

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ELIYAHU MIRLIS,

Plaintiff,

Case No.3:19-cv-00700

v.

EDGEWOOD ELM HOUSING, INC.,
F.O.H., INC., EDGEWOOD VILLAGE,
INC., EDGEWOOD CORNERS, INC.,
AND YEDIDEI HAGAN, INC.

August 21, 2020

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND FOR PREJUDGMENT REMEDY**

THE PLAINTIFF,
ELIYAHU MIRLIS

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Table of Contents

I.	PRELIMINARY STATEMENT	1
II.	STATEMENT OF FACTS AND NATURE OF THE PROCEEDINGS.....	2
A.	The Underlying Action Against D. Greer and the Yeshiva and D. Greer's Criminal Conviction	2
B.	D. Greer's Dominion and Control over the Enterprise and the Lack of Corporate Separateness Is Used to Prevent Collection of the Judgment.....	4
C.	D. Greer's Pretextual Changes to Membership of Defendants' Boards of Directors	8
D.	Transfers of the Enterprise's Real Property.....	8
III.	LEGAL BASIS FOR RELIEF.....	8
A.	Plaintiff Is Entitled to a Temporary Restraining Order Pending the Court's Decision on His Application for Prejudgment Remedy	8
a.	Likelihood of Success on the Merits	10
b.	Lack of Adequate Remedy at Law	12
c.	Irreparable Injury.....	12
d.	Balancing the Equities Favors Granting an Injunction	13
B.	Plaintiff Is Entitled to a Prejudgment Remedy Because There Is Probable Cause He Will Prevail on the Merits of His Claim.....	13
IV.	CONCLUSION	14

Table of Authorities

Cases

<i>Coley v. Vannguard Urban Improvement Ass'n,</i> No. 12-cv-5565, 2016 U.S. Dist. LEXIS 172378 (E.D.N.Y. Dec. 13, 2016)	9
<i>Conn. Sav. Bank v. Realty Capitol Acquisition Corp.,</i> 1990 Conn. Super. LEXIS 161 (Super. Ct. Jul. 24, 1990)	9-10
<i>Demirovic v. Ortega,</i> 296 F. Supp. 3d 477 (E.D.N.Y. 2017)	9
<i>Fermont Div., Dynamics Corp. v. Smith,</i> 178 Conn. 393 (1979)	9
<i>In re Martin-Trigona,</i> 592 F. Supp. 1566 (D. Conn. 1984)	3
<i>Inter-Regional Fin. Grp., Inc. v. Hashemi,</i> 562 F.2d 152 (2d Cir. 1977)	10
<i>J.E. Robert Co. v. Signature Props., LLC, 2010 Conn. Super. LEXIS 2928</i> (Super. Ct. Nov. 19, 2010)	10, 12, 13
<i>McKay v. Longman,</i> 332 Conn. 394 (2019)	10, 11
<i>Metal Mgmt. v. Schiavone,</i> 514 F. Supp. 2d 227, 232 (D. Conn. 2007).....	14
<i>R.I. Hosp. Tr. Nat'l Bank v. Trust,</i> 25 Conn. App. 28 (1991)	9

Statutes

Conn. Gen. Stat. § 52-278c	1, 9
Conn. Gen. Stat. § 52-278d	1, 14
Conn. Gen. Stat. § 52-278e	9

Rules

D. Conn. L. Civ. R. 4(c)	1
Fed. R. Civ. P. 64	1, 8, 9, 10
Fed. R. Civ. P. 65	9
Fed. R. Evid. 201	3, 4

Pursuant to this Court's chamber's practices, the plaintiff, Eliyahu Mirlis ("Plaintiff"), respectfully submits this memorandum of law in support if his Application for Temporary Restraining Order and for Prejudgment Remedy (the "Application") pursuant to Fed. R. Civ. P. 64, D. Conn. L. Civ. R. 4(c), and Conn. Gen. Stat. §§ 52-278d and 52-278c(c), seeking a temporary restraining order and prejudgment remedy against the defendants, Edgewood Elm Housing, Inc. ("Edgewood Elm"), F.O.H., Inc. ("FOH"), Edgewood Village, Inc. ("Edgewood Village"), Edgewood Corners, Inc. ("Edgewood Corners"), and Yedidei Hagan, Inc. ("YH" and collectively, "Defendants").

