

<b>Confalonieri v Hakakian</b>
2022 NY Slip Op 31719(U)
May 27, 2022
Supreme Court, New York County
Docket Number: Index No. 653073/2019
Judge: Debra James
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. DEBRA JAMES**

**PART 59**

*Justice*

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GIANFRANCO CONFALONIERI, OLGA GOFMAN,  
CONFALONIERI NORTH AMERICA, INC., DECTRA  
DECORATIVE TRADING & REPRO ART S.R.L., DECOR IN  
PRINTING S.R.L., and CONFADECOR,

INDEX NO. 653073/2019  
MOTION DATE 05/09/2022  
MOTION SEQ. NO. 003 004 005

Petitioners,

- v -

KAY HAKAKIAN, SISCO ENTERPRISES, LLC, POWER  
DECADE, LLC, NILOM HOLDINGS LIMITED, OSH.BM,  
LLC, ZAO EURODESIGN, ZAO EUROSTANDARD, and  
SMOLENSKMEBEL,

**DECISION + ORDER ON  
MOTION**

Respondents.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 43, 44, 45, 46, 47, 48, 49, 50, 51, 56, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 90, 92, 93, 103

were read on this motion to/for TURNOVER PROCEEDING.

The following e-filed documents, listed by NYSCEF document number (Motion 004) 52, 53, 54, 55, 57, 87, 89, 91, 94, 95, 96, 97, 104

were read on this motion to/for AMEND CAPTION/PLEADINGS.

The following e-filed documents, listed by NYSCEF document number (Motion 005) 98, 99, 100, 101, 102, 105, 106, 107

were read on this motion to/for APPOINT - FIDUCIARY.

ORDER

Upon the foregoing documents, it is

ORDERED that the motion of petitioners to substitute Olga Gofman, as personal representative of the Estate of Gianfranco Confalonieri, in place and stead of petitioner Gianfranco Confalonieri, now deceased (motion sequence number 004), is

granted, without prejudice to any proceedings heretofore had herein; and it is further

ORDERED that all papers, pleadings, and proceedings in the above-entitled proceeding be amended by substituting the name of Olga Gofman, as personal representative of the estate of Gianfranco Confalonieri, deceased, as petitioner in the place and stead of such decedent, without prejudice to the proceedings heretofore had herein; and it is further

ORDERED that counsel for petitioners shall serve a copy of this order with notice of entry upon the Clerk of the Court (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who are directed to amend their records to reflect such change in the caption herein; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)); and it is further

ORDERED that the motion, pursuant to CPLR 5225, of petitioners-judgment creditors for an Order directing respondent-judgment debtor Power Decade LLC to turnover its assets in the form of Power Decade LLC's interests in ZAO Eurodesign and ZAO

Eurostandard, Russian joint-stock companies, (motion sequence number 003), is granted; and it is further

ORDERED and ADJUDGED that, upon receipt of a certified copy of this order and judgment, respondent-judgment debtor Power Decade, LLC, will endorse and deliver all of its stock certificates and/or membership certificates in ZAO Eurodesign and ZAO Eurostandard, (that is, in each of the joint stock companies owned by respondent-judgment debtor Power Decade, LLC), to Anthony Miranda, the Sheriff of the City of New York, 33 John Street, 13<sup>th</sup> Floor, New York, New York 10038 ([212] 487-9734) for the benefit of petitioners-judgment creditors, so that such certificated interests may be sold at public auction to satisfy the outstanding judgment, entered in favor of petitioners-judgment creditors and against respondent-judgment debtor Power Decade, LLC, in the amount of \$1,788,196.25, plus interest at the statutory rate of 9% per year from December 2, 2019, until satisfaction of such judgment, no part of which has been paid; and it is further

ORDERED that the motion of petitioners-judgment creditors for the appointment of a receiver of the assets of respondent-judgment debtor Power Decade LLC (motion sequence number 005) is denied, as moot.

DECISION

This court agrees with petitioners that, with respect to their motion to substitute Olga Gofman, who is domiciled outside the United States, as personal representative of the estate of Gianfranco Confalonieri, ancillary letters of administration issued by the New York City Surrogate's Court are not required, and an affidavit from an expert in the law of the relevant foreign jurisdiction concerning estate rights as well as a certificate from such jurisdiction affirming the rights of the particular party to pursue claims on behalf of the estate suffice. See Maestracci v Helly Nahmad Gallery, Inc., 155 AD3d 401, 403-404 (1<sup>st</sup> Dept 2017). See also, Schoeps v Andrew Webber Arts Foundation, 66 AD3d 137, 143-144 (1<sup>st</sup> Dept 2009).

As to petitioners' motion for a turn-over order, this court likewise concurs with movants that they were not required to commence a special proceeding, as respondent-judgment debtor is in possession of the ownership documents of each of the joint-stock companies, based in Russia. See Gibson, Dunn & Crutcher LLP v World Class Cap. Grp., LLC, 194 AD3d 567, 568 (1<sup>st</sup> Dept 2021). Nor are a third party's competing secured interest

a defense to a turnover petition. See Gladstein v Martorella,  
75 AD3d 465, 466 (1<sup>st</sup> Dept 2010).

*Debra A. James*

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5/27/2022

DATE

DEBRA JAMES, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE