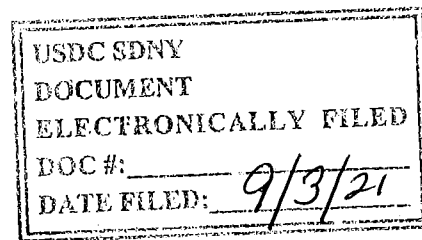


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
ELOF HANSSON USA INC.,
Plaintiff,

v.

EDGAR SANTIAGO aka "Edgar O. Santiago"
and "Edgar Oscar Santiago"; and BOLIVAR
ERNESTO INFANTE QUINONES,
Defendants.
-----X

ORDER

18 CV 2758 (VB)

On May 28, 2021, plaintiff filed (i) a proposed order in aid of enforcement of judgment and turnover order (Doc. #194); (ii) a proposed writ of execution and turnover order directed to the United States Marshals Service (Doc. #195), (iii) a proposed writ of execution and turnover order directed to New York County Sheriff (Doc. #196); and (iv) a proposed notice of issuance of writ of execution and turnover order (Doc. #197). The Court has reviewed plaintiff's submissions and discussed the same with the Clerk and United States Marshals Service. Due to a variety of procedural issues, the Court will not so order plaintiff's proposed submissions. Rather, attached hereto is a Draft Turnover Order, which the Court intends to enter in this matter.

Accordingly, it is HEREBY ORDERED:

By **September 10, 2021**, plaintiff shall advise the Court in writing whether it consents to the form of the Court's Draft Turnover Order. If plaintiff does not consent, it may submit proposed revisions thereto by the same date.

Dated: September 3, 2021
White Plains, NY

SO ORDERED:

Vincent L. Briccetti
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
ELOF HANSSON USA INC.,	:	
Plaintiff,	:	
	:	<u>DRAFT</u>
v.	:	<u>TURNOVER ORDER</u>
	:	
EDGAR SANTIAGO and BOLIVAR	:	18 CV 2758 (VB)
ERNESTO INFANTE QUINONES,	:	
Defendants.	:	
-----X		

At an on-the-record telephone conference held on May 21, 2021, at which counsel for plaintiff Elof Hansson USA Inc. and for defendant Edgar Santiago appeared, the Court granted plaintiff's motion for an order in aid of enforcement of the judgment and denied defendant Santiago's motion for an order staying enforcement of the judgment.

Based on the hearing and the records and files in this action, it appears to the Court that:

1. On November 24, 2020, a judgment was entered in this action for plaintiff's recovery from defendant Edgar Santiago of \$1,365,519.42 (the "Judgment"). (Doc. #139). In accordance with 28 U.S.C. § 1962 and N.Y. CPLR § 5202, the Judgment created a lien against all the real and personal property of Edgar Santiago located in this state upon plaintiff's compliance with CPLR § 5018(b) and all state registration, recordation, and enrollment requirements for statewide attachment of the lien of the district court judgment.
2. No part of the Judgment has been paid or satisfied, the Judgment has become final and is subject to enforcement, no order has been issued to stay its enforcement, and more than 14 days have expired from entry of the Judgment on November 24, 2020.
3. The Court has authority under Rule 69(a) of the Federal Rules of Civil Procedure to order enforcement and satisfaction of the Judgment by a judicial sale of nonexempt personal property of Edgar Santiago located in this judicial district in lieu of allowing the usual execution proceedings that would otherwise be the procedure for the enforcement of the Judgment.
4. There is located in this judicial district the following described nonexempt personal property of Edgar Santiago that may be subjected to a private or public judicial sale for satisfaction of plaintiff's Judgment against defendant Santiago:
 - i. 250 Shares concerning Apartment 2B at 318 West 36th Street, New York, NY, a building owned by the cooperative corporation 314-16-18 West 36 Street Housing Development Fund Corporation, acquired by Edgar Santiago, placed in his name on August 15, 2015 (formerly held by Rodolfo Bencosme in cancelled stock certificate number 44), and the proprietary lease in the name of Edgar Santiago, assigned to him by Mr. Bencosme on August 15, 2015.