I. PRELIMINARY STATEMENT

While he was a minor student at a school operated by the Yeshiva of New Haven, Inc. (the "Yeshiva"), the Plaintiff was repeatedly sexually abused and assaulted by Daniel Greer ("D. Greer") the Yeshiva's president and school principal. In 2018, following a jury trial, the Plaintiff was awarded \$21,749,041.10 in damages against D. Greer and the Yeshiva to compensate him for the harm he suffered (hereinafter the "Judgment"). The Yeshiva and D. Greer have gone to great lengths to ensure that the Plaintiff never recovers any of the millions of dollars owed to him. Among other things, the Yeshiva and D. Greer have used their domination and control over the Defendants, entities that operate as a single enterprise (the "Enterprise") with no separate identities, to hold and acquire income generating real property and then incrementally pay the generated income to D. Greer, his wife, Sarah Greer ("S. Greer"), and the Yeshiva.

Now that the Plaintiff has uncovered the Enterprise and seeks to enforce the Judgment against its assets via veil piercing, the Defendants have begun to sell their assets to put them out of the Plaintiff's reach and further ensure that he can never recover. Indeed, the Plaintiff has learned that on July 12, 2020, Edgewood Village sold the property located at 928 Elm Street, New

Haven, Connecticut to Pendleton Properties, LLC for \$255,000.00, and that it recently has listed 727 Elm Street, New Haven, Connecticut for sale for \$265,000.00. Moreover, Defendants have transferred hundreds of thousands of dollars to the Yeshiva and D. Greer or on their behalf in just the past two years, including approximately \$200,000.00 to D. Greer (even after he was incarcerated) as salary and benefits, over \$150,000.00 for D. Greer's legal bills, and over \$630,000.00 to the Yeshiva in nearly 400 separate payments. These transfers have been made in such a way to prevent the collection of the Judgment as they are mostly made incrementally and rarely stay (if at all) stay in the Yeshiva's or D. Greer's accounts for more than a day. A temporary injunction is thus necessary to prevent the Defendants from further dissipating their assets while the Court considers the Plaintiff's prejudgment remedy application. Indeed, without a temporary injunction, Defendants will undoubtedly continue to divest their assets and every divestiture irreparably harms the Plaintiff as it further reduces his potential recovery on the Judgment.

Plaintiff is also entitled to a prejudgment remedy against Defendants in the amount of the Judgment to secure a future judgement against them. As set forth below and supported by the Declaration of Eliyahu Mirlis (the "Mirlis Decl."), there is probable cause to believe that a judgment in the amount equal to \$22,281,987.81, or greater, will enter against Defendants on Plaintiff's veil-piercing claims. Indeed, this Court has already denied defendants' motion to dismiss for failure to state a claim, and if the Plaintiff has stated a plausible claim for relief, he will certainly be able to satisfy the minimal probable cause standard required to obtain a prejudgment remedy.

II. STATEMENT OF FACTS AND NATURE OF THE PROCEEDINGS

A. The Underlying Action Against D. Greer and the Yeshiva and D. Greer's Criminal Conviction

D. Greer raped, sodomized and sexually assaulted the Plaintiff at, among other places,

rental properties owned by Edgewood Elm, Edgewood Village and FOH. (Mirlis Decl., ¶ 2.) Specifically, D. Greer raped, sodomized and sexually assaulted the Plaintiff at properties located at 77 Elm Street, 203, 209 and 211 Norton Street, 139 West Park Avenue, 439 Edgewood Avenue, and 193 Maple Street, all in New Haven. (Id.)

