

Matter of Quazzo v 9 Charlton St. Corp.

2021 NY Slip Op 32342(U)

November 15, 2021

Supreme Court, New York County

Docket Number: 652282/2010

Judge: Melissa A. Crane

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This opinion is uncorrected and not selected for official publication.

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

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In the Matter of
CRISTINA QUAZZO,

Petitioner,

-against-

9 CHARLTON STREET CORPORATION, et al.,

Respondents.
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: Index No. 652282/2010

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: Justice Crane

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: Part 60

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: Motion Seq. No.: 14

CRISTINA QUAZZO, both individually and derivatively
on behalf of 9 CHARLTON STREET
CORPORATION, PEARLBUD REALTY
CORPORATION, and ORBIS INTERNATIONAL
CORPORATION,

Plaintiff,

-against-

9 CHARLTON STREET CORPORATION, et al., Defendants.
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: Index No. 652002/2011

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: Justice Crane

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: Part 60

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: Motion Seq. No.: 9

DECISION AND ORDER *AND Judgment*

All parties in the above-captioned matters ("Parties") jointly moved, at the Court's direction, by Order to Show Cause on September 27, 2021 for an Order, pursuant to New York Business Corporation Law ("BCL") §§ 626(d) and 1116, approving the Parties' settlement and approving and So-Ordering the following documents attached to the September 27, 2021 Affirmation of Mark A. Berube, Esq. (amended September 29, 2021): (1) Settlement Agreement and Stipulation of Settlement, dated September 9, 2021 ("Settlement Agreement"), (2) Stipulation and Order Establishing Limited Authority of Respondent/Defendant Stephen Quazzo to Act on Behalf of the Corporate Respondents/Defendants, dated September 10, 2021 ("Stephen Quazzo

Limited Authority Stipulation”), and (3) Stipulation and Order pursuant to CPLR §§ 1015 and 1021 Providing for Substitution of Estate, dated September 10, 2021 (“Substitution of Estate Stipulation”); and for an Order allowing for the filing of the shareholder agreement for 9 Charlton Street Corporation (“9 Charlton Shareholder Agreement”) and shareholder agreement for Pearlbud Realty Corporation (“Pearlbud Shareholder Agreement”), attached as Exhibits A and B to the Settlement Agreement, respectively, under seal (“Joint Motion”).

A hearing having been held on November 12, 2021; due notice of the Joint Motion together with the papers upon which it is based, and the Parties’ settlement and Settlement Agreement, including all Exhibits thereto, having been provided to the only non-party shareholder (Marco Quazzo) of 9 Charlton Street Corporation (“9 Charlton”), Pearlbud Realty Corporation (“Pearlbud”), and Orbis International Corporation (“Orbis”) (together, the “Corporations”) by certified mail, overnight mail, and email; the respective Parties having appeared by their respective attorneys, and Marco Quazzo having appeared *pro se*; such attorneys and Marco Quazzo having been heard **and Marco Quazzo’s written opposition in particular having been considered**; all matters having been considered by the Court and the Court having considered all submissions, including the September 27, 2021 Joint Memorandum of Law in Support of the Parties’ Joint Motion by Order to Show Cause for Approval of the Parties’ Settlement and Settlement Agreement and Stipulation of Settlement, pursuant to New York Business Corporation Law §§ 626(d) and 1116, and for the Sealing of Confidential Documents (“Joint Mem.”), the September 27, 2021 Affirmation of Mark A. Berube, Esq. (amended September 29, 2021), and the documents annexed thereto, and the November 3, 2021 Response of Marco Quazzo to Order to Show Cause and Objections to Proposed Settlement between the Parties; all Parties having jointly moved for entry of this Order; the Court having made its findings of fact and conclusions of law; and good cause

appearing therefore; the Parties' Joint Motion is GRANTED in its entirety for the reasons stated on the record of 11/12/2021, in particular, and IT IS ORDERED AS FOLLOWS:

