

Art Fin. Partners LLC v Sammons

2017 NY Slip Op 31779(U)

August 22, 2017

Supreme Court, New York County

Docket Number: 651190/2016

Judge: Shirley Werner Kornreich

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 54

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ART FINANCE PARTNERS LLC, AF FUNDING LLC, Index No.: 651190/2016
KNICKERBOCKER FUNDING LLC, CERULEAN
ART LLC, AFP ADVISORS LLC, & ANDREW ROSE, **DECISION & ORDER**

Plaintiffs,

-against-

TIMOTHY SAMMONS, TIMOTHY SAMMONS, INC.,
TIMOTHY SAMMONS FINE ART AGENTS, & JOHN
SOMMERVILLE,

Defendants,

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SHIRLEY WERNER KORNREICH, J.:

Plaintiffs Knickerbocker Funding LLC (Knickerbocker), Andrew Rose, and AFP
Advisors LLC (Advisors) move, pursuant to CPLR 3215, for a default judgment against
defendants Timothy Sammons and Timothy Sammons, Inc. (TSI). The motion seeks a default
judgment on breach of contract and fraud causes of action.

Specifically, plaintiffs request: (1) judgment for Knickerbocker in the amount of
\$1,971,096.57 with interest continuing to accrue at the rate of 22% compounded daily from May
1, 2017 on a loan collateralized by a painting of the Nativity by Baldessare Peruzzi (Peruzzi
Artwork); (2) a declaration against Sammons and TSI for Knickerbocker's legal fees and
expenses incurred in attempting to collect under loan agreement; (3) a declaration for
indemnification against Sammons and TSI for expenses incurred in resolving the claims to the
Peruzzi Artwork by the estate of Marie Henriette Adele Pouncey (Pouncey Estate), for which
defendant John Sommerville is trustee; (4) a declaration that TSI and Sammons must pay
Advisors 20% of the sales price for the Peruzzi Artwork; (5) judgment for Knickerbocker in the

amount of \$938,371.56 with interest continuing to accrue at the rate of 22% compounded daily from May 1, 2017 on a second loan collateralized by a painting titled Caritas by Joachim Wtewael (Wtewael Artwork); (6) a declaration against Sammons and TSI for Knickerbocker's legal fees and expenses incurred in attempting to collect under loan agreement; (7) a declaration for indemnification against Sammons and TSI for expenses incurred in prosecuting the instant action and in defending against the claims of the Emmersons to the Wtewael Artwork; (8) judgment for Knickerbocker in the amount of \$800,684.60 with interest continuing to accrue at the rate of 22% compounded daily from May 1, 2017 on a third loan, which was collateralized by a standing ivory figure (Ivory Artwork, with Peruzzi Artwork and Wtewael Artwork, Artworks); (9) a declaration that Knickerbocker and Rose are entitled to indemnification from Sammons and TSI for their legal fees and expenses as a result of claims to the Ivory Artwork brought in federal court and those of John Cookson; and (10) a declaration that Sammons and TSI must indemnify Knickerbocker for all its legal costs and expenses in connection with collecting on the third loan.¹ Seq. 002. The motion is unopposed. It is granted in part and denied for the reasons stated below.

This case arises from loans made by plaintiffs to TSI and Sammons, which were secured by certain artwork purportedly belonging to TSI and Sammons. Knickerbocker and Advisors are Delaware limited liability companies. Dkt. 52 (Rose Aff.) ¶¶ 4-5.² TSI is a New York corporation, dissolved by proclamation on April 27, 2011.³ Dkt. 52 (Rose Aff.) ¶ 7; Dkt. 55

¹ By letter filed on July 12, 2017, moving plaintiffs withdrew their request for \$6 million in punitive damages. Dkt. 87.

² References to "Dkt." followed by a number refer to documents filed in this action on the New York State Courts Electronic Filing system (NYSCEF). Page numbers refer to the PDF file.

³ Under NY BCL § 1006, a dissolved corporation may be sued and served with process.