- ii. 250 shares concerning Apartment 3A at 318 West 36th Street, New York, NY, a building owned by the cooperative corporation 314-16-18 West 36 Street Housing Development Fund Corporation, purchased solely by Edgar Santiago from Maritza Cabrera (a/k/a Maria Cabrera) but at Edgar's direction placed in the name of Julia Santiago on July 21, 2016 (formerly held by Ms. Cabrera in canceled stock certificate number 20), and the proprietary lease assigned from Ms. Cabrera to Julia Santiago on July 21, 2016.

5. Good cause exists for enforcement of the Judgment by public judicial sale of the property instead of by execution proceedings.

Accordingly, it is HEREBY ORDERED:

1. By **seven days from the date of entry of this Order**, plaintiff shall file on the ECF docket a proposed writ of execution to be reviewed and signed by the Clerk of Court. The Southern District of New York provides forms which are available at <https://www.nysd.uscourts.gov/forms/writ-execution-against-property>.

2. By **twenty-one days from the date of entry of this Order**, plaintiff shall serve a copy and file on the docket proof of service of this Order, and any writs of execution, on each of the following persons:

- i. Edgar Santiago by Federal Express overnight courier to his attorney, Joshua M. Lurie, Esq., Lurie|Strupinsky, LLP, 15 Warren Street, Suite 36, Hackensack, New Jersey 07601
- ii. Julia Santiago by Federal Express overnight courier to her at 378 Walnut Street, Washington Township, New Jersey 07676; and
- iii. 314-16-18 West 36 Street Housing Development Fund Corporation by Federal Express overnight courier to Michael Jackson at 318 West 36th Street, Apartment 5D, New York, New York 10018.

3. Within **seven days** of receiving service of this Order, defendant-judgment debtor Edgar Santiago, concerning Apartments 2B and 3A in the building located at 318 West 36th Street, New York, New York, owned by the cooperative corporation 314-16-18 West 36 Street Housing Development Fund Corporation:

- i. shall deliver to or for the benefit of Elof Hansson USA Inc. all of his right, title and interest in cooperative Apartment 2B in the building located at 318 West 36th Street, New York, New York, owned by the cooperative corporation 314-16-18 West 36 Street Housing Development Fund Corporation, execute and deliver all documents necessary to effect such delivery, and deliver to William Hummell, Esq., as counsel for Elof Hansson USA Inc., the stock certificate for the 250 shares concerning Apartment 2B acquired by Edgar Santiago, placed in his name on August 15, 2015 (formerly held by Rodolfo Bencosme in canceled stock certificate number 44), and the proprietary lease in the name of Edgar Santiago, assigned to him by Mr. Bencosme on August 15, 2015; and

- ii. shall deliver to or for the benefit of Elof Hansson USA Inc. all of his right, title and interest in cooperative Apartment 3A, in the building located at 318 West 36th Street, New York, New York, owned by the cooperative corporation 314-16-18 West 36 Street Housing Development Fund Corporation, execute and deliver all documents necessary to effect such delivery, and deliver to William Hummell, Esq., as counsel for Elof Hansson USA Inc., the stock certificate number 61 for the 250 shares concerning Apartment 3A purchased solely by Edgar Santiago from Maritza Cabrera (a/k/a Maria Cabrera) but at Edgar's direction placed in the name of Julia Santiago on July 21, 2016 (formerly held by Ms. Cabrera in cancelled stock certificate number 20), and the proprietary lease assigned from Ms. Cabrera to Julia Santiago on July 21, 2016;