1. This Court has jurisdiction over the subject matter of the above-captioned matters, including all matters necessary to approve and effectuate the Parties' settlement and Settlement Agreement, including all Exhibits thereto, and the Parties thereto.
2. This Court finds that: (i) adequate notice (and an opportunity to be heard/object) was given in accordance with the Joint Motion and pursuant to BCL §§ 626(d) and 1116, including to non-party shareholder Marco Quazzo. This notice was reasonable and constituted the best and most practicable notice under the circumstances; and such notice constituted valid, due, and sufficient notice to all persons entitled to receive such notice, and complied fully with any requirements of BCL §§ 626(d) and 1116, any other applicable law, and due process.
3. This Court finds and orders that Stephen Quazzo had and has the limited authority to act on behalf of the Corporations for purposes of this settlement pursuant to the terms of the Stephen Quazzo Limited Authority Stipulation, and that Stephen Quazzo's signatures on the Settlement Agreement and 9 Charlton and Pearlbud Shareholder Agreements constitutes conclusive evidence that those documents have been duly approved and executed by the Corporations.
4. This Court finds and orders that Gary Watkins, as the court-appointed administrator for the Estate of Ugo Quazzo ("Estate"), has been and is properly substituted in as the Respondent/Defendant in the above-captioned matters on behalf of the Estate, pursuant to New York Civil Practice Law and Rules ("CPLR") §§ 1015 and 1021, for purposes of this settlement pursuant to the terms of the Substitution of Estate Stipulation.
5. **As stated on the record of 11/12/2021, Marco Quazzo's opposition to the settlement does not present a valid reason to withhold approval. First, Marco has charted his course by opposing jurisdiction and refusing to be a part of this litigation—until now. More**

importantly, the settlement agreement does not treat Marco any differently than any other shareholder.


6. This Court hereby fully and finally approves the Parties' settlement and Settlement Agreement, including all Exhibits thereto, in all respects, and finds and orders, in accordance with BCL §§ 626(d) and 1116, that the settlement and Settlement Agreement, including all Exhibits thereto, is, in all respects, fair, reasonable, adequate, in full compliance with applicable law, valid, and enforceable, and in the best interests of the Corporations and their shareholders. *See* Joint Mem. at 5-6. The Court further finds and orders that the Parties' settlement and Settlement Agreement, including all Exhibits thereto, directly promotes the interests of the Corporations and their shareholders, including by resolving any and all ownership issues as to 9 Charlton and Pearlbud and by imposing on the Parties restrictions and obligations with respect to the shares of stock of the Corporations and the future operation and management of the Corporations. *Id.*

7. The Court further finds and orders that, given the Parties full and complete settlement of all claims in the above-captioned matters, any dissolution of the Corporations (which is not a component of the Parties' settlement) is unwarranted pursuant to BCL § 1116. *Id.* at 6. The Court further finds that the settlement and Settlement Agreement, including all Exhibits thereto, have been entered into and made in good faith and that the Parties' counsel have adequately represented the interests of the Parties in connection with the above-captioned matters and the settlement of the above-captioned matters. The Court therefore directs and orders the consummation and implementation of the Parties' settlement in accordance with the terms and provisions of the Settlement Agreement, including all Exhibits thereto, and its supporting documents. More specifically, the Court directs and orders, in accordance with the terms and provisions of the Settlement Agreement, that the Parties submit the Stipulation attached as Exhibit C to the Settlement Agreement, as well as Exhibit D thereto and/or a proposed Final Judgment

discontinuing/dismissing the above-referenced matters, to be So-Ordered by the Court, in accordance with the time periods dictated by the Settlement Agreement.

8. This Court finds that good cause has been shown to seal the 9 Charlton and Pearlbud Shareholder Agreements, filed in the above-captioned matters as NYSCEF Docket Nos. 405 and 406 in Index No. 652282/2010 and NYSCEF Docket Nos. 277 and 278 in Index No. 652002/2011, including for the reasons set forth in the Parties' Joint Memorandum at 7-8, and orders that those documents shall remain permanently restricted and under seal pursuant to Section 216.1 (a) of the Uniform Rules for New York State Trial Courts. The materials contain confidential business information of little concern to the public.

SO ORDERED:



Honorable Melissa Crane, J.S.C.

This 15 day of December, 2021