On or about May 18, 2017, the jury in the action captioned Eliyahu Mirlis v. Daniel Greer et al., 3:16-cv-00678 (the “Underlying Action”) returned its verdict against D. Greer and the Yeshiva, finding that the Plaintiff had proven each of the causes of action alleged against them in his Third Amended Complaint which alleged, *inter alia*, that beginning in 2002, when Plaintiff was between the ages of fifteen (15) and seventeen (17) years old and a student at the Yeshiva, D. Greer repeatedly and continuously sexually abused, exploited, and assaulted him; that during the years prior to his sexual molestation of the Plaintiff, D. Greer sexually abused, molested and exploited at least one other minor boy in the custody and care of the Yeshiva; that D. Greer forced the Plaintiff to engage in sex acts with him, including forced fellatio, anal sex, fondling and masturbation; that D. Greer frequently gave the Plaintiff alcohol at the time D. Greer raped and assaulted the Plaintiff; that D. Greer showed the Plaintiff pornographic films; and that D. Greer anally raped, sodomized and in other ways sexually assaulted, abused and molested the Plaintiff dozens and dozens of times, with each incident lasting on average from one to four hours and sometimes all night. The jury awarded Plaintiff \$15,000,000 in compensatory damages and found that Plaintiff was entitled to punitive damages from both D. Greer and the Yeshiva. On June 6, 2017, the Court entered the Judgment against D. Greer and the Yeshiva in the total amount of \$21,749,041.10, including \$5,000,000 in punitive damages and \$1,749,041.10 in offer-of-compromise interest.¹

¹ Plaintiff requests that the Court take judicial notice of the facts set forth in this Paragraph, which information is available on the docket of the Underlying Action. A court may take judicial notice

The Judgment remains almost completely unsatisfied, and in fact, the amount of the Judgment has increased on account of accruing post-judgment interest. (Mirlis Decl., ¶ 2.) As of August 21, 2020, the amount of the Judgment is \$22,281,987.81. (*Id.*) Plaintiff is not aware of any defenses, counterclaims, or setoffs to the claims asserted in this action. (*Id.*, ¶ 57.)

On or about September 25, 2019, the jury in the criminal case captioned *State v. Daniel Greer*, No. NNH-CR17-0177934-T, returned a guilty verdict as to all four remaining felony charges against D. Greer regarding his sexual abuse of Plaintiff. D Greer was subsequently sentenced to twenty (20) years in prison (suspended after twelve (12) years). (*Id.*, ¶ 4.)

B. D. Greer's Dominion and Control over the Enterprise and the Lack of Corporate Separateness Is Used to Prevent Collection of the Judgment

At all relevant times alleged in the Complaint, D. Greer was (and continues to be) the president, a director, and in complete control of all Defendants and the Yeshiva. (*Id.*, ¶ 5.) His wife, S. Greer, was, at all relevant times and continues to be, an officer and a director of the Yeshiva and all Defendants. (*Id.*, ¶ 6.)

All non-routine decisions about the management of the Yeshiva and Defendants, including without limitation decisions to acquire or transfer property of the Yeshiva and Defendants, were made by D. Greer. (*Id.*, ¶ 7.) D. Greer made such decisions on behalf of the Yeshiva and Defendants without holding formal board meetings or obtaining a vote from the board of directors of any of Defendants or the Yeshiva. (*Id.*) In fact, the boards of directors of the Yeshiva and Defendants did not have formal meetings or keep minutes. (*Id.*, ¶ 8.) D. Greer testified that he had authority to unilaterally divest Edgewood Village and FOH of assets, without a vote from their respective boards of directors. (*Id.*, ¶ 9.) D. Greer solely directed the transfer of assets among

of its own docket. See *In re Martin-Trigona*, 592 F. Supp. 1566, 1569 (D. Conn. 1984); Fed. R. Evid. 201.

Defendants and from Defendants to himself, the Yeshiva, and S. Greer. (Id.)