(entry in Corporate Entity Information Database) at 1-2. Sammons is a resident of Great Britain. Dkt. 52 (Rose Aff.) ¶ 6. In support of their motion for a default judgment, the moving plaintiffs submitted affidavits from Rose, an individual member and an officer of both Knickerbocker and Advisors. Dkt. 52 ¶ 1 (Rose Aff.); Dkt. 88 (Rose Suppl. Aff.) ¶ 1. The moving plaintiffs also submitted a declaration from Knickerbocker's consultant, Christopher D. Krecke, who computed the amounts owed on the loans. Dkt. 48 (Krecke Aff.) ¶ 2; Dkt. 49-51 (Loan Runs).⁴

In May 2014, Knickerbocker (represented by member/officer Rose), Sammons (individually), and TSI (represented by Sammons) entered into a loan agreement⁵ and a promissory note, designating the Peruzzi Artwork as collateral. Dkt. 52 (Rose Aff.) ¶ 12. The Peruzzi Artwork was designated as collateral by both instruments. Dkt. 56 (Peruzzi Loan); Dkt. 57 (Peruzzi Note). Advisors, TSI, and Sammons entered into an origination agreement under which, inter alia, Advisors was to receive of 20% of the gross proceeds from the sale of the Peruzzi Artwork should TSI and Sammons default under the Peruzzi Loan. Dkt. 59 (Peruzzi Origination) at 1; Dkt. 52 (Rose Aff.) ¶ 28. The Peruzzi Loan and Note were twice amended, in July and September 2014, to increase the maximum loan amount and to add additional collateral. Dkt. 58 at 1-8 (amendments to Peruzzi Note), 9-12 (first amendment to Peruzzi Loan); Dkt. 91 at 5-8 (second amendment to Peruzzi Loan); Dkt. 52 (Rose Aff.) ¶ 17. By September 2014,

⁴ Plaintiffs AF Funding LLC, Art Finance Partners LLC, and Cerulean Art LLC do not presently seek a default judgment, but reserve their rights to do so. Dkt. 52 (Rose Aff.) at 1 n.1. Plaintiffs reserve their rights to seek relief against defendant Timothy Sammons Fine Art Agents (TFA). Dkt. 85 (Br.) at 4 n.1. Finally, plaintiffs do not seek relief against Somerville due to an agreed-upon stay and settlement of the applicable claims. Dkt. 52 (Rose Aff.) ¶ 8.

⁵ Fully executed copies of the agreements were furnished. Dkt. 90-95. Moreover, Sammons and TSI are deemed to admit, on default, that they are bound by the agreements, as pled in the amended complaint. *See Rokina Optical Co. v Camera King, Inc.*, 63 NY2d 728, 730 (1984).

Knickerbocker had loaned a total of \$1.2 million to Sammons and TSI under the Peruzzi Loan.

Dkt. 52 (Rose Aff.) ¶ 18.

Meantime, in June 2014, the parties to the Peruzzi Loan had entered into a second, \$600,000 loan agreement (Dkt. 60, Wtewael Loan) and promissory note (Dkt. 61, Wtewael Note), secured by the Wtewael Artwork. Dkt. 52 (Rose Aff.) ¶¶ 53, 58. Advisors, TSI, and Sammons entered into an origination agreement for the Wtewael Artwork similar to the Peruzzi Origination. Dkt. 94 (Wtewael Origination,⁶ with Peruzzi Origination, Originations); Dkt. 52 (Rose Aff.) ¶ 66; Dkt. 88 (Rose Supplemental Aff.) ¶ 7.

In August 2014, the parties executed a third loan agreement (Dkt. 66, Ivory Loan, with Peruzzi and Wtewael Loans, Loans) and promissory note (Dkt. 67, Ivory Note, with Peruzzi and Wtewael Notes, Notes), secured by the Ivory Artwork. Dkt. 52 (Rose Aff.) ¶¶ 86-87. In December 2014 and January 2015, the Ivory Loan and Note were twice amended to increase the maximum loan amount. Dkt. 68 (amendments); Dkt. 52 (Rose Aff.) ¶ 89. Knickerbocker loaned a total of \$1,075,000 to Sammons and TSI under the Ivory Loan between August 2014 and January 2015. Dkt. 52 ¶ 91. In February 2015, Knickerbocker received payments that reduced the principal balance to \$525,000. Dkt. 52 ¶ 91.

The Loans included the following representation as to ownership of the Artworks:

(c) Ownership. The Borrowers own the Property free and clear of any lien, security interest, charge or encumbrance or interest of any other person (including, without limitation, any interest as consignor) except for the security interest created by this Agreement or as may be created pursuant to any Other Agreement to which Lender is a party. ...

⁶ The Wtewael Origination (Dkt. 94) is erroneously dated June 2013, instead of June 2014. Dkt. 88 ¶ 7. The document filed at Dkt. 62 is an exact copy of Dkt. 59, the Peruzzi Origination, and appears to have been filed in error.

