

People v American Hope Group, Inc.
2017 NY Slip Op 32593(U)
December 11, 2017
Supreme Court, New York County
Docket Number: 451998/2016
Judge: Kathryn E. Freed
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. KATHRYN E. FREEDPART 2*Justice*

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THE PEOPLE OF THE STATE OF NEW YORK, BY ERIC T.
SCHNEIDERMAN, ATTORNEY GENERAL OF THE STATE OF
NEW YORK,INDEX NO. 451998/2016

MOTION DATE _____

Petitioner,

MOTION SEQ. NO. 002

- v -

AMERICAN HOPE GROUP, INC. f/k/a L & S KNATTE CORP.
and MAURICIO VILLAMARIN MARTINEZ, individually and as
principal of AMERICAN HOPE GROUP, INC.,

DECISION AND ORDER

Respondents.

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The following e-filed documents, listed by NYSCEF document number 11, 12, 13, 14, 15, 16, 17, 18,
19, 20, 21, 22, 23, 24, 25, 26

were read on this motion to/for

LIFT SUSPENSION OF JUDGMENTUpon the foregoing documents, it is ordered that the motion is **granted**.

This special proceeding was commenced by petitioner, The People of the State of New York, by their attorney, Eric T. Schneiderman, to enjoin respondents American Hope Group, Inc. f/k/a L & S Knatte Corp. and Mauricio Villamarin Martinez, individually and as principal of American Hope Group, Inc., from engaging in deceptive, fraudulent and illegal business practices. Petitioner now moves, pursuant to Executive Law § 63 (12), for an order lifting the partial suspension of a consent order/judgment against respondents entered November 1, 2016 and permitting the judgment to be enforced in its entirety, plus interest, less any amount already satisfied. The motion is unopposed. After a review of petitioner's motion papers, the motion is **granted**.

FACTUAL AND PROCEDURAL BACKGROUND:

Petitioner filed a verified petition against respondents on October 18, 2016 alleging that they engaged in deceptive, fraudulent and illegal business practices targeting distressed homeowners who were seeking to lower their mortgage payments or save their homes from foreclosure. Doc. 1.¹ By various methods of solicitation containing express and implied misrepresentations, respondents targeted individuals in the Hispanic community, many of whom were unsophisticated and did not speak or read English. Id. Petitioner charged, inter alia, that respondents failed to provide consumers with proper disclosures, made material misrepresentations regarding its loan modification business, and collected improper fees, including a violation of Real Property Law § 265-b by collecting upfront fees. Id.

On October 24, 2016, this Court so-ordered a consent order/judgment against respondents in the amount of \$10 million. Doc. 14. Pursuant to the consent order/judgment, which was entered on November 1, 2016, respondents agreed to pay petitioner \$1.6 million in installments over a three-year period. Doc. 14, at par. 18. The consent order/judgment also required respondents to adhere to certain compliance reporting requirements. Doc. 14, at pars. 9, 15, 16. The first payment of \$150,000 was due within 5 days after the date of entry of the agreement. Doc. 14, at par. 18. The following payment of \$150,000 was due on or before April 15, 2017. Id. Paragraph 19 of the consent order/judgment provided that it is:

ORDERED, ADJUDGED, AND DECREED that the balance of eight million four hundred thousand dollars (\$8,400,000) shall be suspended, subject to Respondents' compliance with the requirements sets [sic] forth herein. If upon motion by

¹ All references are to the documents filed with NYSCEF in this action.

[petitioner], this Court finds that the [r]espondents have failed to comply with these requirements, this judgment shall be reopened and suspension of the judgment lifted for the purpose of requiring payment of monetary relief totaling ten million dollars (\$10,000,000) less any payments previously made.

Doc. 14; at par. 19.

Paragraph 21 of the consent order/judgment provided that it is:

ORDERED, ADJUDGED, AND DECREED that in the event this Consent Order is reopened and suspension of the judgment is lifted, the Court shall make an express determination that the monetary judgment shall be immediately due and payable. [Petitioner] shall be entitled to interest on the judgment computed from the date of this Consent Order at a rate prescribed by law. [Petitioner] shall be permitted to execute on the judgment immediately after the suspension is lifted and engage in discovery in aid of execution.

Doc. 14, at par. 21.

When respondents failed to make the first installment payment to petitioner, petitioner wrote several emails to respondents' counsel in an attempt to collect the amount owed. Docs. 15-17. Petitioner did not receive the full installment of \$150,000 until November 18, 2016, 13 days after the consent order/judgment was entered. Doc. 18.

