

Swift Fin., LLC v Sapphire Partners & Sons Inc

2025 NY Slip Op 31013(U)

January 21, 2025

Supreme Court, New York County

Docket Number: Index No. 156936/2024

Judge: Nicholas W. Moyne

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. NICHOLAS W. MOYNE PART 41M

Justice

-----X

SWIFT FINANCIAL, LLC,

Petitioner,

- v -

SAPPHIRE PARTNERS & SONS INC, JPMORGAN CHASE
BANK, N.A.

Respondents.

-----X

INDEX NO. 156936/2024

MOTION DATE 07/30/2024

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 25, 27, 28, 29, 30
were read on this motion to/for TURNOVER PROCEEDING

Upon the foregoing documents, it is

Petitioner, Swift Financial, LLC, as servicing agent for WebBank (“Swift”), commenced this special proceeding against respondents Sapphire Partners & Sons Inc. (“Sapphire”) and JPMorgan Chase Bank, N.A. (“JPMorgan”), seeking an order granting the following relief: (1) as against Sapphire, pursuant to CPLR §§ 5225 and 5227 and Debtor & Creditor Law §§ 273 and 274: (a) an order voiding as fraudulent the transfers of \$112,784.75 total of Judgment Debtor Soly's Jewelry's money to respondent Sapphire Partners & Sons Inc; (b) awarding judgment to petitioner against Sapphire in the principal amount of \$87,578.26 (the Judgment amount), plus statutory interest; (c) awarding petitioner reasonable attorneys’ fees, pursuant to Debtor & Creditor Law § 276-a; or alternatively (d) pursuant to CPLR § 5222(b), awarding judgment to petitioner against Sapphire in the principal amount of \$30,986.74, plus statutory interest, as damages for violations of the Restraining Notice; and (2) as against JPMorgan, pursuant to CPLR §§ 5225(b) and 5227: (a) an order directing JPMorgan to restrain the Chase Bank

account(s) of Sapphire and turn over to petitioner any funds held in such restrained accounts, up to the total amount of \$87,578.26, with statutory interest.

Swift has demonstrated sufficient service on both the respondents Sapphire and JPMorgan, the parties alleged to be in actual possession of the disputed property, and the judgment debtors, Soly's Jewelry Inc d/b/a Solys Jewelry, Inc. and Soliko Sapir, in accordance with the statutory directive of CPLR § 5225(b) (CPLR §§ 308, 311; BCL § 306; NYSCEF Doc. No. 27-30; *Pensmore Investments, LLC v Gruppo, Levey & Co.*, 137 AD3d 558, 559 [1st Dept 2016]). This petition is unopposed and for the reasons set forth below, is granted in its entirety.

As relevant to this proceeding, Swift, a servicing agent for WebBank, is a judgment creditor of non-party judgment debtors, Soly's Jewelry Inc d/b/a Solys Jewelry, Inc. and Soliko Sapir, pursuant to a judgment rendered in favor of Swift and against said parties which was entered by the County Clerk of Queens County on October 18, 2022, in the amount of \$87,578.26 (NYSCEF Doc. No. 2). The underlying action and judgment arose out of the failure to repay a loan when, in September 2020, Soly's Jewelry obtained a \$76,000 loan from WebBank which was personally guaranteed by Soliko, repayment of which was then defaulted on in January 2021. Swift then commenced an arbitration proceeding against Soly's and Soliko, resulting in a June 11, 2021, arbitration award that was then confirmed into the October 18, 2022-judgment. Petitioner asserts that said judgment, which is still in effect and remains unchallenged, has not been paid or satisfied. Swift commenced this action against Sapphire, alleging that Sapphire is a jewelry business operated by a member or members of the judgment debtor Soliko's family and holds the funds of judgment debtor Soly's Jewelry due to deposits and fraudulent transfers directed by Soliko, the sole owner of Soly's Jewelry. Petitioner asserts that \$112,784.75 of Soly's Jewelry's funds were fraudulently conveyed to Sapphire's accounts at

JPMorgan, through frequent and easily identifiable transfers or payments without fair consideration or good faith, at the direction of judgment debtor Soliko. Additionally, petitioner asserts that Soly's Jewelry continues to hide and conceal funds by depositing them into Sapphire's account.

CPLR §§ 5225(b) and 5227:

Petitioner commenced this action against respondents Sapphire and JPMorgan, pursuant to CPLR § 5225(b), seeking to turnover or recover funds which were allegedly fraudulently transferred from the judgment debtor Soly's Jewelry to Sapphire's account, via eBay, and which are in the possession of Sapphire through its bank account maintained with JPMorgan. CPLR § 5225(b) provides that "[u]pon a special proceeding commenced by the judgment creditor, against a person in possession or custody of money ... in which the judgment debtor has an interest, or against a person who is a transferee of money ... from the judgment debtor, where it is shown that the judgment debtor is entitled to the possession of such property or that the judgment creditor's rights to the property are superior to those of the transferee, the court shall require such person to pay the money, or so much of it as is sufficient to satisfy the judgment, to the judgment creditor" (*Lepatner Project Sols. LLC v 320 W. 115 St., LLC*, 221 AD3d 506, 507 [1st Dept 2023]). A proceeding pursuant to CPLR § 5225(b) "may also be maintained 'against a person who is a transferee of money or other personal property from the judgment debtor' (*Argyle Funds SPC, Inc. v Barrick*, 226 AD3d 673, 675 [2d Dept 2024]). A judgment debtor's interest in certain property may be established by showing that the transfer of that property from the judgment debtor to a transferee was fraudulent (*Id.*). Accordingly, Swift is seeking to turnover the funds which were the subject of those fraudulent conveyances from the judgment debtors to the respondent Sapphire.