Dkt. 56 at 4, 60 at 4, & 66 at 4. The Loans additionally specified that a false representation or warranty would result in an “Event of Default.” Dkt. 56 at 9, 60 at 9, & 66 at 9.

All of the Loans dictate a default interest rate of 22% per annum, compounded daily. Dkt. 52 (Rose Aff.) ¶¶ 20, 59, 93; Dkt. 56 at 3-4, 60 at 3-4, & 66 at 3-4. Further, the Loans provide for service of process by certified mail to a New York address. Dkt. 56 at 13-15, 60 at 13-15, & 66 at 13-15. The Loans are governed by New York law. Dkt. 56 at 13, 60 at 13, & 66 at 13.

Beginning on February 1, 2015, Sammons and TSI failed to make the required payments under the Peruzzi and Wtewael Loans, resulting in a default on the Loans.⁷ Dkt. 52 (Rose Aff.) ¶¶ 20, 59, 93. Sammons’s representations that he and TSI owned the Artworks were false, as asserted by the rightful owners of the Artworks in claims against Rose and Knickerbocker beginning in 2015. *See* Dkt. 52 (Rose Aff.) ¶¶ 31-37 (describing Pouncey Estate’s claims to the Peruzzi Artwork); Dkt. 63 (Emmerson Aff.) (asserting ownership over the Wtewael Artwork); Dkt. 52 (Rose Aff.) ¶ 101 (describing John Cookson’s claims to the Ivory Artwork).

On March 8, 2016, plaintiffs filed the instant action by summons with notice. Dkt 1. They filed a supplemental summons and original complaint on May 9, 2016 (Dkt. 2; Dkt. 3), followed by an amended complaint on August 11, 2016 (AC).⁸ Dkt. 15. Plaintiffs served (1) the summons

⁷ The Peruzzi Loan default caused an Ivory Loan default. *See* Dkt. 66 (Ivory Loan) at 8-9 (defining “Events of Default” to include when “[b]orrowers default under any other indebtedness in the individual or aggregate amount of \$100,000 or more”).

⁸ The AC asserts sixteen causes of action, numbered here as in the amended complaint (Dkt. 5): (1) breach of the Peruzzi Loan against Sammons and TSI; (2) declaratory judgment against Sammons and TSI for indemnification under the Peruzzi Loan and Origination; (3), (4), and (5) declaratory judgment against defendants that plaintiffs have rights to the Peruzzi Artwork; (6) declaratory judgment against defendants that Advisors has exclusive rights to market, consign, and sell the Peruzzi Artwork, receive 20% commission, and apply proceeds to amounts owed by Sammons and TSI to plaintiffs; (7) breach of the Wtaewael Loan against Sammons and TSI; (8) declaratory judgment against Sammons and TSI for indemnification under the Wtaewael Loan and Origination; (9) breach of the Ivory Loan against Sammons and TSI; (10) declaratory judgment for indemnification under the Ivory Loan and Note against Sammons and TSI;

with notice on TSI and Sammons, (2) the Supplemental Summons and Complaint, and (3) the AC, on June 30, July 1, and August 11, 2016, respectively, via USPS mail to the address specified in the loan documents. Dkt. 71, 72, 74 (Affidavits of Service). Neither TSI nor Sammons appeared in this case.⁹

On May 16, 2017, plaintiffs filed the instant motion (*see* Dkt. 52 ¶ 1). Seq. 002. They served TSI and Sammons with the motion papers via USPS mail to the address specified in the loan documents. Dkt. 86. Additional service under CPLR 3215 of the supplemental summons and first amended complaint was effected, also via USPS mail, on March 24, 2017, to Sammons's last known residence in the UK and to the address for TSI and Sammons specified in the loan documents, which was TSI's last known address. Dkt. 70 (Hoffman Aff.) ¶ 16; Dkt. 76 (Affidavit of Mailing).

