurisdiction over her for purposes of this adversary proceeding. The Plaintiff argues that even if Ms. Gotra does not have sufficient minimum contacts with Rhode Island, a position the Plaintiff disputes, this Court nonetheless would have personal jurisdiction because she has sufficient contacts with the United States.

² Civil Rule 12(b) applies to this adversary proceeding through Federal Rule of Bankruptcy Procedure 7012(b).

II. JURISDICTION

The Court has jurisdiction over this proceeding under 28 U.S.C. §§ 157(a) and 1334(b).

This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (H).

III. APPLICABLE STANDARDS

The Plaintiff bears the burden of proving the existence of personal jurisdiction. *BT Prime Ltd. v. Boston Tech. Powered by Forexware, LLC (In re BT Prime Ltd.)*, 599 B.R. 670, 678 (Bankr. D. Mass. 2019) (citing *Massachusetts Sch. of Law at Andover, Inc. v. Am. Bar Ass'n*, 142 F.3d 26, 34 (1st Cir. 1998)). A court “may choose from among several methods for determining whether the plaintiff has met [its] burden.” *Massachusetts Sch. of Law at Andover, Inc.*, 142 F.3d at 34. “The most common method is the *prima facie* approach, under which the court accepts the specific facts that the plaintiff alleges so far as the record evidence supports them.” *In re BT Prime Ltd.*, 599 B.R. at 678. This method requires no “differential fact finding” but “only that a plaintiff proffer evidence which, taken at face value, suffices to show all facts essential to personal jurisdiction.” *Id.* (citing *Baskin-Robbins Franchising LLC v. Alpenrose Dairy, Inc.*, 825 F.3d 28, 34 (1st Cir. 2016)). The Court will adopt and apply the *prima facie* approach here.

Rule 7004 governs personal jurisdiction in adversary proceedings. In relevant part it provides:

(d) Nationwide Service of Process. The summons and complaint and all other process except a subpoena may be served anywhere in the United States.

...

(f) Personal Jurisdiction. If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service in accordance with this rule or the subdivisions of Rule 4 FR Civ P made applicable by these rules is effective to establish personal jurisdiction over the person of any defendant with respect to a case under the Code or a civil proceeding arising under the Code, or arising in or related to a case under the Code.

Fed. R. Bankr. P. 7004.

Thus, personal jurisdiction over a nonresident defendant exists in an adversary proceeding as long as the person is served according to Rule 7004 (or applicable portions of Rule 4 of the Federal Rules of Civil Procedure) and the exercise of personal jurisdiction is not inconsistent with constitutional requirements. *Goodson v. Rowland (In re Pintlar Corp.)*, 133 F.3d 1141, 1144 (9th Cir. 1998) (citing Rule 7004(f) and advisory committee notes (1996 Amendments)) (“[S]ervice or filing a waiver of service in accordance with this rule or the applicable subdivisions of F.R.Civ.P. 4 is sufficient to establish personal jurisdiction over the defendant.”); *In re Dehon, Inc.*, 298 B.R. 206, 214 (Bankr. D. Mass. 2003) (“[I]t should be remembered that the United States Bankruptcy Court operates with the benefit of nationwide service of process; all that is needed is sufficient contacts with the United States, not the state where the bankruptcy case is pending.”) (citation omitted); *In re Int’l Elec., Inc.*, 557 B.R. 204, 211 (Bankr. D. Kan. 2016) (“[W]hen determining whether this Court has personal jurisdiction over [the defendants], it is not whether they have minimum contacts with Kansas; rather, it is whether they have minimum contacts with the United States.”); *In re Capmark Fin. Grp., Inc.*, 479 B.R. 330, 340 (Bankr. D. Del. 2012) (“It is well-established that a person’s residency within the United States constitutes sufficient minimum contacts for the Bankruptcy Court to exercise personal jurisdiction over that person in an action arising under the Bankruptcy Code.”).

