

Premier Capital, LLC v Rock Zon Holdings, LLC

2018 NY Slip Op 33343(U)

December 21, 2018

Supreme Court, New York County

Docket Number: 157778/2018

Judge: Eileen A. Rakower

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 6

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Premier Capital, LLC,

Petitioner,

Index No.
157778/2018

**DECISION and
ORDER**

- against -

Mot. Seq. #1

Rock Zon Holdings, LLC, New York Madness, LLC,
and Jeffrey V. Chrzczon a/ka Jeff Chrzczon,

Respondents.

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HON. EILEEN A. RAKOWER, J.S.C.

This action is brought to enforce a judgment in the amount of \$39,730.53 rendered against Respondent, Jeffrey V. Chrzczon a/ka Jeff Chrzczon, the Judgment Debtor (“Respondent”). The Judgment was entered and filed on June 14, 2006 in favor of Petitioner’s predecessor in interest, JPMorgan Chase Bank, successor by merger to JPMorgan Chase Bank (“JPMorgan”). On August 28, 2007, JPMorgan assigned all right, title and interest in the Judgment to Petitioner.

On August 16, 2018, Respondent was served with Notice of Assignment of Judgment, Restraining Notice to Judgment Debtor, and Notice to Judgment Debtor. Petitioner states that despite due demand, Respondent has failed to pay any portion of the Judgment and, after garnishment of a bank account in the amount of \$6,562.47 by the Petitioner, the amount of \$33,168.06 with interest thereon from June 6, 2006 remains due, owing and duly demanded.

According to the Verified Petition, Chrzczon owns and maintains an interest in each Respondents, Rock Zon Holdings, LLC and New York Madness, LLC (collectively, “Respondent Companies”). Chrzczon is the majority and controlling member of Rock Zon, a position from which he derives a monetary benefit through

distributions. Chrzczon is also a member of NY Madness, a position from which he derives a monetary benefit through distributions.

In this action, Petitioner seeks an Order pursuant to CPLR 5225 directing Respondent Companies to turn over to Petitioner any funds due or held on behalf of Chrzczon in full or partial satisfaction of the Judgment. Petitioner further seeks an Order, pursuant to Limited Liability Company Law 607, a charging order assigning and all of Chrzczon's interest in Respondent Companies to Petitioner. Petitioner further seeks an Order pursuant to CPLR 5227, directing Respondent Companies to pay to Petitioner any debt owed by Chrzczon in full or partial satisfaction of the Judgment and to execute and deliver to Petitioner's counsel any documentation necessary to effectuate said payment.

No opposition is submitted.

Standards

CPLR 5225 (b) provides, “[u]pon a special proceeding commenced by the judgment creditor, against a person in possession or custody of money or other personal property in which the judgment debtor has an interest . . . where it is shown that the judgment debtor is entitled to the possession of such property . . . the court shall require such person to pay the money, or so much of it as is sufficient to satisfy the judgment, to the judgment creditor and, if the amount to be so paid is insufficient to satisfy the judgment, to deliver any other personal property, or so much of it as is of sufficient value to satisfy the judgment, to a designated sheriff . . . The court may permit any adverse claimant to intervene in the proceeding and may determine his rights in accordance with section 5239.” (CPLR 5225 [b])

CPLR 5225 (b) “provides for a two-step analysis in determining whether property belonging to a judgment debtor—but in the possession of a third party—should be turned over to a judgment creditor. First, it must be shown that the judgment debtor ‘has an interest’ in the property the creditor seeks to reach. Where this first step is satisfied, the trial court must, second, then make one of two findings: it must find either that the judgment debtor is ‘entitled to the possession of such property,’ or it must find that ‘the judgment creditor's rights to the property are superior’ to those of the party in whose possession it is. Only after both steps of the analysis are demonstrated may the trial court order the transferee to turn over the property to the judgment creditor.” *Beauvais v. Allegiance Securities, Inc.*, 942 F.2d 838, 840-841 *citing Key Lease Corp. v. Manufacturers Hanover Trust Co.*, 117 A.D.2d 560, 561-62, 499 N.Y.2d 66, 68 (1st Dep’t 1986).

Limited Liability Company Law § 607 provides that, on an application by a judgment creditor of a member of an LLC, “the court may charge” the debtor’s membership interest “with payment of the unsatisfied amount of the judgment with interest,” and “[t]o the extent so charged, the judgment creditor has only the rights of an assignee of the membership interest.”

CPLR 5227, entitled “Payment of debts owed to judgment debtor,” provides:

Upon a special proceeding commenced by the judgment creditor, against any person who it is shown is or will become indebted to the judgment debtor, the court may require such person to pay to the judgment creditor the debt upon maturity, or so much of it as is sufficient to satisfy the judgment, and to execute and deliver any document necessary to effect payment; or it may direct that a judgment be entered against such person in favor of the judgment creditor . . .

Discussion

Pursuant to the valid Judgment and without any opposition from Respondents, Petitioner, as Judgment Creditor, is entitled to the relief sought.

Wherefore, it is hereby,

ORDERED that the Order to Show Cause is granted without opposition; and it is further

ORDERED that pursuant to CPLR § 5225(b), Respondents Rock Zon Holdings, LLC, New York Madness, LLC, shall turn over to Petitioner or its attorneys any funds held on behalf of Jeffrey V. Chrzczonek a/k/a Chrzczonek in full or partial satisfaction of Judgment of this Court, in the action captioned: *JP Morgan Chase Bank, NA successor by merger to JP Morgan Chase Bank v. Spider-Man Touring Company, LLC, Ideal Theatricals, Inc., and Jeffrey V. Chrzczonek a/k/a Jeff Chrzczonek, Individually*, docketed with the County Clerk of New York County on or about June 14, 2006 in the principal sum of \$39,730.53, less payments made in the

amount of \$6,562.47, leaving a current balance due of \$33,168.06 (“the Judgment”), together with statutory interest accrued since June 14, 2006; and it is further

ORDERED that pursuant to New York Limited Liability Company Law § 607, the membership interest of Judgment Debtor Jeffrey V. Chrzczon a/k/a Jeff Chrzczon, in Respondents Rock Zon Holdings, LLC, New York Madness, LLC, shall be charged with payment of the Judgment; and it is further

ORDERED that pursuant to CPLR § 5227, Respondents Rock Zon Holdings, LLC, New York Madness, LLC, shall pay to Petitioner’s Attorneys, any debt owed to Respondent/Judgment Debtor Jeffrey V. Chrzczon a/k/a Jeff Chrzczon in full or partial satisfaction of the Judgment and to execute and to deliver any document necessary to effect said payment to Petitioner’s counsel.

This constitutes the Decision and Order of the Court. All other relief requested is denied.

DATED: December 21, 2018



EILEEN A. RAKOWER, J.S.C.