To succeed on a motion for a default judgment, plaintiffs must submit proof of service of process and affidavits attesting to the default and the facts constituting the claim. CPLR 3215(f). A defaulting defendant "admits all traversable allegations in the complaint, including the basic allegation of liability." *Rokina Optical Co. v Camera King, Inc.*, 63 NY2d 728, 730 (1984); *see Woodson v Mendon Leasing Corp.*, 100 NY2d 62, 71 (2003) ("[D]efaulters are deemed to have

(11) declaratory judgment against Sammons and TSI for indemnification under agreements relating to an artwork by Picasso; (12), (13), and (14) breach of contract and declaratory judgment against Sammons and TSI for indemnification under agreements relating to a bronze artwork, five different artworks, and an artwork by Chagall; (15) declaratory judgment against defendants that Advisors has exclusive rights to market, consign, and sell two other pieces of artwork under agreements relating to those artworks, receive 20% commission, and apply proceeds to amounts owed by Sammons and TSI; and (16) fraud against Sammons, TSI, and SFA.

⁹ Counsel for plaintiffs spoke with Sammons by phone on several occasions between November 2016 and April 2017 regarding the instant action. During at least one of those calls, Sammons acknowledged that he was in receipt of papers in connection with this action. Dkt. 70 (Hoffman Aff.) ¶¶ 12, 17-18.

admitted all factual allegations contained in the complaint and all reasonable inferences that flow from them.”). Nonetheless, a defendant’s default does not “give rise to a ‘mandatory ministerial duty’ to enter a default judgment against it. Rather, the [plaintiff is] required to demonstrate that [it] at least [has] a viable cause of action.” *Resnick v Lebovitz*, 28 AD3d 533, 534 (2d Dept 2006) (citation omitted); *see Guzzetti v City of New York*, 32 AD3d 234, 235 (1st Dept 2006) (McGuire, J., concurring). “The standard of proof is not stringent, amounting only to some firsthand confirmation of the facts.” *Feffer v Malpeso*, 210 AD2d 60, 61 (1st Dept 1994) (citations omitted); *see Whittemore v Yeo*, 117 AD3d 544, 545 (1st Dept 2014).

The elements of a breach of contract are a valid contract, plaintiff’s performance, defendant’s breach, and damages therefrom. *See Morris v 702 E. Fifth St. HDFC*, 46 AD3d 478, 479 (1st Dept 2007). Plaintiffs attached the loan documents to their motion papers and aver facts sufficient to show prima facie validity of the loan documents, plaintiffs’ performance thereunder, TSI and Sammons’s breach, and resultant damages. Based on plaintiffs’ affirmations and the effective admissions of TSI and Sammons on default, the court finds that TSI and Sammons breached the Loans by failing to make payments when due and by falsely representing that they had ownership of the collateral. Accordingly, a default judgment for breach of the loan agreements and judgment for the principal and interest due under the Loans, as computed in the Krecke Affidavit (Dkt. 48) and exhibits thereto (Dkt. 49-51) are granted.

However, Advisors’s request for a declaratory judgment on a 20% sales commission on the Peruzzi and Wtaewael Artworks, (Dkt. 52 (Rose Aff.) ¶¶ 49-50, 82-83), is denied as premature. Such a declaration is contingent on a future event (the sale of those artworks) that is beyond the control of the parties and may never occur. *See Empire 33rd LLC v Forward Ass’n*

Inc., 87 AD3d 447, 448 (1st Dept 2011). Advisors does not aver that the Peruzzi or Wtaewael Artworks have been sold or that any party to this motion has the right or ability to sell them.¹⁰

Turning to the fraud claims, “[t]he elements of fraudulent inducement are: a false representation of a material fact with scienter; [and] reliance thereon by defendant to its detriment.” *Nat’l Union Fire Ins. Co. of Pittsburgh, Pa. v Worley*, 257 AD2d 228, 233 (1st Dept 1999), citing *Channel Master Corp. v Aluminum Ltd. Sales, Inc.*, 4 NY2d 403, 406-07 (1958). Fraudulent inducement of a contract requires the false representation to be collateral or extraneous to the contract. *See Coppola v Applied Elec. Corp.*, 288 AD2d 41, 42 (1st Dept 2001). Moreover, to recover in tort, plaintiffs must allege damages distinct from the breach of contract. *See Triad Int’l Corp. v Cameron Indus., Inc.*, 122 AD3d 531, 531 (1st Dept 2014) (affirming dismissal and denying amendment of fraud claim where plaintiff sought identical compensatory damages for breach of contract).

