

<b>Pinpoint Multi-Strategy Fund v Reward Intl. Inv., Ltd.</b>
2020 NY Slip Op 33342(U)
October 7, 2020
Supreme Court, New York County
Docket Number: 654153/2019
Judge: Barry Ostrager
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SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. BARRY R. OSTRAGER PART IAS MOTION 61EFM

Justice

PINPOINT MULTI-STRATEGY FUND, VALUE PARTNERS GREATER CHINA HIGH YIELD INCOME FUND, and VALUE PARTNERS CREDIT OPPORTUNITIES FUND SP, Plaintiffs,

- v -

REWARD INTERNATIONAL INVESTMENT, LIMITED, REWARD SCIENCE & TECHNOLOGY INDUSTRY GROUP CO., LTD., and REWARD (HK) INTERNATIONAL CO., LIMITED,

Defendants.

Table with 2 columns: INDEX NO. (654153/2019), MOTION DATE, MOTION SEQ. NO. (001)

DECISION + ORDER ON MOTION

HON. BARRY R. OSTRAGER

Before the Court is a motion by plaintiffs Pinpoint Multi-Strategy Fund ("Pinpoint"), Value Partners Greater China High Yield Income Fund ("VP China"), and Value Partners Credit Opportunities Fund SP ("VP Credit"), for a default judgment against defendants Reward International Investment Limited ("Reward") and Reward (HK) International Co., Limited ("Reward HK") for a sum in excess of \$76M. Plaintiffs do not move for relief against defendant Reward Science & Technology Industry Group Co., Ltd ("Reward Science") because plaintiff purportedly discontinued the action against Reward Science without prejudice based on notice of a bankruptcy filing by that party (NYSCEF Doc. No. 23). The motion is granted to the extent of finding that defendants were properly served with process but is otherwise denied without prejudice based, inter alia, on questions related to the bankruptcy filing and plaintiffs' failure to present adequate proof of the facts to justify an award of \$76M.

The moving papers consist of an affirmation from counsel (NYSCEF Doc. No. 34), the Complaint verified by counsel (NYSCEF Doc. No. 2), and various exhibits. There is no affidavit

from a party with personal knowledge. The action sounding in breach of contract was brought to recover unpaid principal on a series of U.S. dollar-denominated notes issued by defendant Reward and guaranteed by defendant Reward HK and by Reward Science, the defendant that has filed for bankruptcy. Plaintiffs, who allegedly are the beneficial owners of the notes, provide copies of the notes and claim the maturity dates have passed, thereby entitling plaintiffs to a judgment for unpaid principal plus interest.

Plaintiffs provide substantial proof of service of the pleadings, including an August 17, 2019 letter from an individual in China written on behalf of the three originally named defendants, acknowledging receipt of the Summons and Complaint and providing contact information for the entities in China (NYSCEF Doc. No. 42). The letter goes on to state that Reward Science has filed for bankruptcy in China and that certain rulings have been made, but that Reward Science remains interested in resolving any dispute related to any unpaid debts.. The letter further states: "All creditors shall report their claims to the administrator. At this point, Citicorp International Limited, the trustee of the bond held by the three plaintiffs, has contacted the administrator for declaration of claims on behalf of all holders to tackle the claim issue." The letter concludes with a request that the letter be forwarded to this Court. The precise import of the letter is unclear.

The docket includes another significant entry, not included in the motion papers. That entry (NYSCEF Doc. Nos. 17 and 18) consists of a letter from a law firm referring to what appears to be a parallel bankruptcy filing in the Southern District of New York. The letter states in relevant part as follows: "I am the Managing Attorney at Freshfields Bruckhaus Deringer US LLP ("Freshfields"), which represents Dr. Yin Zhengyou, the Bankruptcy Administrator and Court-appointed Foreign Representative of Reward Science and Technology Industry Group Co.,

Ltd. in its Chapter 15 bankruptcy case captioned In re Reward Science and Technology Industry Group Co., Ltd., Case No. 19-12908 (MEW) (Bankr. S.D.N.Y.) pending in the U.S. Bankruptcy Court for the Southern District of New York.” Dr. Zhengyou was one of the contact persons mentioned in the August 2019 letter from defendants discussed above. Attached to the law firm letter is an Order dated September 9, 2019 from SDNY Bankruptcy Court Judge Michael E. Wiles entitled “ORDER GRANTING INTERIM PROVISIONAL RELIEF AND SCHEDULING FURTHER HEARING” which appears to stay this action for at least some period of time. Paragraph 3 of the Order states:

Pinpoint Multi-Strategy Fund, (“Pinpoint”), Value Partners Greater China High Yield Income Fund (“Value Partners China”), Value Partners Credit Opportunities Fund SP (“Value Partners Credit”) and BFAM Asian Opportunities Master Fund, LP (“BFAM”) are enjoined through the conclusion of the September 12 Hearing and the entry of a further order of this Court from continuing the State Court Actions, or initiating any additional action, legal or otherwise, against the Debtor or seizing, attaching and/or enforcing or executing liens or judgments against the Debtor’s property in the United States without the express consent of the Foreign Representative or without leave of this Court.

Neither plaintiffs’ papers, nor the docket in this case, appears to confirm that the injunction has been vacated and that no stay is in effect. To the extent plaintiffs may argue that the bankruptcy affects Reward Science only, any such claim is far from clear as the three defendant entities are somehow related such that the bankruptcy by one defendant may require a stay of this entire action. *See, e.g., CenTrust Servs. v Guterman*, 160 AD2d 416, 418 (1st Dep’t 1990) (a bankruptcy stay does not prevent a plaintiff from proceeding on causes of action against non-bankrupt defendants, so long as the bankruptcy does not involve the property of the non-bankrupt defendants).

The Court cannot grant plaintiffs a default judgment in excess of \$76M on this record. Plaintiffs may renew the motion within sixty days with an affidavit on personal

knowledge authenticating the documents and plaintiffs' ownership interest in the notes, explaining the interrelationship of the three defendants, and addressing whether and to what extent the claims in Bankruptcy Court affect the property of defendants Reward and Reward HK. Under these circumstances, more than an attorney affirmation is required.

Accordingly, it is hereby

ORDERED that plaintiffs' motion for a default judgment is denied without prejudice to renewal by December 8, 2020 in accordance with this decision by motion efiled on notice to all defendants at the address provided in the letter acknowledging service, with a copy to the Freshfields counsel for the Bankruptcy Administrator Dr. Yin Zhengyou who sponsored the letter and Bankruptcy Court Order. A status conference is scheduled for February 23, 2021 at 10:00 a.m. in place of the previously scheduled November conference. Plaintiffs may also move to discontinue this action without prejudice to any proceedings in the Bankruptcy Court, if appropriate, or as otherwise permitted by law.

Dated: October 7, 2020

  
BARRY R. OSTRAGER, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
	<input type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	
APPLICATION:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE