

LAW OFFICES OF MYRON D. MILCH, PC
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Hackensack, N. J. 07601
Tel. (201) 342-2868
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NJ Attorney ID no. 269021971
Attorney for Plaintiff

vs.

Plaintiff

Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: COUNTY

DOCKET NO.:

NOTICE OF MOTION FOR CHARGING
ORDER

HEARING DATE :

ORAL ARGUMENT: WAIVED

TO: Attorney

SIR:

PLEASE TAKE NOTICE that on Friday, _____ at nine o'clock in the forenoon or as soon thereafter as counsel may be heard, the undersigned attorney for judgment creditor, [INSERT], will move before the Superior Court of New Jersey, Law Division, County, for entry of an Order:

1. pursuant to **N.J.S.A. 42:2B-45** charging the membership interests of [INSERT] with payment of the unsatisfied amount of a judgment in favor of [INSERT], with interest;
2. pursuant to **N.J.S.A. 42:2B-45** charging the membership interests of [INSERT] in [INSERT] with payment of the unsatisfied amount of a judgment in favor of [INSERT], with interest;
3. pursuant to **N.J.S.A. 2A:17-65** forbidding and restraining [INSERT] from transferring, assigning, encumbering or otherwise disposing of their membership interests in [INSERT] until further order of the Court;

4. requiring [INSERT] and the members of [INSERT] to pay over to [INSERT], the share of profits of [INSERT] accruing to [INSERT] together with any other money due or to fall due to them in respect of the limited liability company.
5. For such other relief as the Court may deem just and equitable.

PLEASE TAKE FURTHER NOTICE that in support of this matter the judgment creditor, [INSERT], shall rely upon the Certification of _____, executed on and filed concurrently herewith.

Judgment Creditor requests oral argument if this motion is opposed.

LAW OFFICES OF MYRON D. MILCH, PC

By: _____
Myron D. Milch
Attorneys for Plaintiff-Judgment
Creditor

PROOF OF MAILING

On _____, the original Notice of Motion and supporting papers, together with original and two copies of the proposed Order, were sent by ordinary mail and CMRRR to the Court of County, located at _____, and to _____

Dated: _____

Myron D. Milch

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Plaintiff
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SUPERIOR COURT OF NEW JERSEY
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CERTIFICATION IN SUPPORT OF MOTION
FOR CHARGING ORDER

Myron D. Milch, of full age, hereby certifies as follows:

1. I am an attorney at law licensed to practice in the State of New Jersey. I make this Certification from personal knowledge unless otherwise stated and in support of the Plaintiff's Notice of Motion for an Order (a) pursuant to N.J.S.A. 42:2B-45, charging the membership interest of in with payment of the unsatisfied amount of a Judgment in favor of Plaintiff, with interest; (b) pursuant to N.J.S.A. 42:2B-45, charging the membership interests of in with payment of the unsatisfied amount of a Judgment in favor of Plaintiff, with interest; (c) pursuant to N.J.S.A. 2A:17-65 forbidding and restraining from transferring, assigning, encumbering or otherwise disposing of their membership interests in until further Order of the Court; (d) requiring and the Members of , to pay over to the Plaintiff the share of profits of accruing to the Defendant, together with any other money due or to fall due to them in respect of the limited liability company and (e) for such other relief as the Court may deem just and equitable.

With respect to the Motion for Charging Orders Pursuant to N.J.S.A. 42:2B-45

2. On Judgment in favor of Plaintiff and against Defendant was entered in the amount of \$. The Judgment has been docketed with the Clerk of the Superior Court. See copy of Docketed Judgment attached hereto as Exhibit A.

3. On a Writ of Execution was issued out of the Superior Court of New Jersey to the Sheriff of County. The Writ of Execution was sent to the Sheriff of County but attempts to levy personal assets of and have been largely unsuccessful. The Judgment remains wholly unsatisfied.

4. Upon information and belief, is a Member of a Limited Liability Company, (hereinafter,“Holdings”), which was formed to “invest in, acquire, sell, own, finance . . . and otherwise deal in and with real property” and has its principal place of business at . See the Holdings Operating Agreement attached as Exhibit B.