While Sammons’s misrepresentations of present fact regarding ownership of the Artworks were collateral to the Loans, plaintiffs fail to allege fraud damages different from those for breach of contract. *See Deerfield Commc’ns Corp. v Chesebrough-Ponds, Inc.*, 68 NY2d 954, 956 (1986) (“The measure of damages recoverable for being fraudulently induced to enter into a contract which otherwise would not have been made is ‘indemnity for the loss suffered through that inducement.’” (brackets omitted), quoting *Sager v Friedman*, 270 NY 472, 481 (1936)); *see also Mañas v. VMS Assocs., LLC*, 53 AD3d 451, 454 (1st Dept 2008) (dismissing fraud claim as duplicative where plaintiff did not allege damages that could not be recovered under asserted breach of contract). The motion for a default judgment as to fraud is denied.

¹⁰ Advisors also does not claim that TSI and Sammons dispute that they owe Advisors a commission on the Peruzzi and Wtaewael Artworks if or when they are sold.

In addition to monetary damages, the moving plaintiffs seek declaratory judgments of TSI and Sammons's liability for attorneys' fees and expenses incurred by Rose, Advisors, and Knickerbocker in the instant action and for defending actions brought by the true owners of the Artworks.¹¹ A declaratory judgment is inappropriate where a breach of contract action is available. *See Apple Records, Inc. v Capitol Records, Inc.*, 137 AD2d 50, 54 (1st Dept 1988). Further, plaintiffs do not allege that TSI and Sammons dispute their liability to indemnify the moving plaintiffs under the Loans and Originations, but merely that TSI and Sammons have failed to so indemnify them upon demand. The court, therefore, will construe the request as one for damages seeking reasonable attorneys' fees and expenses.¹²

"When a party is under no legal duty to indemnify, a contract assuming that obligation must be strictly construed to avoid reading into it a duty which the parties did not intend to be assumed." *Hooper Assocs., Ltd. v AGS Computers, Inc.*, 74 NY2d 487, 491 (1989). "The promise [to indemnify] should not be found unless it can be clearly implied from the language and purpose of the entire agreement and the surrounding facts and circumstances." *Id.* at 491-92.

The Notes contain the following provision:

SECTION 5. COLLECTION AND LITIGATION: The Borrowers agree to pay ***any and all costs and expenses incurred by the holder hereof in the collection of this Promissory Note or the enforcement or interpretation of any of its provisions (including reasonable attorney's fees*** whether or not litigation is commenced). ...

¹¹ These other legal actions include: *Somerville v Art Finance Partners LLC*, Case No. 16-cv-06160 (S.D.N.Y) and *Emmerson v Knickerbocker Funding LLC*, Case No. 15-cv-04345 (S.D.N.Y). Plaintiffs claim to have expended over \$750,000 in legal fees and costs due to Sammons's activities. Dkt. 70 (Hoffman Aff.) ¶ 29; *see also* Dkt. 48 (Krecke Aff.) ¶¶ 13, 22, 31.

¹² While plaintiffs do not presently seek an inquest due to cost, *see* Dkt. 52 at 21 n.2, the moving plaintiffs provide no other justification or any authority for their request for a declaratory judgment.

Dkt. 57 at 4-5, 61 at 4, & 67 at 4 (emphasis added). Under the Notes, Sammons and TSI agreed to pay for “any and all costs and expenses ... including reasonable attorney’s fees” incurred in collection and enforcement, which describes activities typically brought by the noteholder against the issuer. Dkt. 57 (Peruzzi Note) at 4-5, 61 (Wtewael Note) at 4, & 67 (Ivory Note) at 4. Sammons and TSI are clearly and unmistakably liable for the moving plaintiffs’ reasonable attorneys’ fees incurred to collect on the Notes.

Moving on to the other agreements, the terms of the Loans and Originations require TSI and Sammons to reimburse Knickerbocker, Advisors, and Rose for their expenses and attorneys’ fees incurred as a result of claims by and against third parties “arising out of” TSI and Sammons’s “actions” in connection with the Loans and Originations—i.e., false representations of ownership as to the Artworks. Dkt. 56 (Peruzzi Loan) at 13, 60 (Wtewael Loan) at 13, 66 (Ivory Loan) at 13, 59 (Peruzzi Origination) at 2, & 94 (Wtewael Origination) at 2. The Loans state as follows:

Each Borrower ***agrees to indemnify and hold harmless Lender, and its Affiliates***, directors, officers, members, employees, agents, attorneys and representatives (each, an “Indemnified Person”), promptly, on demand, ***from and against all*** litigation, suits, actions, proceedings, claims (pending or threatened), damages, losses, liabilities and ***expenses (including, but not limited to, attorneys’ fees*** and disbursements and other costs of preparation, investigation or defense, including those incurred upon any appeal), ***which may be*** instituted or asserted against or ***incurred by any such Indemnified Person in connection with, or arising out of, the Loan, the Other Agreements***, the documentation related thereto, any other loan related thereto, ***any actions or failures to act in connection therewith***, and any and all liabilities and legal costs and expenses arising out of or incurred in connection with any disputes between or among any parties to any of the foregoing, and any investigation, litigation, or proceeding related to any such matters.