After respondents failed to make the second payment of \$150,000 by April 15, 2017, as required by the consent order/judgment, petitioner sent respondents' counsel an email asking for payment. Doc. 19. On April 19, 2017, respondents' counsel requested an extension of time to make the payment. Doc. 20. On April 28, 2017, petitioner agreed to an extension, allowing respondents to make the second installment of \$150,000 by paying \$75,000 by May 19, 2017 and an additional \$75,000 by July 31, 2017. Doc. 21. On May 24 and 26, 2017, petitioner received payments of \$50,000 and \$25,000, respectively. Doc. 22. On July 24, 2017, petitioner emailed

respondents' counsel to advise that a \$75,000 payment was due by July 31, 2017. Doc. 23. On August 1, 2017, petitioner wrote to respondents' attorney to advise that the payment due July 31, 2017 had not been received. Doc. 24. Petitioner warned respondents' counsel that, if the \$75,000 payment was not received by the following day, petitioner would deem respondents in breach of the consent order/judgment.

On August 7, 2017, respondents' counsel sent petitioner an email requesting a three-month extension to make the \$75,000 payment. Doc. 25. On August 15, 2017, petitioner advised respondents that it would extend its time to pay the \$75,000 outstanding on the second installment payment by October 31, 2017. Doc. 26. Respondents failed to make the payment by October 31, 2017 and petitioner has not received any further communications from respondents' counsel. O'Neill Aff. In Supp., at par. 12. Additionally, respondents failed to provide proof that they complied with certain reporting requirements imposed by the consent order/judgment, which proof was requested by petitioner on April 28 and August 1, 2017. Docs. 21 and 24. Specifically, respondents failed to provide petitioner with 1) a copy of training materials which the consent order required them to prepare; 2) records confirming that respondents' employees received proper training; and 3) the name and address of a direct contact to handle consumer complaints. Id.

Petitioner now moves, pursuant to Executive Law § 63 (12), to lift the partial suspension of the judgment and to direct the Clerk of the Court to enter judgment against respondents in the amount of \$9,775,000 (\$10 million minus \$225,000, the amount paid by respondents), plus interest.

LEGAL CONCLUSIONS:

It is evident from the aforementioned facts that, despite ample opportunities afforded by petitioner, respondents violated the consent order/judgment by failing to make the second installment payment in a timely fashion. Respondents have also failed to comply with certain reporting procedures required by the consent order/judgment. Thus, this Court finds that respondents are in breach of the terms of the consent order/judgment. By its very terms, the consent order/judgment directs, at paragraph 19, that, "should this Court find[] that the [r]espondents have failed to comply with [the] requirements [of the consent order/judgment], this judgment shall be reopened and suspension of the judgment lifted for the purpose of requiring payment of monetary relief totaling ten million dollars (\$10,000,000) less any payments previously made." Further, paragraph 21 of the consent order provides that, upon lifting the partial suspension of the judgment, the judgment "shall be immediately due and payable" and that interest will be charged from the date of the consent order/judgment. Doc. 14, at p. 21.

Thus, petitioner is now entitled to collect from respondents \$9,775,000, the amount of the full judgment, \$10 million, less the \$225,000 in payments already made by respondents. Petitioner is also entitled to interest on the amount owed, as calculated by the Clerk, from November 1, 2016, the date of the consent order. Doc. 14, at par. 21.

Therefore, in light of the foregoing, it is hereby:

ORDERED that the motion by petitioner The People of the State of New York, by their attorney, Eric. T. Schneiderman, for an order lifting the partial suspension of the consent order/judgment between petitioner and respondents American Hope Group, Inc. f/k/a L & S Knatte Corp. and Mauricio Villamarin Martinez, individually and as principal of American Hope Group, Inc., entered November 1, 2016, is granted; and it is further

ORDERED that petitioner is granted leave to immediately enforce the full amount of the judgment as set forth in the consent order/judgment entered November 1, 2016, \$10 million, minus \$225,000 already paid by defendants, a total of \$9,775,000, plus interest from November 1, 2016; and it is further

ORDERED that this constitutes the decision and order of the court.

12/11/2017
DATE


KATHRYN E. FREED, J.S.C.

CHECK ONE:

☒ CASE DISPOSED
☒ GRANTED
☐ SETTLE ORDER
☐ DO NOT POST

☐ DENIED

☐ NON-FINAL DISPOSITION
☐ GRANTED IN PART
☐ SUBMIT ORDER
☐ FIDUCIARY APPOINTMENT

☐ OTHER

☐ REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: