

Greenman v Miller

2024 NY Slip Op 33563(U)

October 7, 2024

Supreme Court, New York County

Docket Number: Index No. 650304/2017

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

(NYSCEF 605). Since this motion was filed, Plaintiff has filed a “partial satisfaction of Judgment” providing that the full amount owed by Millman has been paid, but the amount of judgment owed by 392 Columbus remains outstanding (NYSCEF 617). Accordingly, this motion is granted in part only as to the relief sought against 392 Columbus.

DISCUSSION

“CPLR article 52 sets forth procedures for the enforcement of money judgments in New York, which may include . . . [a] turnover proceeding” (*Cruz v TD Bank, N.A.*, 22 NY3d 61, 66 [2013]). “Under Section 5225(a), a judgment creditor may recover money or property owed a judgment creditor through a court order directing the turnover of such money or property to the judgment creditor, either directly or to the sheriff for sale” (*245 Park Member LLC v HNA Group (Intl.) Co. Ltd.*, 674 F Supp 3d 28, 39 [SDNY 2023], *affd.*, 2024 WL 1506798 [2d Cir 2024] [applying New York law]). “To obtain such an order, the judgment creditor need only establish that the judgment debtor owns and possesses the property at issue. Once this showing is made, ‘the court shall order that the judgment debtor pay the money, or so much of it as is sufficient to satisfy the judgment, to the judgment creditor’” (*id.* quoting CPLR 5225[a]).

Turnover can be granted “with respect to the interest that the judgment debtor concedes he owns in an LLC” (*79 Madison LLC v Ebrahimzadeh*, 203 AD3d 589 [1st Dept 2022]). “A membership interest in a limited liability company is ‘clearly assignable and transferrable,’ and, therefore, such interest is ‘property’ for purposes of CPLR article 52” (*Matter of Sirotkin v Jordan, LLC*, 141 AD3d 670, 671 [2d Dept 2016]).

Here, there is no dispute that 392 Columbus owns 31% of the membership interests of W2, a cosmetics company (NYSCEF 564 [“Post-Trial Decision”] ¶87). Thus, Plaintiff has met her burden of proving that 392 Columbus is “in possession or custody of” (CPLR 5225[a]) a

membership interest in W2 Labs, LLC, and therefore, turnover is appropriate. Since the value of 392 Columbus' membership interest in W2 Labs is uncertain, 392 Columbus is directed to turnover its interests directly to Plaintiff (*79 Madison*, 203 AD3d at 589 [“The court providently exercised its discretion in ordering a direct turnover, given that the value of defendant's membership interest is uncertain and that defendant has obstructed plaintiff's efforts to pursue the judgment”]). Furthermore, any argument that turnover will result in a windfall to Plaintiff can be avoided by 392 Columbus satisfying the Judgment (*see id.*).

Plaintiff's request for a contempt sanction against Miller is denied. On September 17, 2024, Plaintiff's counsel wrote a letter to the Court advising that Miller finally produced “some” documentation on the topic that most concerned Greenman (NYSCEF 619).¹ While the Court is not entirely sure what “some” means, it is not inclined to issue a contempt citation for violations that may have already been cured.

Accordingly, it is

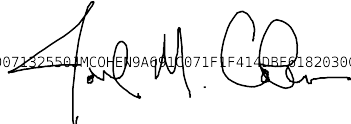
ORDERED that Plaintiff's motion is **GRANTED IN PART** insofar as the turnover request as to 392 Columbus is granted; the motion is otherwise **denied**; it is further

ORDERED that 392 Columbus is directed to turn over to Plaintiff the entirety of its interest in W2 Labs, including all economic, governance, legal, and equitable rights and interests in and to W2 Labs, and all tangible and intangible evidence thereof, whether certificated or uncertificated, with respect to 392 Columbus's ownership interest in W2 Labs, within five (5)

¹ To the extent Plaintiff requests a conference to discuss that the documents produced “raise troubling questions about Miller's behavior,” Plaintiff is advised to file a motion if she seeks substantive relief.

business days of the date of entry of this Order unless it has otherwise satisfied the judgment by other means.

This constitutes the Decision and Order of the Court.

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JOEL M. COHEN, J.S.C.

10/7/2024
DATE

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/> OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
				<input type="checkbox"/> REFERENCE