

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ELIYAHU MIRLIS	:	
	:	
Plaintiff	:	CIVIL ACTION NO.
v.	:	3:16-cv-00678 (MPS)
	:	
DANIEL GREER,	:	
YESHIVA OF NEW HAVEN, INC.	:	
	:	
Defendants	:	March 23, 2018
	:	
	:	

DEFENDANTS’ SUPPLEMENTAL RESPONSE TO PLAINTIFF’S MOTION FOR ORDER DIRECTING CLERK TO ISSUE WRITS OF EXECUTION

Pursuant to this Court’s March 20, 2018 order (ECF No. 295), Defendants, Daniel Greer (“Greer”) and the Yeshiva of New Haven, Inc. (the “Yeshiva”) (together with Greer, the “Defendants”) hereby submit this supplemental response to the *Motion for Order Directing Clerk to Issue Writs of Execution* (the “Motion for Order”; ECF No. 186) filed by plaintiff, Eliyahu Mirlis (the “Plaintiff”)¹.

I. INTRODUCTION AND BACKGROUND

By way of brief background, Plaintiff filed his *Application for Writ of Execution on Financial Institution* (the “Greer Application”; ECF No. 174) and *Application for Writ of Execution of Financial Institution* (the “Yeshiva Application”; ECF No. 176) (together with the Greer Application, the “Applications”) on July 10, 2017. On August 1, 2017, Plaintiff filed his Motion for Order seeking the Court to direct the clerk to issue writs of execution pursuant to the

¹ All terms not otherwise defined herein shall have the same meaning as set forth in Defendants’ *Response to (1) Court’s Order to Show Cause, (2) Plaintiff’s Motion for Order Directing Clerk to Issue Writs of Execution, and (3) Plaintiff’s Motion to Take Deposition from Daniel Greer* (ECF No. 191).

Applications. In addition to the proceedings currently pending before this Court, Plaintiff commenced four foreclosure actions against Defendants in Connecticut Superior Court (the “Foreclosure Actions”) related to four pieces of property: Greer’s residence and three parcels of property owned by the Yeshiva.

Since the filing of the Motion for Order, Defendants have produced information concerning Defendants’ financial assets including bank statements, paystubs, and income derived from rental properties. The parties have also engaged in substantial discussions to attempt to reach a stipulation with respect to the Motion for Order, but have been unable to do so. Accordingly, Defendants submit the following suggested course of action as a proposed resolution to the Motion for Order.

I. DEFENDANTS’ PROPOSED RESOLUTION OF PLAINTIFF’S MOTION FOR ORDER

Defendants are prepared to facilitate the liquidation and turnover of Defendants’ non-exempt assets and enter into a monthly payment order pursuant to Connecticut law in order to satisfy the Judgment. Pursuant to Defendants’ amended responses to Plaintiff’s post-judgment interrogatories submitted on December 7, 2017, the Yeshiva owns three parcels of real property: the property in New Haven, Connecticut wherein the Yeshiva’s school building is located and two parcels of undeveloped land in Bethany, Connecticut. The Yeshiva also maintains one bank account, and owns miscellaneous furniture, fixtures, and equipment located at the New Haven property and valued to be worth approximately \$5,000.

Pursuant to the responses submitted by Greer, his assets consist of his residence in New Haven, Connecticut, a condominium in Newport, Rhode Island, vacant land in Wareham, Massachusetts, three bank accounts, a 401K, a custodial account for Greer’s daughter, and a safe

deposit box containing Greer's spouse's jewelry. The responses further provide that Greer's sources of income include wages, social security benefits, and rental income from the property in Newport, Rhode Island.

With respect to the Yeshiva's assets, Defendants are prepared to turn over the two parcels of undeveloped land in Bethany, Connecticut, subject to Plaintiff conducting appraisals to establish the values of the properties (with the Yeshiva retaining the right to contest said valuations, if needed). Similarly, with respect to Greer's assets, Defendants are prepared to turn over the Wareham, Massachusetts property subject to an appraisal of its value, as well as non-exempt funds in Greer's bank accounts.

Defendants assert that, rather than permitting an execution of Defendants' bank accounts, the Court should enter an order staying any executions subject to Defendants' compliance with a monthly payment order (the "Payment Order") pursuant to Conn. Gen. Stat. § 52-356d.

Defendants assert that an appropriate amount for the Payment Order would include twenty-five percent (25%) of Greer's weekly disposable earnings² plus the monthly amount of rental income received from the Newport property attributable to Greer.³ Greer's social security benefits are exempt from execution pursuant to 42 U.S.C.A. § 407(a) and Conn. Gen. Stat. § 52-352b(g), and

² Pursuant to Connecticut's wage execution statute, the maximum part of the aggregate weekly earnings of an individual which may be subject to levy under any wage garnishment is 25% of the individual's earnings for that week. Conn. Gen. Stat. § 52-361a(f).

³ Greer owns the Newport, Rhode Island property as a tenancy by the entirety with his spouse. Under Rhode Island law, a debtor-spouse's interest in a tenancy by the entirety may sustain attachment, but is not subject to levy and sale by execution; the attachment previously placed may be levied and implemented by execution if the debtor-spouse survives the non-debtor spouse, but if the non-debtor spouse survives, he or she will take free and clear of the attachment, which would then be of no further force and effect. *In re Gibbons*, 459 A.2d 938, 940 (R.I. 1983) (citing *Cull v. Vадnais*, R.I., 406 A.2d 1241 (1979)). Defendants have supplied Plaintiff with income and expense information related to the Newport property for 2017, which indicates that the net income attributable to Greer in 2017 was \$2,399.95, or \$195.00 per month.

Greer's 401K retirement account is exempt from execution pursuant to Conn. Gen. Stat. § 52-321a.

Defendants further propose that the appropriate course of action with respect to the Yeshiva's property and Greer's residence in New Haven, Connecticut is to permit Defendants to substitute a cash bond as security for the Judgment in exchange for a discharge of the Judgment Lien against both properties pursuant to Conn. Gen. Stat. § 52-380e. To that end, the Defendants have both filed a *Motion for Discharge of Judgment Lien on Substitution of Bond* (the "Motions to Substitute") in their respective Foreclosure Actions, both of which are currently pending.

Defendants assert that good cause exists to proceed in the fashion urged herein, as the above proposal provides Plaintiff with what he is entitled to under Connecticut law while minimizing the costs of further prolonged legal proceedings and allowing Plaintiff to collect in a timelier manner by diminishing the need for further judicial intervention.

II. CONCLUSION

For the above-stated reasons, Defendants request that the Court enter an order staying Plaintiff's Motion for Order and permitting the proposed process by which the parties should conduct post-judgment collection.

RESPECTFULLY SUBMITTED,
DEFENDANTS,

By: /s/ Jeffrey M. Sklarz
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CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below a copy of the foregoing was served by CMECF and/or mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

Date: March 23, 2018

/s/ Jeffrey M. Sklarz