

Bethpage Fed. Credit Union v Terzi

2025 NY Slip Op 32237(U)

June 16, 2025

Supreme Court, New York County

Docket Number: Index No. 656858/2022

Judge: Emily Morales-Minerva

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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. EMILY MORALES-MINERVA PART 42M

Justice

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BETHPAGE FEDERAL CREDIT UNION

INDEX NO. 656858/2022

Plaintiff,

- v -

JACK TERZI,

Defendant.

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APPEARANCES:

Certilman, Balin, Adler & Hyman, LLP, Hauppauge, NY
(Jarrett M. Behar, Esq., of counsel), for plaintiff.

Schwartz, Sladkus, Reich, Greenberg, Atlas, LLP, New York,
NY (Andrea J. Caruso, Esq., of counsel), for defendant.

EMILY MORALES-MINERVA, J.S.C.

In this breach of guaranty action, this court granted plaintiff BETHPAGE FEDERAL CREDIT UNION's motion (sequence no. 002) for an order of partial summary judgment against defendant JACK TERZI, as to liability, and set this matter down for an inquest as to damages. The inquest commenced July 17, 2024, and continued December 12, 2024, January 21, 2025, and concluded today, June 16, 2025.

During the inquest, plaintiff called the following witnesses: (1) Karen Loiacano, an auctioneer, bank representative and administrator at Ashley Legal Advertising

OTHER ORDER – NON-MOTION

Co.; and (2) Andrew Lendzioszek, Jr., vice president of commercial credit and loan servicing at Bethpage Federal Credit Union. Plaintiff marked for identification and the Court entered into evidence the following exhibits: (1) plaintiff's exhibit 1, Trial Subpoena Duces Tecum and Ad Testificandum; (2) plaintiff's exhibit 4, Notice of Sale; (3) plaintiff's exhibit 5, Terms of Sale; (4) plaintiff's exhibit 6, Affirmation and Certificate of Sale; (5) plaintiff's exhibit 7, copy of New York Law Journal, dated March 01, 2023; (6) plaintiff's exhibit 8, copy of New York Law Journal, dated March 08, 2023; (7) plaintiff's exhibit 9, copy of New York Law Journal, dated March 15, 2023; (8) plaintiff's exhibit 10, promissory note, dated October 09, 2018; (9) plaintiff's exhibit 11, Bethpage Services Group West Broadway, LLC's account transaction history; (10) plaintiff's exhibit 12, Bethpage Services Group West Broadway, LLC's late charge balance history; (11) plaintiff's exhibit 13, non-accrual interest history; (12) plaintiff's exhibit 14, bill summary from plaintiff's counsel, dated February 26, 2021.

Upon plaintiff resting, defendant called David Green, an employee of Kassin Sabbagh Realty, and the Court entered into evidence (1) defendant's exhibit A, the appraisal report of BBG Real Estate Services; (2) defendant's exhibit B, the appraisal report of CBRE Valuation & Advisory Services; (3) defendant's exhibit C, Notice of Default, dated May 05, 2023;

(4) defendant's exhibit D, the Summons and Complaint, dated June 5, 2023; (5) defendant's exhibit E, E-mail Chain with Terms of Sale, and Memorandum of Sale with corresponding cashier's checks, attached thereto; and (6) defendant's exhibit F, Notice of Default, dated February 18, 2023.

On June 16, 2025, defendant rested, and the Court reserved decision. Now, upon the credible testimony, evidence admitted and applicable legal standards, the Court makes the following findings of fact and conclusions of law.

"After default [as here], a secured party may sell . . . or otherwise dispose of any or all of the collateral in its present condition" (Uniform Commercial Code [UCC] § 9-610 [a]). However:

"every aspect of a disposition of collateral including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms"

(UCC § 9-610 [b]).

"A disposition of collateral is [commercially reasonable where it] is made: (1) in the usual manner on any recognized market; (2) at the price current in any recognized market at the time of the disposition; or (3) otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition" (UCC § 9-627

[b]). That a greater amount may have been obtained under other circumstances is not determinative of commercial reasonableness (id. 9-627 [a]).

The plaintiff seeking a deficiency judgment from guarantors after the sale of the collateral, bears the burden of showing that the sale was made in a commercially reasonable manner if that issue is raised by any person in the action to collect a deficiency judgment (see UCC § 9-626 [governing action where deficiency or surplus is in issue]; see also M&T Bank v Sailor, 131 AD3d 1017, 1019 [1st Dept 2015]).

Here, plaintiff met such burden through the credible testimony of its witnesses and exhibits. Defendant's single witness and documentary evidence did not rebut plaintiff's showing.

Accordingly, it is

ORDERED the clerk shall enter judgment in favor of plaintiff BETHPAGE FEDERAL CREDIT UNION and against defendant JACK TERZI in the amount of \$2,453,935.26 plus costs and disbursements; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Emily Morales-Minerva
EMILY MORALES-MINERVA, JSC

DATE: 6/16/2025

Check One:

Case Disposed

Non-Final Disposition

Check if Appropriate:

Other (Specify _____)