4. Within seven days of receiving service of this Order, Julia Santiago (one of the order to show cause respondents), shall deliver to or for the benefit of Elof Hansson USA Inc. all of her right, title and interest in cooperative Apartment 3A in the building located at 318 West 36th Street, New York, New York, owned by the cooperative corporation 314-16-18 West 36 Street Housing Development Fund Corporation, execute and deliver all documents necessary to effect such delivery; and deliver to William Hummell, Esq., as counsel for Elof Hansson USA Inc., stock certificate # 61 for the 250 shares concerning Apartment 3A purchased solely by Edgar Santiago from Maritza Cabrera (a/k/a Maria Cabrera) but at Edgar's direction placed in the name of Julia Santiago on July 21, 2016 (formerly held by Ms. Cabrera in cancelled stock certificate # 20), and the proprietary lease concerning Apartment 3A assigned to Julia Santiago on July 21, 2016;

5. In lieu of acting as custodian of (i) the stock certificate for the 250 shares concerning Apartment 2B acquired by Edgar Santiago, placed in his name on August 15, 2015; and (ii) the stock certificate number 61 for the 250 shares concerning Apartment 3A, William Hummell, Esq., as counsel for Elof Hansson USA Inc., may appoint a trustee at plaintiff's expense to maintain possession of the stock certificates prior to the public sale. If he so decides, Mr. Hummell shall notify the Court by letter of the location of the relevant property.

6. At a date and time to be agreed upon by plaintiff and the United States Marshals Service for the Southern District of New York, William Hummell, Esq., as counsel for Elof Hansson USA Inc., shall deliver to the United States Marshals Service the following: (i) a copy of this Order; (ii) all writs of execution; (iii) the stock certificate for the 250 shares concerning Apartment 2B acquired by Edgar Santiago, placed in his name on August 15, 2015; and (iv) the stock certificate number 61 for the 250 shares concerning Apartment 3A.

7. The United States Marshals Service for the Southern District of New York will sell to the highest bidder in cash at a public sale to be held at 500 Pearl Street in New York City at a date and time to be determined by the United States Marshals Service defendant's following described personal property:

- i. 250 Shares concerning Apartment 2B at 318 West 36th Street, New York, NY, a building owned by the cooperative corporation 314-16-18 West 36 Street Housing Development Fund Corporation acquired by Edgar Santiago, placed in his name on August 15, 2015 (formerly held by Rodolfo Bencosme in cancelled stock certificate number 44), and the

proprietary lease in the name of Edgar Santiago, assigned to him by Mr. Bencosme on August 15, 2015.

- ii. 250 shares concerning Apartment 3A at 318 West 36th Street, New York, NY, a building owned by the cooperative corporation 314-16-18 West 36 Street Housing Development Fund Corporation purchased solely by Edgar Santiago from Maritza Cabrera (a/k/a Maria Cabrera) but at Edgar Santiago's direction placed in the name of Julia Santiago on July 21, 2016 (formerly held by Ms. Cabrera in canceled stock certificate number 20), and the proprietary lease assigned from Ms. Cabrera to Julia Santiago on July 21, 2016.

8. The public sale is to be preceded by publication of notice by the United States Marshals Service in which notice the property is to be described as above; the notice is to be published consecutively once a week for not less than three weeks in The New York Post, a newspaper regularly issued and having a general circulation in this judicial district, where the property of defendant that is to be sold is situated.

9. The monetary proceeds from the sale is to be applied first to the payment of the costs of the sale (including the United States Marshals Service commission, fees, and expenses); next to the costs of this suit; then to the satisfaction of plaintiff's judgment for the recovery from defendant of \$1,365,519.42; any residue is to be paid to Edgar Santiago.

10. Following their completion of the sale, subject to its confirmation by the Court, the United States Marshals Service will file a prompt return or report of sale, showing their compliance with this Order.

Dated: _____, 2021
White Plains, NY

SO ORDERED:

UNSIGNED DRAFT

Vincent L. Briccetti
United States District Judge