

**Matter of Congregation Sfard & Talmud Torah of  
Flatbush**

2025 NY Slip Op 32967(U)

August 4, 2025

Supreme Court, Kings County

Docket Number: Index No. 524911/2018

Judge: Carolyn E. Wade

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At an I.A.S. Trial Term, Part 84 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 4th day of August, 2025.

PRESENT: HON. CAROLYN E. WADE, J.S.C.

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

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IN THE MATTER OF THE APPLICATION OF  
CONGREGATION SFARD AND  
TALMUD TORAH OF FLATBUSH,

Index #: 524911/2018

Petitioner,

**DECISION AND ORDER  
MOTION SEQS. 6 & 8**

Pursuant to Religious Corporation Law § 18 to Dissolve and For Leave to Sell its Real Property Located at 1575 Coney Island Avenue, Brooklyn, New York.  
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Petitioner CONGREGATION SFARD AND TALMUD TORAH OF FLATBUSH (hereinafter "Sfard") renews its Petition, Motion Seq. 6 (NYSCEF Doc. Nos. 132-51), pursuant to the Court's "Second" Order, dated October 4, 2022 (NYSCEF Doc. No. 124), and under New York Religious Corporations Law ("RCL") § 18. Sfard's Petition seeks an Order (1) permitting the transfer of 1575 Coney Island Avenue, Brooklyn, New York (Block 6731, Lot 81) ("the Property") from Sfard to Mesivta Yeshiva Rabbi Chaim Berlin ("Chaim Berlin"), (2) permitting the title transfer of the burial plots located in Section A, Block 9, of the Beth David Cemetery ("the Burial Plots") from Sfard to Chaim Berlin, (3) permitting the transfer of all other assets and liabilities from Sfard to Chaim Berlin, (4) dissolving Sfard, and (5) for such other and further relief as this Court may deem just and proper.

The proposed intervenor HENRY WOLBROM's (hereinafter "Wolbrom")<sup>1</sup> Cross-Motion, Motion Seq. 8 (NYSCEF Doc. Nos. 166-94, 197-205), seeks an Order, *inter alia*, (1) permitting any current or new members of Sfarad to intervene and oppose Sfarad's Petition, (2) dismissing the Petition for (a) non-compliance with RCL §§ 12, 18, and 194 and (b) non-compliance with New York Not-for-Profit Corporation Law ("N-PCL") §§ 510, 511, and 511-a, (3) directing discovery of Sfarad's finances (meaning assets, income and expenses, the Property, and any personal property) via Court-appointed auditor and Court-appointed appraiser, (4) directing discovery and the return of allegedly converted assets from BERNARD SAMET ("Samet"), (5) alternatively, permitting leave to file a responsive pleading, and (6) for such other and further relief as this Court may deem just and proper.

Upon a reading of the foregoing papers, and all other papers and proceedings in this action, and after oral argument, Motion Seqs. 6 and 8 are decided as follows:

#### STATEMENT OF FACTS & PROCEDURAL HISTORY

Much of the Court's factual findings can be found in its "First" and "Second" Orders, respectively (*see* NYSCEF Doc. Nos. 59, 124). For clarity, the Court states the following:

Sfarad was incorporated on October 14, 1925, for the purpose of establishing and maintaining a Congregation and Synagogue of Orthodox Judaism, providing religious, educational, and other community services (NYSCEF Doc. No. 132, "Pet.," ¶¶ 2-9).<sup>2</sup> At the time

<sup>1</sup> Wolbrom requests "[p]ermission for all members of the Congregation Sfarad, current and new members who wish to Intervene in this case and oppose the closure and dissolution and transfer of the Congregation property to Chaim Berlin Yeshiva" (NYSCEF Doc. No. 166 ¶ 10), which reads as a cross-motion to intervene (*see* CPLR §§ 1012 (intervention as of right), 1013 (intervention by permission), 1014 (proposed intervention pleading)).

