

DOCKET NO.: NNH-CV17-6072389-S	:	SUPERIOR COURT
	:	
ELIYAHU MIRLIS	:	J. D. OF NEW HAVEN
	:	
v.	:	AT NEW HAVEN
	:	
YESHIVA OF NEW HAVEN, INC.	:	JANUARY 25, 2018
FKA THE GAN, INC. FKA THE GAN	:	
SCHOOL, TIKVAH HIGH SCHOOL AND	:	
YESHIVA OF NEW HAVEN, INC.	:	

**OBJECTION TO MOTION FOR DISCHARGE OF
JUDGMENT LIEN ON SUBSTITUTION OF BOND**

The plaintiff, Eliyahu Mirlis (“Plaintiff”), hereby objects to the Motion for Discharge of Judgment Lien on Substitution of Bond (the “Motion”) filed by the defendant, Yeshiva of New Haven, Inc. fka The Gan, Inc. fka The Gan School, Tikvah High School and Yeshiva of New Haven, Inc.’s (“Defendant”). In support of his objection, Plaintiff states as follows:

I. STATEMENT OF FACTS

On June 6, 2017, the United States District Court for the District of Connecticut entered a judgment (the “Judgment”) in favor of Plaintiff in the matter entitled Eliyahu Mirlis v. Daniel Greer et al., No. 3:16-cv-00678 (MPS), against Defendant and Daniel Greer in the amount of \$21,749,041.10. The Judgment remains unsatisfied in full and there is presently due and owing Plaintiff \$21,749,041.10, exclusive of attorneys’ fees and costs expended in the collection of the Judgment.

Defendant owns the real property situated in the City of New Haven, County of New Haven, and State of Connecticut known as 765 Elm Street, New Haven, Connecticut (the “Property”). The Town of New Haven has assessed the Property to have a value of \$6,234,100. On July 7, 2017, the Judgment being wholly unsatisfied, Plaintiff caused a certificate of judgment lien (the “Judgment Lien”) to be recorded on the Property in the Office of the City Clerk of said City of New Haven,

Connecticut.

Thereafter, Plaintiff commenced this action to foreclose the Judgment Lien. On November 8, 2017, Plaintiff filed his Motion for Summary Judgment and supporting memorandum (Doc. Nos. 104, 105), which was granted as to liability by the Court on January 16, 2018 (Doc. No. 104.10). Defendant filed no objection to the Motion for Summary Judgment. Instead, Defendant filed the instant Motion.

II. LEGAL STANDARD

Conn. Gen. Stat. § 52-380e provides in relevant part:

When a lien is placed on any real or personal property pursuant to section 52-355a or 52-380a, the judgment debtor may apply to the court to discharge the lien on substitution of (1) a bond with surety or (2) a lien on any other property of the judgment debtor which has an equal or greater net equity value than the amount secured by the lien. The court shall order such a discharge on notice to all interested parties and a determination after hearing of the sufficiency of the substitution.

Thus, a judgment lien may be discharged upon substitution of a bond with surety or a lien on “other property.” FDIC v. Bombero, 37 Conn. App. 764, 768 (1995).

III. LAW AND ARGUMENT

Through the Motion, Defendant attempts to have the Court substitute a “cash bond for the Property in the amount of the fair market value of the Property[.]” (Motion, p.3.) Defendant’s Motion raises several significant issues regarding the sufficiency of the security that Plaintiff would receive in return for the Judgment Lien. First, the nature and particulars of the “cash bond” sought by Defendant are completely unclear, and it is not even certain whether Defendant attempts to use the substitution of a “bond with surety” or a lien on “other property” under Conn. Gen. Stat. § 52-380e. In addition, Plaintiff intends to establish the value of the Property through

the testimony of his own appraiser if a hearing is scheduled on the Motion and requests sufficient time to do so.

The Motion lacks any specificity regarding the “cash bond” that Defendant seeks to substitute for the Judgment Lien, and Defendant’s proposal is strikingly lacking in any description of the bond. A bond is “[a] written promise to pay money or do some act if certain circumstances occur or a certain time elapses[.]” Blacks Law Dictionary 169 (7th ed. 1999). “The distinguishing feature of a bond is that it is an obligation to pay a fixed sum of money, at a definite time, with a stated interest. . . .” Id. (quoting 1 Silvester E. Quindry, Bonds & Bondholders Rights and Remedies § 2, at 3-4 (1934)). A surety is “[a] person who is primarily liable for the payment of another’s debt or the performance of another’s obligation.” Id., 1455. Among other deficiencies with the Motion, Defendant does not (a) specify the value of the Property (although the Defendant has since provided them with an appraisal of the Property), (b) show the amount of the bond, (c) explain the form of the bond and provide a copy, (d) identify the surety, and (e) explain how and by whom the res of the bond will be held and upon what conditions it would be released given the pending foreclosure action.

Plaintiff, therefore, requests that the Court deny the Motion because it is fatally flawed and provides the Court and Mirlis with no information whatsoever to determine the sufficiency of the proposed substitution of collateral. In addition, Plaintiff seeks additional time before any hearing is scheduled to obtain access and value the subject property and he intends to present evidence from an appraiser as to the value of the Property at any hearing on the motion so that the Court can determine the value of the Judgment Lien on such Property.

IV. CONCLUSION

Plaintiff respectfully requests that the Court deny the Motion and grant such other and further relief as justice requires.

THE PLAINTIFF
ELIYAHU MIRLIS

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CERTIFICATE OF SERVICE

This is to certify that today a copy of the foregoing Objection to Motion for Discharge of Judgment Lien upon Substitution of Bond was sent to all appearing parties and counsel of record as follows via electronic mail on January 25, 2018:

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