Dkt. 56 at 13, 60 at 13, & 66 at 13 (emphasis added). The Loans define “Affiliate of Lender” to include people and entities that control, are controlled by, or are under common control with

Knickerbocker. Dkt. 56 at 1, 60 at 1, & 66 at 1. The Peruzzi and Wtewael Loans define “Other Agreements” to include the corresponding Originations. Dkt. 56 at 2 & 60 at 2.

Finally, the Originations similarly state as follows:

Borrowers agree to indemnify and hold harmless Originator, and its Affiliates, directors, officers, members, employees, agents, attorneys and representatives (each, an “Indemnified Person”), promptly, on demand, **from and against all** litigation, suits, actions, proceedings, claims (pending or threatened), damages, losses, liabilities and **reasonable expenses (including, but not limited to, attorneys’ fees** and disbursements and other costs of preparation, investigation or defense, including those incurred upon any appeal), **which may be** instituted or asserted against or **incurred by any such Indemnified Person in connection with, or arising out of this Agreement** and the transactions contemplated hereby, **any actions or failures to act in connection therewith**, and any and all liabilities and legal costs and expenses arising out of or incurred in connection with any disputes between or among any parties to any of the foregoing, and any investigation, litigation, or proceeding related to any such matters.

Dkt. 59 at 2 & 94 at 2 (emphasis added).

These broadly-phrased indemnification provisions entitle the moving plaintiffs to indemnification for the reasonable attorneys’ fees and expenses incurred in disputes with third parties regarding ownership of the Artworks, including disputes with the Pouncey Estate, Emmerson, and Cookson. Consequently, the moving plaintiffs are entitled to their reasonable attorneys’ fees and other costs and expenses arising out of this litigation and the competing claims to the Peruzzi, Wtewael, and Ivory Artworks. Accordingly, it is

ORDERED that the moving plaintiffs’ motion for a default judgment is granted to the extent set forth above, and the Clerk is directed to enter judgment in favor of plaintiff Knickerbocker Funding LLC against Timothy Sammons and Timothy Sammons, Inc., jointly and severally, in the amount of: (1) \$1,971,096.57 (on the Peruzzi Loan), (2) \$938,371.56 (on the Wtewael Loan), and (3) \$800,684.60 (on the Ivory Loan) with interest on all of them at the rate

of 22% per annum from the date of May 1, 2017, until entry of judgment, and thereafter at the statutory rate; and it is further

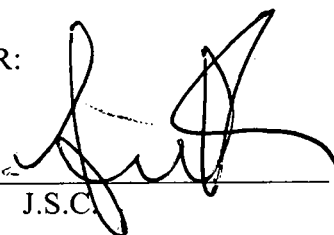
ORDERED that the issue of reasonable attorneys' fees and expenses that plaintiffs Knickerbocker, Advisors, and Rose are entitled to recover from Sammons and TSI is hereby severed and referred to a Special Referee to hear and determine, and within twenty days of the date of this decision and order, plaintiff shall serve a copy with notice of entry, as well as a completed information sheet,¹³ on the Special Referee Clerk at spref-nyef@nycourts.gov, who is directed to place this matter on the calendar of the Special Referee's part for the earliest convenient date, and notify the parties of the time and date of the hearing; and it is further

ORDERED that the claims by AF Funding LLC and Cerulean Art LLC against defendants, and the claims by plaintiffs against Timothy Sammons Fine Art Agents and John Sommerville are severed and shall continue; and it is further

ORDERED that within 10 days of the entry of this order on NYSCEF, plaintiffs shall serve a copy of this order with notice of entry on Sammons and TSI by overnight mail.

Dated: August 22, 2017

ENTER:



J.S.C.

SHIRLEY WERNER KORNREICH
J.S.C.

¹³ Copies of the Information Sheet are available at:
<http://www.nycourts.gov/courts/1jd/suptmanh/SR-JHO/SRP-InfoSheet.pdf>