S. Greer is a joint signatory with D. Greer on the bank accounts held by the Yeshiva and Defendants, but she is not responsible for the management and control of the Yeshiva and Defendants. (Id., ¶ 10.) S. Greer is employed by the Yeshiva and has been employed by the Yeshiva for at least the past ten (10) years. (Id., ¶ 11.) S. Greer has received and continues to receive a regular salary from the Yeshiva. (Id.) S. Greer has been the sole employee of the Yeshiva since sometime in 2016. (Id., ¶ 12.) During the time that she has been employed by the Yeshiva, S. Greer has received retirement benefits from the Yeshiva in an amount nearly equal to her salary. (Id., ¶ 13.) In 2019, S. Greer received \$62,359.20 in gross salary and \$42,000.00 in retirement benefits from the (Id., ¶ 14.) Yeshiva.

At all relevant times, D. Greer was employed by Edgewood Elm and receives a regular salary as well as retirement benefits from it. (Id., ¶ 15.) D. Greer continues to be employed by Edgewood Elm and is paid a salary, retirement benefits, and health benefits by it, even after he was convicted and incarcerated for the sexual abuse of Plaintiff. (Id., ¶ 16.) In 2019, D. Greer was paid a gross salary of \$88,109.04. (Id., ¶ 17.) Since at least May 18, 2018, D. Greer would receive his paycheck from Edgewood Elm, and rather than depositing it into his bank account, would obtain cash, bank checks, or money orders to use to pay his expenses. (Id., ¶ 18.) D. Greer did this so that Plaintiff could not execute on any money in his bank account. (Id., ¶ 19.) D. Greer did not keep any check stubs, receipts from postal orders, or records of his payments using the money that he received from Edgewood Elm. (Id., ¶ 20.) D. Greer gave a power of attorney to S. Greer so that checks could be issued from Edgewood Elm while he was in prison. (Id., ¶ 21.) Apart from paying D. Greer a salary and benefits, Edgewood Elm has paid legal bills on behalf of D. Greer in the amount of at least \$157,290.34. (Id., ¶ 22.)

Despite only being paid by a particular entity, D. Greer and S. Greer perform services for each Defendant and the Yeshiva. (*Id.*, ¶ 23.) Employees for Edgewood Elm, including its bookkeeper, secretary, and maintenance staff, perform services for each Defendant and the Yeshiva. (*Id.*, ¶ 24.) Apart from Edgewood Elm, the other Defendants have no employees and all necessary services for said entities are performed by the employees of Edgewood Elm, D. Greer, and/or S. Greer. (*Id.*, ¶ 25.) D. Greer manages the employees of Edgewood Elm, and upon information and belief, has the sole authority to hire and fire such employees. (*Id.*, ¶ 26.) The secretary employed by Edgewood Elm also does work for D. Greer, the Yeshiva, and Defendants, and she has an office at the Yeshiva where she may be reached at the Yeshiva's number. (*Id.*, ¶ 27.) The bookkeeper, who performs services for the Yeshiva and Defendants and is employed by Edgewood Elm, has an office at a building owned by Edgewood Corners. (*Id.*, ¶ 28.) Edgewood Elm does not pay Edgewood Corners rent for the use of said office space. (*Id.*, ¶ 29.) Routine bills of the Yeshiva and Defendants are handled by the secretary and bookkeeper employed by Edgewood Elm. (*Id.*, ¶ 30.) Employees of Edgewood Elm also perform cleaning services for the Yeshiva. (*Id.*, ¶ 31.)

Prior to being incarcerated, D. Greer had two offices, one at a property owned by Edgewood Corners and another at the Yeshiva he shares with S. Greer; Edgewood Elm does not pay for the use of such offices. (*Id.*, ¶ 32.) The Yeshiva and Defendants have the same accountant, and D. Greer manages and controls the employment of and interaction with the accountant on their behalf. (*Id.*, ¶ 33.) The Yeshiva and Defendants share offices, Post Office boxes, and telephone numbers. (*Id.*, ¶ 34.) The Yeshiva and Defendants do not reimburse each other for the use of each other's services or property. (*Id.*, ¶ 35.) The other Defendants do not pay a fee to Edgewood Elm for the property management services it provides to them. (*Id.*, ¶ 36.) Religious services for YH

are held at the Yeshiva, and YH does not pay for the use of the facilities. (Id., ¶ 37.)