Explaining generally the expansion of federal jurisdiction under the minimum contacts principle, the United States Court of Appeals for the First Circuit noted:

Because the instant case is premised on a federal question, it is distinguishable from cases that address personal jurisdiction in the context of diversity jurisdiction, 28 U.S.C. § 1332 (1988)—a context in which the focal point is, of necessity, the Fourteenth Amendment. The distinction is of potential consequence. When a district court’s subject matter jurisdiction is founded upon a federal

question, the constitutional limits of the court's personal jurisdiction are fixed, in the first instance, not by the Fourteenth Amendment but by the Due Process Clause of the Fifth Amendment. [Citations omitted.] Inasmuch as the federalism concerns which hover over the jurisdictional equation in a diversity case are absent in a federal question case, a federal court's power to assert personal jurisdiction is geographically expanded. In such circumstances, the Constitution requires only that the defendant have the requisite "minimum contacts" with the United States, rather than with the particular forum state (as would be required in a diversity case).

United Elec. Radio and Mach. Workers of America v. 163 Pleasant Street Corp., 960 F.2d 1080, 1085 (1st Cir. 1992) (internal citations omitted).

The test for exercise of personal jurisdiction under the Due Process Clause is whether the assertion of personal jurisdiction will offend "traditional notions of fair play and substantial justice." *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). To satisfy due process, an individual's presence in the forum state is not required, but it is necessary for an individual to have "minimum contacts" with the forum. *Burnham v. Superior Court of California, County of Marin*, 495 U.S. 604, 618-19 (1990). "Because Rule 7004(d) provides for nationwide service of process, the relevant forum is the United States." *In re DBSI, Inc.*, 451 B.R. 373, 377 (Bankr. D. Del. 2011) (citing *Charan Trading Corp. v. Unit-Marts*, 399 B.R. 400, 406-07 (Bankr. D. Del. 2009)).

IV. ANALYSIS

A. Dismissal Under Rule 12(b)(2) – Lack of Personal Jurisdiction

Ms. Gotra's motion incorrectly focuses on what she alleges is an absence of the requisite minimum contacts with Rhode Island because of her lack of a physical presence in the state in connection with her employment by the Debtor. For the reasons discussed above, as a resident of Connecticut her contacts with that state are sufficient under Rule 7004(f) to establish this Court's personal jurisdiction over her. Nor does this Court's exercise of personal jurisdiction here

contravene Ms. Gotra's due process rights. Requiring Ms. Gotra to appear before this Court to defend herself in this adversary proceeding does not offend "traditional notions of fair play and substantial justice." *International Shoe Co.*, 326 U.S. at 316. The well-pled allegations in the Plaintiff's complaint specifically relate to Ms. Gotra's employment with a Rhode Island corporation and allege Ms. Gotra received compensation for services that were either of no value or of not reasonably equivalent value to the Debtor.³

B. Dismissal Under Rule 12(b)(3) – Improper Venue

Ms. Gotra's argument that the adversary proceeding against her should be dismissed for improper venue rests solely on her failed challenge to the Court's personal jurisdiction. Furthermore, she has not developed this argument in her motion and, therefore, it is waived. *See United States v. Severino-Pacheco*, 911 F.3d 14, 20 (1st Cir. 2018) (citing *United States v. Zannino*, 895 F.2d 1, 17 (1st Cir. 1990) ("It is not enough merely to mention a possible argument in the most skeletal way, leaving the court to do counsel's work, create the ossature for the argument, and put flesh on its bones.")).

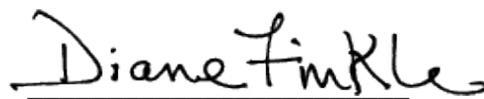
³ Although in her motion she disputes these facts alleged in the complaint, the Plaintiff alleges Ms. Gotra was contractually required to spend three nights per month in Rhode Island as a requirement of her employment. While this is not an issue the Court must decide for purposes of the motion, the Court is more than satisfied that it will not offend "traditional notions of fair play and substantial justice," *International Shoe, Co.*, 326 U.S. at 316, by exercising personal jurisdiction over her. The compensation paid to Ms. Gotra at issue here was paid to her as an employee of a Rhode Island corporation for services allegedly as an assistant and spiritual advisor to the corporation's CEO (her son) and, allegedly, required her to report to Rhode Island monthly as a condition of her employment.

V. CONCLUSION

The Court has personal jurisdiction over Ms. Gotra, as she has the requisite minimum contacts with the United States, and the exercise of such jurisdiction is consistent with the Constitution and the laws of the United States. Accordingly, Ms. Gotra's motion to dismiss is **DENIED.**

Date: October 23, 2019

By the Court,

A handwritten signature in black ink that reads "Diane Finkle". The signature is written in a cursive style with a horizontal line underneath the name.

Diane Finkle
U.S. Bankruptcy Judge