

DOCKET NO: FST CV 21-6053898

SUPERIOR COURT
STAMFORD-NORWALK
JUDICIAL DISTRICT

OSPREY PORTFOLIO, LLC

2024 MAY 10 A 9:06

: J. D. of STAMFORD/NORWALK

v.

: AT STAMFORD

FRED WILMOT

: MAY 10, 2024

MEMORANDUM OF DECISION

The plaintiff, Osprey Portfolio, LLC, is seeking Charging Orders concerning the “transferable interest” of the defendant, Fred Wilmot, in the distributions of four separate Connecticut LLCs. The first four Applications for a Charging Order, all dated September 26, 2023, were filed under the incorrect Connecticut statute. (#140.00, #141.00, #142.00 and #143.00). The Applications were twice denied by the court, once on the motion in chief and once on a motion to reargue. The plaintiff is now proceeding under Gen. Stat. § 34-259b, which was effective July 1, 2017.

“(a) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. Subject to subsection (e) of this section, a charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor. To the extent that the transferable interest of the judgment debtor is so charged, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise have been entitled in respect of such transferable interest.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a) of this section, the court may: (1) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and (2) make all other orders necessary to give effect to the charging order.

(c) The member or transferee whose transferable interest is subject to a charging order under subsection (a) of this section may extinguish the charging order by satisfying the

151.04

judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

(d) A limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(e) The entry of a charging order is the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest. With respect to the judgment debtor's transferable interest, attachment, garnishment, foreclosure or other legal or equitable remedies are not available to the judgment creditor, whether the limited liability company has one member or more than one member.

(f) Sections 34-243 to 34-283d, inclusive, do not deprive any member or transferee of the benefit of any exemption laws applicable to the transferable interest of the member or transferee.”

Gen. Stat. § 34-250b

The judgment was first obtained against the defendant, Fred Wilmot, by the then plaintiff, First Union National Bank, in a civil action pending in the Superior Court, judicial district of Stamford/Norwalk at Stamford, Docket Number FST CV-97-0161086 S. After almost two years of litigation the parties submitted an executed extensive sixteen-page Stipulation that was filed as a pleading on January 31, 2001. (#114.00). (See #100.31, Exhibit A at pages 5 through 20 in the current file). Judgment entered in accordance with the Stipulation in favor of First Union National Bank as against Fred Wilmot. (#113.00). The underlying litigation sought to collect on a March 18, 1997 \$20,000 note entered into by Fred Wilmot in favor of First Union National Bank. Thereafter some collection efforts were engaged in by the plaintiff Bank including the filing of executions and a petition for examination of judgment debtor. The executions were returned unsatisfied. Sometime thereafter the current plaintiff, Osprey Portfolio, LLC, acquired the right to collect on the judgment and the court ordered Stipulation from First Union National Bank. First Union National Bank assigned the judgment against the defendant, Fred Wilmot, to the plaintiff, Osprey Portfolio, LLC, on November 28, 2001 (#100.31, page 22).

Osprey Portfolio, LLC commenced this litigation against Fred Wilmot on October 14, 2021, more than 20 years after the court approved the Stipulation and entered judgment in the first litigation.

In this current litigation the court granted summary judgment as to liability and damages on February 7, 2023 (#124.01, #137.00) in favor of Osprey Portfolio, LLC as against the defendant, Fred Wilmot, in the amount of \$164,111.82. Thereafter the plaintiff commenced proceedings to obtain a Charging Order against each of the four named LLCs. As stated, the first four Applications for Charging Orders were denied. One month after the last denial this current December 7, 2023 Application for Charging Orders pursuant to Gen. Stat. § 34-259b was filed. (#151.00).

