LMG N. LLC v 6th Ave. Capital LLC		
2023 NY Slip Op 31540(U)		
May 8, 2023		
Supreme Court, New York County		
Docket Number: Index No. 150566/2023		
Judge: Andrew Borrok		
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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 53

	X		
LMG NORTH LLC,MAX III LLC	INDEX NO.	150566/2023	
Plaintiff, - v -	MOTION DATE	01/23/2023, 03/02/2023	
6TH AVENUE CAPITAL LLC,	MOTION SEQ. NO.	001 002	
Defendant.	Defendant. DECISION + ORDER ON MOTION		
HON. ANDREW BORROK: The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 8, 9, 10, 11, 12, 13, 14, 15			
were read on this motion to/for	ion to/forTURNOVER PROCEEDING		
The following e-filed documents, listed by NYSCEF document number (Motion 002) 17, 18, 19, 20 were read on this motion to/for			
Upon the foregoing documents, LMG North LLC (LMG) and MAX III LLC's (MAX;			
collectively with LMG, the Judgment Creditors) petition (Mtn. Seq. No. 1) for turnover			
proceeding must be granted and 6th Avenue Capital LLC's (the Judgment Debtor) motion			
(Mtn. Seq. No. 2) to dismiss must be denied.			

Reference is made to a money judgment dated March 4, 2022 (the **Judgment**; NYSCEF Doc. No. 2) in a prior action captioned *SSC SPV No.1 LLC, et al. v 6th Avenue Capital LLC, et al.*, Index No. 654453/2020 (the **Prior Action**). The Judgment was entered against the Judgment Debtor in favor of (i) LMG in the amount of \$1,410,147.10, plus interest at 9% from the date of entry and (ii) MAX in the amount of \$284,584.66, plus interest at 9% from the date of entry. The Judgment Debtor failed to make any payment on the Judgment.

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CPLR § 5225(a) provides in relevant part that:

Upon motion of the judgment creditor, upon notice to the judgment debtor, where it is shown that the judgment debtor is in possession of or custody of money of other personal property in which it has an interest, the court shall order that the judgment debtor pay the money or so much of it as 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 petition for turnover proceeding must be granted pursuant to CPLR 5225(a) because the Judgment Debtor has clearly failed to satisfy the Judgment and the Judgment Debtor is in possession of or custody of money or other personal property in which it has an interest. The Judgment Debtor must turn over and deliver to the Sheriff of New York County the following to be sold in a Sheriff's sale and shall execute and deliver any documents requested to effectuate such relief:

- (a) all right, title, and ownership interest in Judgment Debtor's wholly owned subsidiary,6th Avenue Capital Management LLC, a Delaware limited liability company,
- (b) all right, title, and ownership interest in Judgment Debtor's wholly owned subsidiary,6th Avenue Fund Management LLC, a Delaware limited liability company,
- (c) all right, title, and ownership interest in Judgment Debtor's wholly owned subsidiary,
 Pioneer Business Finance LLC, a Delaware limited liability company,
- (d) all claims and causes of action and any proceeds or receivables arising therefrom belonging to the Judgment Debtor, which have been asserted or could be asserted by the Judgment Debtor against SSC SPV No.1 LLC in SSC SPV No.1 LLC, et al v 6th Avenue Capital LLC, et al, Index No. 654453/2020, and

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(e) all claims and causes of action and any proceeds or receivables arising therefrom belonging to the Judgment Debtor, which have been asserted or could be asserted by the Judgment Debtor against Spring Hollis and Star Strong Capital LLC in 6th Avenue Capital, LLC, v Spring Hollis, et al, Index No. 650393/2022.

The Judgment Debtor's motion to dismiss or stay must be denied. The petition is not duplicative of the Prior Action and should not be barred by CPLR 3211(a)(4) because this petition is a judgment enforcement proceeding and the Prior Action is an action seeking to recover outstanding loans. The fact that there are remaining claims and counterclaims between other parties in the Prior Action does not justify the Judgment Debtor's failure to pay or otherwise entitled to the Judgment Debtor a stay or dismissal in this action.

The Court has considered the Judgement Debtor's remaining arguments and finds them unavailing.

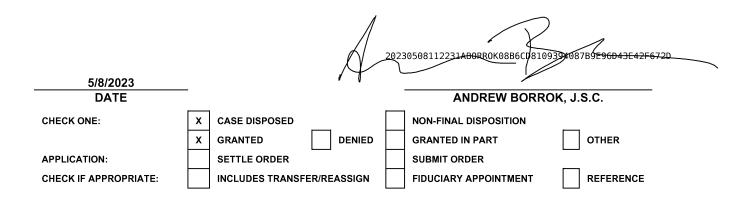
It is hereby ADJUDGED that the petition (Mtn. Seq. No. 1) is granted, and it is further

ORDERED and ADJUDGED that the Judgment Debtor is directed, upon receipt of a certified copy of this order and judgment, to turn over and deliver to the Sheriff of New York County the following to be sold in a Sheriff's sale and shall execute and deliver any documents requested to effectuate such relief:

(f) all right, title, and ownership interest in Judgment Debtor's wholly owned subsidiary,6th Avenue Capital Management LLC, a Delaware limited liability company,

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- (g) all right, title, and ownership interest in Judgment Debtor's wholly owned subsidiary,6th Avenue Fund Management LLC, a Delaware limited liability company,
- (h) all right, title, and ownership interest in Judgment Debtor's wholly owned subsidiary,
 Pioneer Business Finance LLC, a Delaware limited liability company,
- (i) all claims and causes of action and any proceeds or receivables arising therefrom belonging to the Judgment Debtor, which have been asserted or could be asserted by the Judgment Debtor against SSC SPV No.1 LLC in SSC SPV No.1 LLC, et al v 6th Avenue Capital LLC, et al, Index No. 654453/2020, and
- (j) all claims and causes of action and any proceeds or receivables arising therefrom belonging to the Judgment Debtor, which have been asserted or could be asserted by the Judgment Debtor against Spring Hollis and Star Strong Capital LLC in *6th Avenue Capital, LLC, v Spring Hollis, et al*, Index No. 650393/2022; and it is further



ORDERED that the Judgment Debtors' motion (Mtn. Seq. No. 2) to dismiss is denied.