

Valley Natl. Bank v Tarzan Cab Corp.
2021 NY Slip Op 32559(U)
December 3, 2021
Supreme Court, New York County
Docket Number: Index No. 655249/2020
Judge: Joel M. Cohen
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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VALLEY NATIONAL BANK,	INDEX NO. <u>655249/2020</u>
Plaintiff,	MOTION DATE <u>N/A</u>
- v -	MOTION SEQ. NO. <u>001</u>
TARZAN CAB CORP., SAMI ITSHAIK, 412 EXPRESS MANAGEMENT CORP.	
Defendants.	DECISION + ORDER ON MOTION
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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33
were read on this motion for SUMMARY JUDGMENT and DEFAULT JUDGMENT.

The facts in this case are essentially the same as in *Val. Nat. Bank v Shamuely Cab Corp.*, 2021 WL 5579694, *2 – 4 [N.Y. Sup Ct, New York County 2021], in which the Court granted summary judgment against the Borrower and Individual Guarantor and a default judgment against the Corporate Guarantor. The same result obtains here.

In this case, Defendant Tarzan Cab Corp. (“Borrower”) received \$1,125,000.00 of financing from Plaintiff in July 2017, and executed a promissory note (the “Note”). The terms of the Note included an annual interest rate of 3.23% until the principal was repaid in full, and an additional 5% interest rate in the event that Borrower defaulted. Borrower proffered two New York City taxi medallions (numbers 1W72 and 1W73) as collateral for the loan, which was memorialized in a security agreement. Plaintiff perfected its security interest in the medallions by filing a UCC-1 Filing Statement with the N.Y. Dept. of State. The loan was further guaranteed by Defendants Sami Itshaik (“Individual Guarantor”) and 412 Express Management Corp. (“Corporate Guarantor”).

Defendants made monthly payments from the beginning of the loan term until defaulting on or about March 17, 2020. Plaintiff gave Defendants notice of default by letter on August 21, 2020. Plaintiff filed a Summons and Complaint, to which Defendants Borrower and Individual Guarantor answered, and then subsequently filed a Supplemental Summons and Amended Verified Complaint joining Corporate Guarantor as a defendant. Plaintiff served Corporate Guarantor with its supplemental and amended pleadings on December 21, 2020 (NYSCEF Docs. 7 & 8). Corporate Guarantor failed to answer or otherwise respond to the Amended Verified Complaint has long since expired.

Plaintiff now moves (i) for summary judgment against the Borrower and the Defendant Individual Guarantor for the outstanding debt on the Note, delivery of the collateral, and for reimbursement of attorneys' fees and costs; and (ii) for default judgment against the Defendant Corporate Guarantor, 412 Express Management Corp., for the outstanding debt on the Note and reimbursement of attorneys' fees and costs.

Defendants oppose the motion for summary judgment, arguing (without citation to authority) that repayment became "impossible" as of March 2020 due to the effects of the COVID-19 pandemic (augmented by competition from rideshare apps). There has been no opposition to the motion for a default judgment.

As the facts and arguments presented by the parties in this case are essentially the same as those addressed by the Court in *Val. Nat. Bank v Shamuely Cab Corp.*, 2021 WL 5579694, the Court incorporates by reference here its reasoning in *Shamuely*.

Accordingly, it is hereby

ORDERED that Plaintiff's motion for summary judgment is **GRANTED** against Answering Defendants Tarzan Cab Corp. and Sami Itshaik in the amount of \$1,124,927.20 of

outstanding principal, plus interest accrued on the outstanding principal at the contractual per annum interest rate of 3.23% until August 21, 2020 equaling an amount of \$18,088.92, plus interest accrued pursuant to the additional contractual default rate at 5% from August 22, 2020 to the present, together with costs and disbursements as calculated by the County Clerk; it is further

ORDERED that Plaintiff's motion for a default judgment is **GRANTED** against Defendant 412 Management Corp. in the amount alleged in the Complaint, which is an \$1,124,927.20 of outstanding principal, plus interest accrued on the outstanding principal at the contractual per annum interest rate of 3.23% until August 21, 2020 equaling an amount of \$18,088.92, plus interest accrued pursuant to the additional contractual default rate at 5% from August 22, 2020 to the present, subject to a credit based on the sale of the collateral, together with costs and disbursements as calculated by the County Clerk; it is further

ORDERED that Defendants shall assemble and deliver to Plaintiff the collateral, including medallions issued by the New York City Taxi and Limousine Commission bearing numbers 1W72 and 1W73; it is further

ORDERED that Plaintiff shall submit to the Court a bill of costs with respect to collection expenses within 10 days from the date of entry of this Decision and Order, and Defendants shall have 10 days thereafter to submit an objection to the bill of costs; and it is further

ORDERED that the Clerk shall enter a judgment in accordance with this Decision and Order, to be submitted to the Clerk by Plaintiff after the Court determines the amount of collection expenses.

This constitutes the Decision and Order and Judgment of the Court.

12/3/2021

DATE

CHECK ONE:

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CASE DISPOSED

☒

GRANTED

☐

DENIED

APPLICATION:

☐

SETTLE ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

OTHER

☐

SUBMIT ORDER

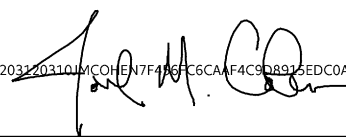
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FIDUCIARY APPOINTMENT

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REFERENCE

20211203220310JMC0HEN7F486FC6CAAF4C9D8915EDC0A536D59A



JOEL M. COHEN, J.S.C.