

Matter of Grand Pac. Fin. Corp. v Bobker

2013 NY Slip Op 33207(U)

January 10, 2013

Supreme Court, New York County

Docket Number: 155601/12

Judge: Donna M. Mills

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

PRESENT: DONNA M. MILLS
Justice

PART 58

*In the Matter of the Application of
GRAND PACIFIC FINANCE CORP.,*

INDEX NO. 155601/12

Petitioner,

MOTION DATE _____

-v-

MOTION SEQ. NO. 002

LINDA BOBKER, et al.,

Respondents.

MOTION CAL NO. _____

The following papers, numbered 1 to _____ were read on this motion for _____

PAPERS NUMBERED

Notice of Motion/Order to Show Cause-Affidavits- Exhibits.... 1

Answering Affidavits- Exhibits 2, 3

Replying Affidavits 4

CROSS-MOTION: _____ YES NO

Upon the foregoing papers, it is ordered that this motion is:

DECIDED IN ACCORDANCE WITH ATTACHED ORDER.

Dated: 1/10/13


J.S.C.

DONNA M. MILLS, J.S.C.

Check one: _____ FINAL DISPOSITION

_____ NON-FINAL DISPOSITION

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 58

----- X
In the Matter of the Application of : Index No. 155601/12
GRAND PACIFIC FINANCE CORP., : *Moto Sept 16 2*
Petitioner, :
- against - :
LINDA BOBKER, MIRIAM BOBKER, :
HADASSA BOBKER, SENOVIA FERGUSON, :
BOBKER FAMILY TRUST, THE BOBKER :
BROTHERS FAMILY TRUST 2000, :
MILLENNIUM ASSETS, INC., GEFFEN :
BOOKS/GEFFEN PUBLISHING HOUSE, :
MADISON CONDOS, LLC, WADSWORTH :
CONDOS LLC, AND UNITED ASIAN FUND, :
LLC, :
Respondents. :
----- X

ORDER

THIS MATTER having been opened to the Court by way of motion of Herrick, Feinstein LLP, counsel for Petitioner Grand Pacific Finance Corp. ("Grand Pacific" or "Petitioner"), for the entry of an Order (i) pursuant to CPLR § 2221(d), granting leave to reargue and, upon doing so, modifying the Court's Decision and Order dated September 20, 2012 (the "September 20 Order") to direct that (a) in light of the Court's finding of contempt in the September 20 Order, if respondents Linda Bobker, Miriam Bobker, Hadassa Bobker, Senovia Ferguson, the Bobker Family Trust, the Bobker Brothers Family Trust 2000, Madison Condos, LLC and Wadsworth Condos LLC (collectively, the "Respondents") and/or their principals (in the case of legal entities) do not purge such contempt within ten days, the Respondents shall be incarcerated pursuant to Judiciary Law § 770, until each of the Respondents fully and faithfully complies with

the subpoenas duces tecum, subpoenas ad testificandum and/or information subpoenas (collectively, the "Subpoenas") previously served on them by Petitioner; and (b) in light of their contempt, directing the Respondents to reimburse Grand Pacific by a date certain for its attorneys' fees, costs and expenses incurred in attempting to obtain compliance with the Subpoenas and/or the September 20 Order, in an amount to be determined by the Court upon the submission of an Affidavit of Services within 10 days of entry of such Order; (ii) pursuant to CPLR § 2221(e), granting leave to renew and, upon doing so, entering an Order directing that (a) in light of the Respondents' failure to comply with the September 20 Order, the Respondents are in contempt of the September 20 Order; (b) if the Respondents do not purge their contempt of the September 20 Order by complying with the Subpoenas as directed by the Court within ten days, the Respondents shall be incarcerated pursuant to Judiciary Law § 770 until each of them fully and faithfully complies with the September 20 Order and the Subpoenas; (c) in light of their contempt, directing the Respondents to reimburse Grand Pacific for its attorneys' fees, costs and expenses incurred in connection with the instant application and/or in attempting to obtain compliance with the Subpoenas and/or the Order, in an amount to be determined by the Court upon the submission of an Affidavit of Services within 10 days of entry of such Order; and (d) directing the Respondents to each pay an additional fine of \$250 pursuant to Judiciary Law § 773; (iii) finding and holding the Respondents in contempt of the September 20 Order and granting related and additional relief as aforesaid in light of such contempt; (iv) compelling the Respondents to fully and faithfully comply with the Subpoenas within ten days; and (v) awarding such other and further relief as this Court deems just and proper (the "Motion"); and the Court having considered the submissions in support of this Motion, and those in opposition thereto, if

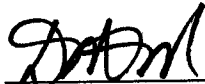
any; and the Court having considered the arguments of counsel, if any; and for good cause shown;

IT IS on this _____ day of ~~November~~ ^{January}, 201~~2~~³, ORDERED and ADJUDGED as follows:

1. The Motion shall be and hereby is granted in all respects;
2. Leave to reargue shall be and hereby is granted and, in light of the Court's finding of contempt in the September 20 Order: (a) if the Respondents and/or their principals (in the case of legal entities) do not purge such contempt within ten days by fully and faithfully complying with the subpoenas duces tecum, subpoenas ad testificandum and/or information subpoenas (collectively, the "Subpoenas") previously served on them by Petitioner, the Respondents shall be incarcerated pursuant to Judiciary Law § 770, until each of the Respondents fully and faithfully complies with the Subpoenas; and (b) in light of their contempt, the Respondents shall reimburse Grand Pacific for its attorneys' fees, costs and expenses incurred in attempting to obtain compliance with the Subpoenas and/or the September 20 Order, in an amount to be determined by the Court upon the submission of an Affidavit of Services by Grand Pacific within ten (10) days of the entry of this Order.
3. Leave to renew shall be and hereby is granted and, in light of the Respondents' failure to comply with the September 20 Order: (a) the Respondents are hereby held in contempt of the September 20 Order; (b) if the Respondents do not purge their contempt of the September 20 Order by complying with the Subpoenas as directed by the Court within ten days, the Respondents shall be incarcerated pursuant to Judiciary Law § 770 until each of them fully and faithfully complies with the September 20 Order and the Subpoenas; (c) in light of their contempt, the Respondents shall reimburse Grand Pacific for its attorneys' fees, costs and expenses incurred in connection with the instant application and/or in attempting to obtain

compliance with the Subpoenas and/or the Order, in an amount to be determined by the Court upon the submission of an Affidavit of Services by Grand Pacific within ten (10) days of the entry of this Order; and (d) Respondents shall each pay an additional fine of \$250 to Grand Pacific pursuant to Judiciary Law § 773 within ten (10) days of the date of this Order.

4. The Respondents shall fully and faithfully comply with the Subpoenas within ten days of the date of this Order and, if Respondents fail to do so, the Court shall entertain an application by Grand Pacific for such other and further relief as may be warranted.



Donna M. Mills, J.S.C.

DONNA M. MILLS, J.S.C.