

Kerison & Willoughby Capital, Ltd. v Royale Etenia, LLC

2019 NY Slip Op 33369(U)

November 13, 2019

Supreme Court, New York County

Docket Number: 155976/2013

Judge: Barbara Jaffe

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. BARBARA JAFFE PART IAS MOTION 12EFM

Justice

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KERISON & WILLOUGHBY CAPITAL, LTD.,

Plaintiff,

- v -

ROYALE ETENIA, LLC, MORTIMER SINGER,
RACHEL ROY, DAMON DASH, NEW YORK CITY
HUMAN RESOURCES ADMINISTRATION,
OFFICE OF CHILD SUPPORT ENFORCEMENT,

Defendants.

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INDEX NO. 155976/2013
MOTION DATE _____
MOTION SEQ. NO. 009

**SUPPLEMENTAL ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 009) 277-305
were read on this motion to/for miscellaneous.

WHEREAS, by Order to Show Cause dated October 7, 2019, Neal Fellenbaum, Esq., the Receiver herein of Royale Etenia, LLC (“Royale Etenia”) (the “Receiver”), moved pursuant to CPLR 5225(a) and 5228, and per the terms of the Receivership Order dated August 15, 2016 (Document No. 169), as amended by the So-Ordered Stipulation dated December 14, 2016 (Document No. 180), for an Order, *inter alia*, (a) approving the sale to CSide, LLC, a Delaware Limited Liability Company, by the Receiver of the fifty percent membership interest of Royal Etenia previously held by Respondent Damon/Judgment Debtor Damon Dash (“Dash”) (the “Dash Membership Interest”), which Dash Membership Interest had been irrevocably transferred and assigned to the Receiver by Dash on or about February 3, 2017 (Document No. 210); (b) directing the Receiver to take all steps necessary to effectuate such sale; (c) approving the Receiver’s commissions; and (d) setting, respectively, the accounting fees and disbursements of

the Receiver's Court-Appointed Accountant, Stuart Mordfin, CPA, and the legal fees and disbursements of the Receiver's Court-Appointed Counsel, Andrew P. Tureaud, Esq. (the "Tureaud Legal Fees");

WHEREAS, the Court having considered the affidavit of the Receiver sworn to October 7, 2019, the affidavit of Stuart Mordfin, CPA, sworn to September 19, 2019, and the affirmation of Andrew P. Tureaud, Esq., dated October 7, 2019, all in support of the Receiver's Order to Show Cause;

WHEREAS, the Court having considered the affirmation in opposition to the Order to Show Cause of Eric Howard, Esq., counsel for Dash, dated October 17, 2019, and the affirmation in response to the Order to Show Cause of Martin S. Rapaport, Esq., counsel for Petitioner/Judgment Creditor Kerison & Willoughby Capital, Ltd. ("Kerison"), dated October 17, 2019;

WHEREAS, the Court having heard argument on the Receiver's Order to Show Cause on October 23, 2019;

WHEREAS, by Decision and Order dated October 28, 2019 (Document No. 298), the Court granted the Receiver's Order to Show Cause by providing the relief set forth in said Order;

WHEREAS, pursuant to the October 28 Order, on October 29, 2018, the Receiver issued and delivered the following bank checks from the funds in the Receiver's Bank Account at Capital One Bank (the "Receivership Funds"): (a) check in the sum of \$52,476.05 payable the Neal Fellenbaum for his commissions; (b) check in the sum of \$5,687.50 payable to Stuart Mordfin, CPA, (c) as per the instructions of Elizabeth Haynes, Esq., counsel for Intervenor New York City Human Resources Administration Child Support and Lien Recovery Unit, (i) check in the sum of \$196,672.43 payable to NYS Processing Center, representing the balance of a certain

child support judgment debt owed by Dash to Rachel Roy, and (ii) check in the sum of \$229,848.57 payable to NYS Processing Center, representing the balance of a certain child support judgment debt owed by Dash to Cindy Morales, and (d) as per the instructions of Martin S. Rapaport, Esq., counsel for Kerison, check in the sum of \$302,168.02 payable to Martin S. Rapaport, P.C. as Attorney;

WHEREAS, on October 29, 2019, a Satisfaction of Judgment dated October 23, 2019 executed by Martin S. Rapaport, Esq., on behalf of Kerison, was filed by the Receiver in the Office of the New York County Clerk;

WHEREAS, by letter dated November 6, 2019 to the Court and Exhibits thereto (Documents Nos. 300-303), the Receiver advised that due to inadvertence, Stuart Mordfin, CPA, should have been awarded a fee of \$8,187.50 instead of \$5,687.50 that he was previously awarded;

WHEREAS, no party has objected to the additional payment of \$2,500.00 to Mr. Mordfin;

WHEREAS, by letter from the Receiver to the Court dated November 7, 2019 and exhibit thereto (Document Nos. 304-305), the Receiver advised the Court that, Andrew P. Tureaud, Esq., Court Appointed Counsel to the Receiver, and Eric Howard, Esq., counsel for Dash (Dash being the only remaining party herein with an interest in determining the amount of the Tureaud Legal Fees to be paid from the Receivership Funds), stipulated and agreed to the payment by the Receiver of the Tureaud Legal Fees in the sum of One Hundred Eighteen Thousand (\$118,000.00) Dollars, in lieu of the fee hearing to determine the Tureaud Legal Fees scheduled for November 14, 2019;

WHEREAS, by email dated November 12, 2019, copy of which is annexed hereto as Exhibit 3, Mr. Tureaud requested the Receiver to have his check for his fees made payable to the law firm of Keane & Beane, P.C., of which he is a member; and

WHEREAS, the Receiver has informed the Court that after payment of \$118,000.00 to Mr. Tureaud and \$2,500.00 to Mr. Mordfin, he will have approximately \$142,153.43 left in his account (the "Dash Surplus Funds"), it is hereby

ORDERED, that the Tureaud Legal Fees in the sum \$118,000.00 are hereby approved, it is further

ORDERED, that the Receiver is hereby authorized to distribute the sum of \$118,000.00 from Receivership Funds to Keane & Beane, P.C., of which Andrew P. Tureaud, Esq. is a member, and which \$118,000.00 is payment of the approved Tureaud Legal Fees, it is further

ORDERED, that said November 14, 2019 hearing for the determination of Mr. Tureaud's fees is cancelled, and it is further

ORDERED, the Receiver is hereby authorized to distribute the sum of \$2,500.00 to Stuart Mordfin, CPA.

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BARBARA JAFFE, J.S.C.

11/13/2019
DATE

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED		
<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER		
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		

<input type="checkbox"/>	NON-FINAL DISPOSITION		
<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: