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Clock ticking away on August Wilson Center deal



James Knox | Tribune-Review

The August Wilson Center on Tuesday, July 1, 2014, Downtown.



By [Natasha Lindstrom](#)

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Pressure is mounting on the parties in the tangled tale of the August Wilson Center for African American Culture, with a criminal case clouding its imminent sale, a foreclosure deadline looming and more creditors who were cut out of the deal looking for a way to get paid.

The controversial \$8.85 million deal to sell the gleaming Downtown center to a city-backed group of foundations is slated to close by the end of the month. Allegheny County District Attorney Stephen A. Zappala Jr. filed criminal charges and pledged to halt that sale until a group of stagehands gets paid for work they did.

Legal experts question whether Zappala can thwart mortgage-holder Dollar Bank's planned Nov. 3 foreclosure.

"Whether or not Zappala has the authority to freeze bank accounts is wholly unrelated to whether or not the foreclosure goes through," said Kirk Burkley of the Downtown bankruptcy and restructuring firm Bernstein-Burkley.

Zappala's office filed a felony theft charge against the center last week, seeking to freeze its assets so 59 stagehands get paid about \$33,000 in wages and benefits owed for their work.

The criminal charges jeopardize the deal struck Sept. 29 by the court-appointed receiver, Dollar Bank and the Pittsburgh Urban Redevelopment Authority that would give ownership of the property to a newly formed nonprofit under The Pittsburgh Foundation.

"I would imagine that somebody's going to step up and pay the \$33,000 to make a \$9 million deal go through," said Mark Lewis, former board member of the August Wilson Center. "But that brings the question of how do they differ from the other \$1 million that is owed — are others going to go forward and say, 'If they're getting

paid, why aren't we?' ”

Many other unsecured creditors are slated to get nothing under the purchase deal. The creditors include a dry cleaner, caterers, office suppliers, utility companies, attorneys, accountants and individuals who wrote personal checks to help the center make payroll while it struggled to operate amid mounting debt.

John Lee, owner of Bethel Park-based International Investigative Services, said he's owed about \$230,000 for work by his security officers in 2012 and 2013. He's racked up \$40,000 in legal expenses going after that debt. “I was very, very patient, probably more patient than I should have been,” Lee said, noting that the center would send him a “\$5,000 check here and a \$10,000 check there” with a promise to pay the rest. “I believed in them, and they did nothing but lie to me.”

Amounts owed include tens of thousands of dollars in unpaid Duquesne Light bills and repayment of a \$5,000 loan from independent filmmaker Billy Jackson. Jackson, who knew Pulitzer Prize-winning playwright August Wilson, told the Tribune-Review he supported the foundation-driven deal even if it meant he wouldn't be repaid. A spokeswoman for Duquesne Light could not comment.

The receiver, Judith K. Fitzgerald, has not disclosed a complete list of unsecured creditors. The receiver has said she planned to do that only if there was enough money in a purchase deal to repay them.

Former board members Lewis and Aaron Walton pointed out that the center struggled from the day it opened in 2009 with \$11 million in debt, making paying bills an ongoing challenge.

“When you're in that situation, you're just trying to survive,” Lewis said.

Dollar Bank, which secured a \$7.96 million mortgage default judgment on the center in June, told the court it will proceed with a planned Nov. 3 sheriff's sale if the city- and foundation-backed deal does not close by the end of the month.

In the receivership process, the stagehands don't necessarily rank higher on the priority list of unsecured creditors, Burkley said.

“There is a difference in that the DA believes that what happened with this money was a criminal act,” Burkley said, “and that may be another tool that those people have at their disposal to help them get paid.”

A key difference that applies to the stagehands is that the [Pittsburgh Cultural Trust](#) paid the Wilson Center specifically for the stagehands' labor, and the center never passed along those earmarked wages, said David Rudov, who handles insolvency cases for Downtown-based Rudov & Stein.

“No other creditors have this unique situation,” Rudov said.

“The general funds that came in were to operate the business; what the Cultural Trust said was, ‘Here, please pay these funds over to the stagehands.’ That's significant.”

Unsecured creditors such as the security firm and stagehands have filed civil lawsuits, seeking to collect on their debts.

The process of discharging that unsecured debt will fold into the judicial sale order the parties expect Allegheny County Common Pleas Judge Lawrence O'Toole to execute at a hearing Monday, said Michael Shiner, attorney for the court-appointed receiver.

“In theory, somebody can continue through with their litigation, and they could win; I'm just not sure they'd find any assets left from which they can satisfy their judgment,” Shiner said. “It would be kind of an exercise in futility.”

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