

Lewis v Broadcasturban Filmworks, LLC
2015 NY Slip Op 32333(U)
December 10, 2015
Supreme Court, New York County
Docket Number: 162705/14
Judge: Jennifer G. Schechter
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 57

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LOIDA NICOLAS LEWIS,

Plaintiff,

Index No. 162705/14

-against-

BROADCASTURBAN FILMWORKS, LLC,

Defendant.
-----x

JENNIFER G. SCHECTER, J.:

In February 2014, the U.S. District Court for the District of Columbia entered a judgment in favor of Loida Nicolas Lewis (Lewis) and against BroadcastUrban Filmworks, LLC (BroadcastUrban) that was primarily based on an arbitration award that Lewis won (Affirmation in Support of Cross-Motion [Cross], Ex E). The foreign judgment was then filed in New York and Index Number 162705/2014 was assigned (see NYSCEF DOC NO 1).

Lewis subsequently served a *subpoena duces tecum* on TD Bank, N.A. (TD Bank), seeking, among other things, all documents concerning (1) "any account held by Why Should White Guys Have All the Fun L.P. (WSWG)" (Schedule A, Item 3) (2) any other assets of WSWG "that are identified in [TD Bank's] responses to the Information Subpoena served herewith" (Schedule A, Item 4) and (3) "any account for which Jesse Wineberry (Wineberry) is a signatory" (Schedule A, Item 5) (Affirmation in Support of Motion to Quash [Quash Supp], Ex A).

WSWG and Wineberry (Movants) move to quash the subpoena. Movants urge that they are not and have never been parties to any proceeding commenced by Lewis and that the subpoena is "overly broad" and a "fishing expedition" (Quash Aff at ¶¶ 5 and 11). They maintain that they are "separate entities with no interconnection" to BroadcastUrban (*id.* at ¶ 7).

Lewis opposes the motion and cross-moves to hold WSWG in contempt for failing to respond to an information subpoena and subpoena duces tecum. Alternatively, it seeks an order compelling WSWG to respond to the subpoenas.

Motion to Quash

The motion to quash is denied as to WSWG and TD Bank must produce documents responsive to item numbers three and four of Schedule A. Lewis has sufficiently demonstrated that the discovery sought is appropriate because the information is "relevant to the satisfaction of the judgment" (CPLR 5223). She established that BroadcastUrban assigned the rights it acquired from her to WSWG (Cross, Ex B at 813) and, more importantly, that WSWG pays many of BroadcastUrban's bills (Cross, Exs G, H and I; *cf. Bingham v Zolt*, 231 AD2d 479 [1st Dept 1996]).

On this record, however, Lewis has not demonstrated entitlement to documents related to "any" account for which Jesse Wineberry is a signatory. The demand is overbroad as it is not directed to any particular entity; therefore, such potential entity has not received notice or an opportunity to object. That "Jesse Wineberry is a signatory for bank accounts maintained by" BroadcastUrban and WSWG is, in itself, insufficient to justify production of all "documents concerning any account" for which he is a signatory. Though it is true that CPLR 5223 broadly compels disclosure of all matter relevant to satisfaction of the judgment from anyone with knowledge of the debtor's property, there has been an insufficient showing that "any" accounts for which Mr. Wineberry is a signatory--other than WSWG--could constitute the debtor's property or that BroadcastUrban transferred money to such other unknown and unnamed entities to defeat the judgment. Thus, the motion to quash is granted to the limited extent that TD Bank is not to produce documents responsive to item number 5 of Schedule A of the *subpoena duces tecum*.

Cross-Motion for Contempt or to Compel

Lewis' cross-motion must be denied as there "is no indication that service of a subpoena without the state is

authorized" (*Siemens & Halske v Gres*, 37 AD2d 768, 768 [1st Dept 1971]; see also *Siegel*, NY Prac § 383 at 673 and § 509 at 892-893 [5th ed 2011]). The *subpoena duces tecum*, moreover, was not properly served (see CPLR 2303; *Cross*, Ex N).

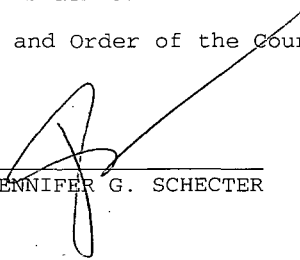
Accordingly, it is

ORDERED that the motion to quash is granted to the limited extent that TD Bank is not to produce material responsive to Item 5 of Schedule A of the *subpoena duces tecum*. In all other respects, the motion is denied and TD Bank must respond within 30 days; and it is further

ORDERED that the cross-motion is denied.

This constitutes the Decision and Order of the Court.

Dated: December 10, 2015



HON. JENNIFER G. SCHECTER