Of the approximately forty-eight properties owned by Defendants, approximately twenty-one were acquired between 2002 and 2014, at a time when Defendants and the Yeshiva were aware that D. Greer had abused Plaintiff and that Plaintiff had claims against D. Greer. (Id., ¶ 38.) After using funds derived from renting their properties and any other income for, among other things, paying the expenses for the properties, Edgewood Corners, Edgewood Village and FOH (collectively, the “Upstream Entities”) transfer the bulk of their remaining funds to YH and Edgewood Elm (together, the “Downstream Entities”) at the sole direction of D. Greer. (Id., ¶ 39.) The Upstream Entities acquired a significant number of the Properties in 2002 or later. (Id., ¶ 40.) Edgewood Village acquired twelve of the twenty-three Properties that it owns between 2002 and 2014. (Id., ¶ 41.) FOH acquired eight of the seventeen Properties that it owns between 2002 and 2013. (Id., ¶ 42.) In addition, Edgewood Village acquired 784 Elm Street, New Haven, Connecticut (“784 Elm”) for the sum of \$95,000.00 in 2014, which was owned at the time of transfer by D. Greer, Harold Hack, and Edgewood Village. (Id., ¶ 43.)

Edgewood Elm maintains a substantial amount of cash and other liquid assets. It held approximately \$550,000.00 in liquid assets as of the end of 2018. (Id., ¶ 44.) YH distributes funds to the Yeshiva or on the Yeshiva’s behalf as directed solely by D. Greer. (Id., ¶ 45.) From May 2018 through May 2020, YH transferred approximately \$632,152.71 to the Yeshiva in nearly 400 separate transactions. (Id., ¶ 46.) The Yeshiva would almost immediately transfer such funds out of its account, often on the same day. (Id.) YH maintains significant assets, including cash or other liquid assets. (Id., ¶ 47.) It held approximately \$356,611.00 in liquid assets as of the end of 2018. (Id.)

D. Greer and the Yeshiva have almost no nonexempt assets based upon their most recent

financial disclosures to Plaintiff in July 2020, and any assets they may have are grossly insufficient to satisfy the Judgment. (*Id.*, ¶ 48.) Plaintiff has collected less than \$240,000.00 from the Yeshiva and D. Greer since the entry of the Judgment. (*Id.*, ¶ 49.)

C. D. Greer's Pretextual Changes to Membership of Defendants' Boards of Directors

On June 5, 2018, D. Greer, both individual and as a representative of the Yeshiva, was deposed by Plaintiff. (*Id.*, ¶ 50.) During the deposition, Plaintiff's counsel inquired as to certain information regarding Defendants, including corporate governance, boards of directors, and D. Greer's exercise of control. (*Id.*, ¶ 51.) Significantly, a week after he was deposed, D. Greer filed documents with the Connecticut Secretary of State changing certain directors of Edgewood Village, Edgewood Elm, and FOH. (*Id.*, ¶ 52.) In addition, certain directors were added to Edgewood Corners. D. Greer and S. Greer maintained their positions as officers and directors of these entities despite the changes. (*Id.*, ¶ 53.) The changes were form over substance as D. Greer very recently testified that he continues to control the Defendants. (*Id.*, ¶ 54.)

D. Transfers of the Enterprise's Real Property

On or about July 12, 2020, Edgewood Village sold the property located at 928 Elm Street, New Haven, Connecticut to Pendleton Properties, LLC for \$255,000.00. (*Id.*, ¶ 55.) Another property owned by Edgewood Village, 727 Elm Street, New Haven, Connecticut, is currently listed for sale for \$265,000.00. (*Id.*, ¶ 56.)