<sup>2</sup> Since its 1925 incorporation, Sfarad had two documented name changes, which were filed with the Kings County Clerk on May 3, 1935, and July 2, 1939, respectively (*see* Pet. ¶¶ 4-6; NYSCEF Doc. Nos. 134-35).

of this renewed Petition, Sfard's "sole living trustee, director[,] and officer" is Samet, titled President, Director, and Trustee (Pet. ¶ 7). The Court notes that Eli Lieberman, who was listed as Secretary in Sfard's earlier filings, is not included in this renewed Petition (*compare* Pet. with NYSCEF Doc. Nos. 4, 59). Yet, the Court restates its earlier finding that "it appears [] the corporation abandoned parts of [its] by-laws, particularly those governing elections of officers and trustees, several decades ago. Indeed, Sfard has been exclusively controlled by two of its trustees, [Samet] and Eli Lieberman . . . , and a now deceased rabbi, David Schwartz" (*see* NYSCEF Doc. No. 59; *see also* NYSCEF Doc. 124). Continuing from that finding, it appears now that only Samet controls Sfard (*see* Pet. ¶ 7).

Sfard claims financial deficit since 2015 (*see id.* ¶ 15); on January 31, 2016, Sfard held a quorum to vote on the sale of the Property, where the vote favored selling (*see id.* ¶¶ 21–24; NYSCEF Doc. No. 140–43).<sup>3</sup> At the time of the First and Second Orders, Sfard had proposed a sale for \$635,000.00 to 1575 Coney, LLC, and subsequent donation of the proceeds to unnamed synagogues (*see* NYSCEF Doc. Nos. 7, 70; *see also* NYSCEF Doc. Nos. 59, 124).<sup>4</sup>

In its renewed Petition, Sfard now seeks a transfer of the Property to Chaim Berlin, with no consideration and no intent to donate any sale proceeds (as such proceeds would not occur) (*see*

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<sup>3</sup> Sfard comments that the resolution produced from the vote to sell (*see* NYSCEF Doc. No. 143), incorrectly references a February 16, 2016, meeting (Pet. ¶ 25 ("was the result of a scrivener's error"); *see id.*). Sfard asserts that the only meeting relating to the sale was on January 31, 2016, which is attested to in the affidavits of six individuals present at said meeting (Pet. ¶ 25; NYSCEF Doc. No. 142). The Court previously commented on this contradiction (*see* NYSCEF Doc. No. 59; *see also* NYSCEF Doc. No. 124).

<sup>4</sup> This Court denied Sfard's prior petitions to dissolve and sell, with leave to amend, twice; both denials stemmed from deficiencies under RCL and N-PCL. For continuity, the Court restates the deficiencies found in the Second Order: (1) failure to justify the fairness of the Property's proposed sale via current, independent appraisal, (2) failure to show the legitimacy (including non-mechanism for recapture) of any entities who may receive donations from said sale's proceeds, and (3) failure to supply "a schedule of [Sfard's] assets, liabilities, and creditors" (NYSCEF Doc. No. 124 at 4–5).

Pet. ¶¶ 39–44; NYSCEF Doc. Nos. 145–46, 150). Chaim Berlin “is a private, all-boys, Jewish school providing comprehensive academic and religious education at all levels starting at kindergarten and through postgraduate rabbinic seminary” (NYSCEF Doc. No. 150 (affidavit of Executive Director Rabbi Meir Leib Yanofsky)). Wolbrom opposes the dissolution of Sfard and the transfer of the Property (*see* NYSCEF Doc. No. 166; *see also* NYSCEF Doc. Nos. 24, 84).

### ANALYSIS

The conveyance of a religious organization’s property is governed by the RCL and N-PCL: “A religious corporation shall not sell, mortgage or lease for a term exceeding five years any of its real property without applying for and obtaining leave of the court . . . pursuant to [N-PCL § 511] as that section is modified by [RCL § 2-b]” (RCL § 12(1)). RCL § 18 and N-PCL § 511 go on to discuss the necessary components for a successful petition to dissolve and convey real property. Such components are well referenced in this Court’s First and Second Orders (*see* NYSCEF Doc. Nos. 59, 124). Ultimately, if the Court determines “that the consideration and the terms of the transaction are fair and reasonable to the corporation and that the purposes of the corporation or the interests of the members will be promoted, it may authorize the sale, lease, exchange or other disposition of all or substantially all the assets of the corporation, as described in the petition, for such consideration and upon such terms as the court may prescribe” (N-PCL § 511(d)).<sup>5</sup>