Debtor and Creditor Law Claims:

Swift seeks to void the transfer of funds and/or enforce repayment of the same, pursuant to Debtor and Creditor Law § 273, asserting that judgment debtor Soly's Jewelry fraudulently transferred over \$100,000.00 of its own funds to Sapphire with the intent to hinder, delay, or defraud Swift from obtaining repayment of the debt its owed: the October 18, 2022-judgment. Debtor and Creditor Law § 273(a)(1) provides that a transfer made by a debtor is voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made, if the debtor made the transfer with actual intent to hinder, delay or defraud any creditor of the debtor.

Swift has adequately shown fraudulent conveyances with actual intent, offering evidence in the form of documents with information about the businesses and their uses, bank account records/statements, and subpoena responses, satisfying the following factors: the funds were transferred to or from Sapphire, which is owned or controlled by Ravit, an immediate family member of Soliko (*see* DCL § 270[h][i] [insider includes a relative of the debtor]) but Soly's Jewelry/Soliko retains possession/control of the funds in the account, operating business through said account and paying bills with said funds; the transfers/funds were concealed by channeling funds through the alternative Sapphire account rather than those of the Judgment Debtors; the conveyances commenced after the loan default, service of legal papers had been completed, and judgment was entered; the transfer of funds left Soly's Jewelry and Soliko's accounts nearly empty and both Soliko and Soly's Jewelry were rendered and now remain insolvent; there was no consideration for the transfers; etc. (DCL § 273[b]; NYSCEF Doc. No. 3-24).

Additionally, through these financial statements and the above evidentiary showing, as required under Debtor & Creditor Law § 274, Swift has established that the "transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer

was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation". Accordingly, the transfers of \$112,784.75 should be voided, and judgment in the amount of \$87,578.26, plus interest, may be entered against Sapphire.

Swift is entitled to attorneys' fees as Debtor and Creditor Law § 276-a provides that in an action or special proceeding under this article where a Judgment Creditor recovers judgment avoiding any transfer or obligation, such judgment amount shall include the reasonable attorneys' fees incurred in bringing such action.

As petitioner has complied with statutory requirements and the funds fraudulently transferred by the Judgment Debtors are now in the possession or custody of Sapphire, specifically, in the account it maintains with JPMorgan, a turnover order may be issued to recover such funds (*Commonwealth of N. Mariana Is. v Can. Imperial Bank of Commerce*, 21 NY3d 55, 63 [2013]). Therefore, Swift has demonstrated entitlement to the relief requested in the petition and judgment in its favor as against respondent(s).

Accordingly, it is hereby

ORDERED and ADJUDGED that the petition is GRANTED; and it is further

ORDERED and ADJUDGED that the transfers made between January 7, 2023 and October 16, 2023, in the total amount of \$112,784.75 of Judgment Debtor Soly's Jewelry's money to respondent Sapphire Partners & Sons Inc, are deemed void as fraudulent; and it is further

ORDERED and ADJUDGED that the Clerk of the Court is directed to enter judgment in favor of Swift Financial, LLC, as servicing agent for WebBank, having an address of: Attn: LAURENCE SASS, Sass Law Office LLC, 20 Vesey Street, RM 1400, New York, NY 10007, and against respondent, Sapphire Partners & Sons Inc., with an address of 212-16 82nd Ave., Queens Village, NY 11427, in the amount of \$87,578.26, plus statutory interest from the date of October 18, 2022, in the amount of \$ _____, as calculated by the Clerk, together with reasonable attorneys' fees, costs and disbursements in the amount of \$ _____ as taxed by the Clerk upon the submission of an appropriate bill of costs, for the total judgment amount of \$ _____, and that the petitioner have execution thereof; and it is further

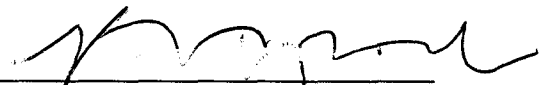
ORDERED and ADJUDGED that JPMorgan Chase Bank, N.A. is directed, upon receipt of a certified copy of this order and judgment, to hereby restrain and turn over to the petitioner, Swift Financial, LLC, as servicing agent for WebBank, the funds from the Chase Acct ending in 5379 or other account of Sapphire Partners & Sons Inc., if any, held in said Bank, up to the aforesaid maximum amount of \$87,578.26, plus statutory interest, reasonable attorneys' fees, costs and disbursements as calculated by the Clerk, but not to exceed the amount of the debt owed, and that petitioner have execution thereof; and it is further

ADJUDGED that upon such turn-over of funds, the respondent JPMorgan Chase Bank, N.A. shall be discharged of all liability with respect to said funds to the extent of payment made as herein provided.

This constitutes the decision, judgment, and order of the court.

1/21/2025

DATE



NICHOLAS W. MOYNE, J.S.C.

DATE

CLERK

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