III. LEGAL BASIS FOR RELIEF

A. Plaintiff Is Entitled to a Temporary Restraining Order Pending the Court's Decision on His Application for Prejudgment Remedy

Fed. R. Civ. P. 64(a) provides that “[a]t the commencement of and throughout an action, every remedy is available that, under the law of the state where the court is located, provides for seizing a person or property to secure satisfaction of the potential judgment. But a federal statute

governs to the extent it applies.” No federal statute applies here. Fed. R. Civ. P. 64 thus provides a separate and distinct avenue from Fed. R. Civ. P. 65 for issuing provisional remedies under state law. See Demirovic v. Ortega, 296 F. Supp. 3d 477, 481-82 (E.D.N.Y. 2017) (considering relief under CPLR § 5229 and Fed. R. Civ. P. 64); Coley v. Vannguard Urban Improvement Ass’n, No. 12-cv-5565, 2016 U.S. Dist. LEXIS 172378, at *16-18 (E.D.N.Y. Dec. 13, 2016) (same).

Pursuant to Connecticut law, a plaintiff may seek a temporary restraining order precluding a defendant from transferring or encumbering property pending a decision on Plaintiff’s application for a prejudgment remedy. See Conn. Gen. Stat. § 52-278c(c):

The clerk upon receipt of all such documents in duplicate, if he finds them to be in proper form, shall fix a date for the hearing on the application and sign the order of hearing and notice **except that** if the application includes a request for a temporary restraining order, the court or a judge of the court shall act on the application for the temporary restraining order, fix a date for the hearing on the prejudgment remedy and sign the order of hearing and notice.

(Emphasis added.) Conn. Gen. Stat. § 52-278c(c) thus provides a procedure to obtain an ancillary temporary restraining order for the interim period between the filing of an application of a prejudgment remedy and the hearing thereon. Fermont Div., Dynamics Corp. v. Smith, 178 Conn. 393, 399-400 (1979) (“[U]nder appropriate circumstances [a temporary injunction] may be granted in addition to the customary remedies during prejudgment remedy proceedings.”); see also R.I. Hosp. Tr. Nat'l Bank v. Trust, 25 Conn. App. 28, 30 n.6 (1991) (“Such a temporary restraining order is a measure applicable only to the time between the issuance of a notice of hearing on a PJR and the hearing itself.”).

Restraining orders under the statute may be issued *ex parte*, and it is only upon a defendant’s motion to dissolve the order pursuant to Conn. Gen. Stat. § 52-278e, that a plaintiff has the burden of presenting evidence demonstrating his entitlement to injunctive relief. Conn. Sav. Bank v. Realty Capitol Acquisition Corp., 1990 Conn. Super. LEXIS 161, at *3-4 (Super. Ct.

Jul. 24, 1990). To satisfy this burden a party seeking injunctive relief to maintain the status quo pending a decision on a pre-judgment remedy application must demonstrate “(1) likelihood of success on the merits; (2) lack of an adequate remedy at law; (3) irreparable injury; and (4) that a balancing of the equities favors granting the injunction.” J.E. Robert Co. v. Signature Props., LLC, 2010 Conn. Super. LEXIS 2928, at *9 (Super. Ct. Nov. 19, 2010) (citing cases).² Based on the facts set forth in the Mirlis Decl. and any evidence to be put forth at a hearing, Plaintiff will, if required, demonstrate that he is entitled to injunctive relief.

a. Likelihood of Success on the Merits

Plaintiff is likely to succeed on the merits of his claims – reverse veil piercing under the identity and instrumentality rules. The identity rule has a single prong:

which requires the plaintiff to show that there was such a unity of interest and ownership that the independence of the corporations had in effect ceased or had never begun, [in which case] an adherence to the fiction of separate identity would serve only to defeat justice and equity by permitting the economic entity to escape liability arising out of an operation conducted by one corporation for the benefit of the whole enterprise.