#### I. Sfard’s Petition, Motion Seq. 6

In the instant case, Sfard is a religious organization of Orthodox Judaism, located at the Property and controlled by a singular director/trustee, Samet (*see* Pet. ¶¶ 2, 7–9; *see* N-PCL § 511(a)(1)–(3)). This organization seeks court approval for Sfard’s dissolution and conveyance of

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<sup>5</sup> In such an event, “[t]he order of the [C]ourt shall direct the disposition of the consideration to be received thereunder by the corporation” (*see* N-PCL § 511(d)).

the Property and the Burial Plots<sup>6</sup> due to inoperability (*see* Pet. ¶¶ 13–21; *see* RCL § 18 (lawful dissolution “[w]hensoever any religious corporation shall cease to act in its corporate capacity and keep up the religious services”); N-PCL § 511(a)(9)). Sfarid provided a resolution and letter of intent to transfer the Property and the Burial Plots, with no consideration and no intent to donate proceeds (*see* NYSCEF Doc. Nos. 145–46; *see* N-PCL § 511(a)(5) (petition shall include statement of consideration, proposed disposition, and consideration of dissolution)). The Court need not “find that the pecuniary or proprietary interest of the grantor corporation will be promoted” by such a non-monetary transfer (*see* RCL § 12(8)). The resolution is affirmed by Samet (NYSCEF Doc. Nos. 145–46; *see* RCL § 18 (petition must be “duly verified by [majority of] trustees”); N-PCL § 511(a)(7), (8)).

Additionally, Sfarid provided an estimated value of the Property (\$750,000.00) from an exterior appraisal on April 4, 2024 (NYSCEF Doc. No. 148; *see* RCL § 18 (“petition shall state . . . the situation, condition and estimated value of the property”); N-PCL § 511(a)(4)),<sup>7</sup> including Sfarid’s financial statements from 2024 (NYSCEF Doc. No. 136). Sfarid also provided a schedule of Sfarid’s assets and liabilities (as of June 13, 2024) (NYSCEF Doc. No. 137; *see* N-PCL § 511(a)(4) (“A description, with reasonable certainty, of the assets to be . . . otherwise disposed of . . . ; and a statement of the fair value of such assets, and the amount of the corporation’s debts and liabilities and how secured.”)).<sup>8</sup> There is filed “proof that notice of the time and place of such

<sup>6</sup> Relevant to Sfarid’s Burial Plots, RCL § 12(7) states an exception to § 12(1): “Lots, plots or burial permits in a cemetery owned by a religious corporation may, however, be sold, also all or part of such cemetery may be conveyed to a cemetery corporation, without applying for or obtaining leave of the court.” The Court notes that Sfarid is seeking title transfer to another religious organization, not a cemetery corporation (*see* Pet. ¶¶ 21, 47(2); NYSCEF Doc. No. 139). Thus, the exception of RCL § 12(7) is inapplicable here and, as such, court approval for the conveyance of Sfarid’s Burial Plots, as well as the Property, is required.

<sup>7</sup> *Cf.* NYSCEF Doc. No. 124 (previously finding this component deficient).

<sup>8</sup> *Id.* (same).

intended application . . . , ha[d] been duly published once in each week for at least four weeks successively, next preceding such application, in a newspaper published in the county where such corporation is located” (NYSCEF Doc. No. 149 (notarized Canarsie Courier publication); RCL § 18).<sup>9</sup> Moreover, the Executive Director of Chaim Berlin, Rabbi Meir Leib Yanofsky—a person with personal knowledge of Chaim Berlin—affirmed the organization’s legitimacy and non-mechanism for recapture (NYSCEF Doc. No. 150).<sup>10</sup>