5. Upon information and belief, Holdings has been in business since 20 , is a valuable business and is profitable.

6. Pursuant to N.J.S.A. 42:2B-45, on application of a judgment creditor of a member, “the Court may charge the limited liability company interest of the member with payment of the unsatisfied amount of the judgment with interest.”

7. Plaintiff hereby requests that an Order be entered pursuant to N.J.S.A. 42:2B-45 charging membership interest in Holdings with the payment of the Judgment, with interest.

8. Plaintiff hereby requests that an Order be entered requiring that and the members of pay over to Plaintiff the share of profits of accruing to , together with any other money due or to fall due to them in respect of the limited liability company.

9. No previous application has been made for the relief requested herein.

With Respect to the Motion Forbidding the Transfer, Assignment, Encumbrance or Other Disposition of Membership Interests in Holdings Pursuant to N.J.S.A. 2A:17-65

10. N.J.S.A. 2A:17-65 provides in relevant part:

In aid of execution, the Superior Court upon proof by the oath of the party or his or its agent or attorney or of any other person, showing facts establishing that the judgment debtor has property or any person owes him or it, or holds money or property in possession or action in trust for him or it, or for his or its use over and above such property as is exempt or reserved by law, may make an order forbidding the payment of such debt, or the transfer of such property or money by or to such debtor, or any third person until the further order of the court.

11. Plaintiff respectfully requests that the Court enter an order forbidding from transferring, assigning, encumbering or otherwise disposing of any of their interests in Holdings pursuant to N.J.S.A. 2A:17-65.

12. This relief is warranted given the history of misrepresentations made by judgment debtor, _____ and the efforts of _____ to move assets beyond the reach of their creditors.

13. The facts giving rise to the Judgment are set forth in the attached Decision and Order issued by the Court on _____ See Exhibit C attached hereto.

14. According to Plaintiff's records, in order to induce Plaintiff to make the loans on which suit was filed and Judgment has been entered, Defendant made the following material misrepresentations to the Plaintiff.

15. It is crucial that _____ not be permitted to transfer, assign, encumber or otherwise dispose of their ownership interests in Holdings. Plaintiff therefore respectfully urges the Court to enter an Order pursuant to N.J.S.A. 2A:17-65, forbidding from transferring, assigning, encumbering or otherwise disposing of any of their membership interests in Holdings.

16. I hereby certify that the foregoing statements made by me are true. I am aware that if the foregoing statements made by me are false, I am subject to punishment.

Myron D. Milch, Esq.

Order

THIS MATTER having been brought on motion before the Court by Law Offices of Myron D. Milch, PC, (Myron D. Milch, Esq., appearing), attorneys for the Plaintiff, and appearing in opposition thereto, on Plaintiff's application seeking entry of an Order pursuant to R. 42:2B-45 and R. 2A:17-65, and this Court having considered the Certification of Myron D. Milch, Esq., in support thereof, as well as submissions filed in opposition thereto, and oral argument, if any; and it appearing that Plaintiff recovered a Judgment against in the amount of \$, plus lawful interest thereon, and it further appearing that is a member of the limited liability company, ,LLC, and for other good and sufficient cause,

IT IS ON THIS _____ DAY OF _____, ORDERED:

1. Plaintiff's Motion is granted.
2. Pursuant to N.J.S.A. 42:2B-45, the % membership interest of in , LLC, is charged with the payment of the judgment with interest.
3. Pursuant to N.J.S.A. 42:2B-45, the % membership interest of in is charged with the payment of the judgment with interest.
4. Pursuant to N.J.S.A. 2A:17-65, is hereby forbidden, restrained and enjoined from transferring, assigning, encumbering or otherwise disposing of their membership interests in , LLC, until further order of the Court.
5. , LLC, shall pay over to the Plaintiff the share of profits of ,LLC accruing to and , together

with any other money due or to fall due to them in respect of the limited liability company.

7. A copy of this Order shall be served upon
within ten (10) days of _____'s receipt of same from the Court.

___ Unopposed

___ Opposed

JSC