McKay v. Longman, 332 Conn. 394, 442 (2019) (citations and quotation marks omitted). The instrumentality rule requires the proof of three elements:

“(1) Control [by the defendant], not mere majority or complete stock control, but complete domination, not only of finances but of policy and business practice in respect to the transaction attacked so that the corporate entity as to this transaction had at the time no separate mind, will or existence of its own; (2) that such control must have been used by the defendant to commit fraud or wrong, to perpetrate the violation of a statutory or other positive legal duty, or a dishonest or unjust act in contravention of [the] plaintiff’s legal rights; and (3) that the aforesaid control and breach of duty must proximately cause the injury or unjust loss complained of.”

Id. at 441 (quoting Angelo Tomasso, Inc. v. Armor Construction & Paving, Inc., 187 Conn. 544,

² Under Fed. R. Civ. P. 64, Connecticut law is applied to determine whether a provisional remedy is appropriate. See Inter-Regional Fin. Grp., Inc. v. Hashemi, 562 F.2d 152, 155 (2d Cir. 1977) (considering injunction in aid of attachment under Connecticut UCC). Thus, the use of Connecticut’s standard for injunctive relief is appropriate.

553, 447 A.2d 406 (1982)).

The Mirlis Decl. demonstrates and the evidence to be put forth by the Plaintiff will demonstrate that the Plaintiff is likely to succeed on a claim of veil piercing under both the identity and instrumentality rules. The facts demonstrate that Defendants and the Yeshiva lacked any corporate independence and that they were completely controlled by D. Greer. This control has resulted in the Enterprise, which is used to shield assets from collection by the Plaintiff. Perhaps most egregiously, D. Greer has used his dominance of the Enterprise to continue to pay himself (including benefits and paying his legal fees) after D. Greer and the Yeshiva were found liable for sexual abuse of Plaintiff -- and even after D. Greer was convicted of offenses related to the abuse of Plaintiff and incarcerated. No reasonable, independent corporation would ever do this. Meanwhile, funds rarely are deposited into D. Greer's bank account solely so that he can avoid having those funds executed against by the Plaintiff. Moreover, D. Greer has caused YH to incrementally transfer over \$600,000.00 to the Yeshiva over the past two years so that it can avoid collection, but at the same time, pay, among other things, S. Greer's salary, health, and retirement benefits totaling more than \$100,000.00 per year.

The Plaintiff can also demonstrate the other two factors showing that he is likely to reverse pierce the corporate veil of defendants – i.e., “the impact of reverse piercing on innocent shareholders and creditors. . . [, and] whether adequate remedies at law are available.” Longman, 332 Conn. at 440. As to the second factor, Defendants are nonprofit companies and do not have any shareholders, and thus, this concern does not apply. Moreover, and to the extent it is a proper consideration, the beneficiaries of Defendants, which appear to be the tenants of the residential properties owned by them, would not be negatively affected. The Court may order as part of an injunction that Defendants are allowed to make reasonable transfers in the ordinary course of their

business to maintain the residential properties they own. As to the third factor, neither the Yeshiva nor D. Greer have sufficient assets to satisfy the Judgment, based in part on the fact that the Enterprise is used to shield assets from collection. In fact, it appears that their assets have been effectively depleted. Thus, because Plaintiff is likely to succeed on the merits of his claims against Defendants, this factor counsels in favor of issuing a temporary restraining order.

b. Lack of Adequate Remedy at Law

The Plaintiff can also demonstrate that he lacks an adequate remedy at law. The Yeshiva and D. Greer have effectively denuded themselves of assets and used the Enterprise to prevent any appreciable assets from accumulating in their names. Additionally, the Plaintiff has no other remedy apart from a temporary restraining order to prevent Defendants from dissipating assets by, *inter alia*, transferring them to D. Greer, the Yeshiva, and S. Greer and transferring real property in order to amass sufficient liquid funds to transfer to the same. Therefore, this factor favors issuing a temporary restraining order as well.

c. Irreparable Injury

It is clear that Plaintiff will suffer irreparable injury in the absence of the entry of a temporary restraining order preventing Defendants from transferring their assets.