Sfard and Chaim Berlin “are substantially similar in that they both seek to maintain a place of worship for those of the Jewish faith” (Pet. ¶ 42; *see* NYSCEF Doc. No. 150). Although this transaction is non-monetary, Chaim Berlin “will assume all outstanding liabilities of Congregation Sfard” (NYSCEF Doc. No. 146). “Upon the transfer, [Chaim Berlin] shall use the assets [meaning the Property, the Burial Plots, and all outstanding liabilities] to further maintain and support an establishment that provides Jewish education” (*Id.*; *see also* Pet. ¶ 47(1)–(3); NYSCEF Doc. Nos. 145–46). This transaction provides “for the ascertaining and payment of the debts of [Sfard], and the necessary costs and expenses of [the Property’s conveyance] and proceedings for dissolution” (*see* RCL § 18; N-PCL § 511(a)(4), (5)). This meets all the necessary components of RCL §§ 12, 18 and N-PCL § 511. The transferring of the Property, the Burial Plots, and outstanding liabilities is fair and reasonable (N-PCL § 511(a)(6), 511(d); *see, e.g., In re Edgehill Church*, No. 800123/2022E, 2022 N.Y. Misc. LEXIS 16731 [Sup Ct, Bronx County, Oct. 11, 2022] (approving dissolution and sale for no consideration); *In re Al-Iman Ctr., Inc.*, No. 716501/2019, 2020 N.Y. Misc. LEXIS 28995 [Sup Ct, Queens County, May 1, 2020] (same)). Finally, Chaim Berlin

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<sup>9</sup> *Id.* (same).

<sup>10</sup> *Id.* (same).

promotes Sfar's original purposes of religious, educational, and other community services for the Orthodox Judaism faith (*see* N-PCL § 511(a)(6), 511(d)).

II. Wolbrom's Cross-Motion, Motion Seq. 8

Turning to Wolbrom's Cross-Motion, "[a] motion seeking leave to intervene, whether made under CPLR [§§] 1012 or 1013, must include the proposed intervenor's proposed complaint or answer" (*New Hope Missionary Baptist Church, Inc. v. 466 Lafayette Ltd.*, 169 AD3d 811, 812 [2d Dept 2019] (citing CPLR § 1014)). No such proposal was filed with Wolbrom's Cross-Motion (*see* NYSCEF Doc. Nos. 166-94; *see also* NYSCEF Doc. Nos. 198-205). Thus, "the court has no power to grant leave to intervene where, as here, the prospective intervenor did not include in its motion papers a proposed pleading setting forth the claim or defense for which intervention is sought" (*New Hope Missionary Baptist Church, Inc.*, 169 AD3d at 812 (cleaned up) (quoting *Matter of Carriage Hill v. Lane*, 20 AD2d 914, 914 [2d Dept 2016]); *see* CPLR § 1014).

ACCORDINGLY, IT IS HEREBY:

**ORDERED** that Sfar's Petition, Motion Seq. 6, is **GRANTED**; and it is further

**ORDERED** that Wolbrom's Cross-Motion, Motion Seq. 8, is **DENIED**; and it is further

**ORDERED** that Sfar is directed to execute a deed for the transfer of the Property, located at 1575 Coney Island Avenue, Brooklyn, New York (Block 6731, Lot 81), to Chaim Berlin for no consideration; and it is further

**ORDERED** that Sfar is directed to execute the same deed for the transfer of the Burial Plots, located in Section A, Block 9, of the Beth David Cemetery, to Chaim Berlin for no consideration; and it is further

**ORDERED** that Sfar is directed to execute the same deed for the transfer of any and all outstanding liabilities and other debts to Chaim Berlin for no consideration; and it is further

**ORDERED** that, upon the transfer of the Property, the Burial Plots, and all debts and liabilities to Chaim Berlin directed herein, Sfarid shall be dissolved; and it is further

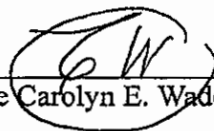
**ORDERED** that Sfarid is directed to serve a copy of this Decision and Order, together with a Notice of Entry, a full copy of Motion Seq. 6's renewed Petition, and with all exhibits thereto, on the New York State Attorney General's Charities Bureau, physically by first-class and electronically at charities.bureau@ag.ny.gov, within twenty (20) days after the date hereof; and it is further

**ORDERED** that Sfarid is directed to file affidavits of service of the foregoing with the Kings County Clerk within ten (10) days of such service; and it is further

**ORDERED** that this Court shall receive written notice whether the transaction has been completed or abandoned within 120 days of the date of this Order.

This constitutes the Decision and Order of this Court.

ENTER



Honorable Carolyn E. Wade, J.S.C.

HON. CAROLYN E. WADE  
JUSTICE OF THE SUPREME COURT

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