By reason of the terms and conditions of the aforesaid Stipulation entered into by the parties in the First Union National Bank litigation and the passage of these many years, the original March 18, 1997 \$20,000 promissory note executed by the defendant, Fred Wilmot, has increased his liability to \$164,111.82 as of February 7, 2023. (#138.00). No application, request or motion has been filed asking that this court or any other court revisit or recalculate the amount of the judgment. For the purposes of this Application for Charging Orders it is sufficient that the court finds that a judgment has entered, the defendant is the judgment debtor and the plaintiff is the judgment creditor.

This court makes the following findings: the plaintiff's use of Gen. Stat. § 34-259b is the correct legal authority for the plaintiff to obtain Charging Orders against the "transferable interests" distributions made by the four LLC's, the plaintiff, Osprey Portfolio, LLC, obtained a monetary judgment against the defendant, Fred Wilmot, in this litigation on February 7, 2023, the plaintiff, Osprey Portfolio, LLC, is a judgment creditor of the defendant, Fred Wilmot, the

defendant, Fred Wilmot, is the judgment debtor of that judgment, that judgment has not been paid in full, the four Connecticut LLCs: So. No. Holdings, LLC, W&W Holdings, LLC, So. No. Enterprises, LLC and Fred Wilmot, LLC, have been named specifically in the Application for Charging Orders dated December 7, 2023 and filed as pleading number #157.00 in this current litigation, the plaintiff has obtained a court order requiring that those four LLC's be furnished notice by service of the Application for Charging Orders and the hearing on the Application for Charging Orders (#151.00), four returns of service has been made demonstrating completion of notice to each of the four LLC's by pleading numbers #152.00, #154.00, #155.00 and #156.00, that each of the four LLC's were created under Connecticut law and exist as Connecticut LLC's, each LLC has a filing with the Connecticut Secretary of State, (#151.00, pages 14-25), Fred Wilmot is listed therein as the principal of each of the four LLCs, each LLC has an address of 50 Water Street Norwalk, Connecticut, and that 50 Water Street, Norwalk, Connecticut is the defendant, Fred Wilmot's, address.

This court held its duly noticed on the record court hearing on April 1, 2024. Counsel of record for Osprey Portfolio, LLC and Fred Wilmot, both appeared. There was no appearance at the hearing by any of the four Connecticut LLCs.

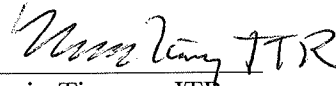
This court having reviewed the transcript of the April 1, 2024 court hearing, the relevant documents in both Connecticut litigations, the statutory requirements of Gen. Stat. § 34-259b, hereby grants the Charging Order (#151.00).

The plaintiff has provided two-page page draft copy of the proposed Charging Order. (#151.00). This court has reviewed the draft Charging Order in detail and finds that it complies with Gen. Stat. § 34-259b. Although some of the language in the requested Charging Order is not contained within the statute, the court has the authority to “make all other orders necessary


to give effect to the charging order.” Gen. Stat. § 34-259b (b). For guidance in making that determination, this court has reviewed the Connecticut Judicial Branch publication entitled Enforcing Money Judgments and specifically Section 4, Table 3 of that publication concerning Charging Orders. The court further found guidance in *Connecticut Community Bank vs A & J Farm Stand, LLC*, Superior Court, judicial district of Stamford/Norwalk at Stamford, Docket Number FST CV-12-6013194 S (October 1, 2013, Karazin, JTR). Finally, this court found judicial authority for the exact language of the requested Charging Order in *Abbett vs OYA, LLC*, Superior Court, judicial district of New Haven at New Haven, Docket Number NNH CV 07-5009253 S (June 28, 2016, Wilson, J.).

Upon the filing of this Memorandum of Decision, this court will execute the two-page Charging Order found on pages 5 and 6 of the December 7, 2023 Application for Charging Orders (#151.00, pages 6-7) and enter it as this court’s Charging Order with service to be made upon all appearing parties and the four named LLCs at issue.

BY THE COURT


Kevin Tierney, JTR

Decision entered in accordance with the
foregoing 5/10/2024.
Notice sent to all counsel of record
5/10/2024


Jonathan Barber
Assistant Clerk