

**Board of Mgrs. of St. James's Tower Condominium v  
Sio Props., Ltd.**

2025 NY Slip Op 34776(U)

December 11, 2025

Supreme Court, New York County

Docket Number: Index No. 151461/2024

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  
COUNTY OF NEW YORK: PART 41M

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THE BOARD OF MANAGERS OF ST. JAMES'S TOWER  
CONDOMINIUM,

Plaintiff,

- v -

SIO PROPERTIES, LTD. & ODOGWU GROUP OF  
COMPANIES LTD., NEW YORK STATE DEPARTMENT  
OF TAXATION AND FINANCE, JOHN DOE AND JANE  
DOE

Defendant.

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INDEX NO. 151461/2024

MOTION DATE 04/18/2025

MOTION SEQ. NO. 002

**DECISION + ORDER ON  
MOTION**

HON. NICHOLAS W. MOYNE:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39

were read on this motion to/for

JUDGMENT - DEFAULT

Upon the foregoing documents, it is

This matter comes before the Court upon the motion of Plaintiff, The Board of Managers of St. James's Tower Condominium, for an order pursuant to CPLR § 3215 granting a default judgment against the Defendants in this action to foreclose a condominium lien for unpaid common charges. The motion is opposed by Defendants Sio Properties, Ltd. & Odogwu Group of Companies Ltd. For the reasons set forth below, the motion is granted.

This action was commenced by The Board of Managers of St. James's Tower Condominium, to foreclose a lien for unpaid common charges against Unit 15A located at the premises 415 East 54th Street, New York, New York. The subject unit is owned by the defendants.

The authority of the plaintiff to levy and collect common charges, and to secure unpaid assessments by filing a lien and commencing a foreclosure action, is established by the condominium's governing documents and by statute. The Declaration of St. James's Tower Condominium and its attendant By-Laws, in conjunction with Article 9-B of

the New York Real Property Law (the "Condominium Act"), grant the Board these powers. Specifically, Article 6, Section 6.2 of the By-Laws provides that the Board shall have a lien on each Unit for unpaid common charges. Section 6.4 ("Default in Payment of Common Charges") further authorizes the recovery of expenses, including attorneys' fees, incurred in collecting unpaid charges. Crucially, Section 6.5 ("Foreclosure of Liens for Unpaid Common Charges") explicitly empowers the Board to bring an action to foreclose the lien in the manner provided by the Condominium Act.

Following the commencement of this action, the plaintiff moved for a default judgment against the defendants, asserting that they had failed to timely appear or plead. In response to the motion, the defendants retained counsel, Andrea J. Caruso, Esq., who has filed opposition to the default motion and argues that the Board lacks standing to bring an action foreclosing on the lien. However, the defendants do not deny that they have failed to appear and they have not moved to vacate their default and/or for leave to serve a late answer. Nor have they offered a reasonable excuse for their default or a meritorious defense.

The defenses raised, lack of capacity and lack of standing, are non-jurisdictional and it is well-settled that a party who has failed to timely appear in the action may not assert a non-jurisdictional defense such as lack of standing without first overcoming the showing of default and receiving leave from the court to file a late answer (*see Bank of N. Y. Mellon Trust Co. v Lagasse*, 224 AD3d 800, 801 [2d Dept 2024] [affirming plaintiff's motion for leave to enter a default judgment and for an order of reference where defendant did not rebut the prima facie showing of default, move to vacate its default or offer any excuse for defaulting]; *see also Newrez LLC v JEBCO OGM Resources*, 236 AD3d 1373, 1374 [4th Dept 2025] [affirming order granting a default judgment and the appointment of a referee to compute where defendant did not deny that it had failed to serve an answer, did not offer an excuse for failing to serve an answer, and did not request leave to serve a late answer]; *OneWest Bank, FSB v Villafana*, 231 AD3d 845, 847 [2d Dept 2024] [holding the failure of defendants to proffer a reasonable excuse for their default precluded them from raising lack of standing as a defense]).

Accordingly, it is hereby

ORDERED that the branch of Plaintiff's motion for a default judgment against Defendants is GRANTED; and it is further

ORDERED that Diane Francesca Krausz, Esq., 745 5th Ave., Ste 500, New York, NY 10151, 212-244-5292, dkrausz@dianekrausz.com, is appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff; and it is further

ORDERED that in the discretion of the Referee, a hearing may be held, and testimony taken; and it is further

ORDERED that by accepting this appointment the Referee certifies that s/he is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to § 36.2(c) ("Disqualifications from appointment"), and § 36.2(d) ("Limitations on appointments based upon compensation"), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350.00 shall be paid to the Referee for the computation of the amount due and upon the filing of her/his report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further

ORDERED that the Referee is prohibited from accepting or retaining any funds for her/himself or paying funds to her/himself without compliance with Part 36 of the Rules of the Chief Judge; and it is further

ORDERED that if the Referee holds a hearing, the Referee may seek additional compensation at the Referee's usual and customary hourly rate; and it is further

ORDERED that Plaintiff shall forward all necessary documents to the Referee and shall promptly respond to every inquiry made by the Referee; and it is further

ORDERED that if Defendant(s) have objections, they must submit them to the Referee within 14 days of the mailing of Plaintiff's submissions

and include these objections to the Court if opposing the motion for a judgment of foreclosure and sale; and it is further

ORDERED that the failure by Defendant(s) to submit objections to the Referee shall be deemed a waiver of objections before the Court on a motion for a judgment of foreclosure and sale; and it is further

ORDERED that Plaintiff must bring a motion for a judgment of foreclosure and sale within 30 days of receipt of the Referee's report; and it is further

ORDERED that the caption of this action shall be amended by striking therefrom the names "John Doe" and "Jane Doe" as unnecessary party Defendants herein, and amending the caption to reflect same, all without prejudice to the proceedings already had herein; and it is further

ORDERED that counsel for Plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being removed pursuant hereto; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse 3 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]); and it is further

ORDERED that Plaintiff shall serve a copy of this Order with notice of its entry on all parties and persons entitled to notice, including the Referee appointed herein.

12/8/2025  
DATE

  
NICHOLAS W. MOYNE, J.S.C.

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