“[A]lthough injuries compensable by monetary damages ordinarily do not give rise to irreparable harm . . . [a] preliminary injunction may issue to preserve assets as security for a potential monetary judgment where the evidence shows that a party intends to frustrate any judgment on the merits by making it uncollectible.”

J.E. Robert Co., 2010 Conn. Super. LEXIS 2928, at *17 (quoting Pashaian v. Eccelston Properties, Ltd., 88 F.3d 77, 86-87 (2d Cir. 1996)). Here, the entire Enterprise has been operated as a scheme to prevent the Plaintiff’s lawful collection of the Judgment. Moreover, Defendants have demonstrated that they have transferred (and will continue to transfer) hundreds of thousands of dollars to the Yeshiva, D. Greer, and S. Greer, thereby further depleting any amounts that the

Plaintiff could recover. At least in the case of Edgewood Village, Defendants have also shown that they have engaged (and will engage) in the transfer of their real property to further aide in the depletion of their assets. Without an injunction limiting these transfers, the Plaintiff likely will be forever precluded from recovering the transferred funds, which are spent by the Yeshiva and D. Greer as soon as they receive incremental transfers from Defendants. Thus, this factor weighs in favor of issuing an injunction as well.

d. Balancing the Equities Favors Granting an Injunction

As to the final factor, the balancing of the equities clearly favors issuing an injunction against Defendants. Here, Defendants are controlled by D. Greer, who has used the sham of their corporate separateness to engineer a scheme to avoid Judgement enforcement while benefitting himself, his wife, and the Yeshiva. D. Greer has been highly successful as the Plaintiff has collected less than \$240,000.00 in the three (3) years since the Judgment was rendered. While Defendants would be deprived of the use of their assets in large part if an injunction were to issue, “the harm to the plaintiff from the diminution or diversion of assets, necessitating laborious recovery, outweighs the limited inconvenience to the defendant[s].” J.E. Robert Co., 2010 Conn. Super. LEXIS 2928, at *18.

B. Plaintiff Is Entitled to a Prejudgment Remedy Because There Is Probable Cause He Will Prevail on the Merits of His Claim

The Plaintiff is entitled to a prejudgment remedy against Defendants in the full amount of the Judgment because there is probable cause that a judgment will enter against Defendants and in favor of the Plaintiff in at least the amount of \$22,281,987.81, plus interest from the date of the filing hereof of \$691.20 per diem. A plaintiff is entitled to a prejudgment remedy where he demonstrates “probable cause that a judgment in the amount of the prejudgment remedy sought, or in an amount greater than the amount of the prejudgment remedy sought, taking into account

any defenses, counterclaims or set-offs, will be rendered in the matter in favor of the plaintiff.” Conn. Gen. Stat. § 52-278d. “The legal idea of probable cause is a bona fide belief in the existence of the facts essential under the law for the action and such as would warrant a man of ordinary caution, prudence and judgment, under the circumstances, in entertaining it.” Metal Mgmt. v. Schiavone, 514 F. Supp. 2d 227, 232 (D. Conn. 2007) (internal quotation marks omitted)) citing Three S. Dev. Co. v. Santore, 193 Conn. 174, 175 (1984). As set forth above in the discussion regarding the Plaintiff’s likelihood of success on the merits, there is, at the very least, probable cause that a judgment will enter against Defendants for reverse-piercing the corporate veil to hold them liable for the Judgment. Therefore, the Court should issue a prejudgment remedy in the full amount of the Judgment.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, Plaintiff respectfully requests that this Court issue the requested temporary restraining order and prejudgment remedy against Defendants and issue the proposed Order and Injunction filed herewith.

THE PLAINTIFF,
ELIYAHU MIRLIS

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