

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CASE NO. 2013-CP-40-6898

Shirley Hammer,)
)
Plaintiff,)

vs.)

Howard Hammer, 1634 Main, LP,)
)
Alvin Hammer; SH5, LLC;)
SH4, LLC; SH3, LLC; HASCI, LLC,))
D&M Chateau, LLC; Heart of)
Columbia, LLC; Alvin J. Hammer,)
as Personal Representative of the)
Estate of Eleanor Bernstein Hammer;))
Joye Elizabeth Life Estate;)
Stanley Hammer; Department of the)
Treasury-IRS; Chateau DeVille)
Association, Inc. and/or Chateau)
DeVilleville Horizontal Property Regime;))
David H██████████, a minor under the)
age of 14,)
)
Defendants.)

RECEIVED

APR 24 2015

SC Court of Appeals

ORDER GRANTING MOTION
TO DISMISS BY DEFENDANTS
ALVIN HAMMER, ELEANOR HAMMER,
STANLEY HAMMER, HASCI, LLC,
AND HEART OF COLUMBIA, LLC,
(MORE PROPERLY KNOWN AS
HEART OF COLUMBIA, INC.)

2015 MAR 16 AM 10:01
CLARENCE M. HOSEBID
CC P & G S.
FILED
CLARENCE M. HOSEBID

This matter is before me by way of three motions which were heard on January 14, 2015.

The first is a Motion to Dismiss by Defendants Alvin Hammer, Eleanor Hammer¹, Stanley Hammer, HASCI, LLC, and Heart of Columbia, LLC (more properly known as Heart of Columbia, Inc.). These Defendants were represented at the hearing by Keith M. Babcock, Esquire. Finally, an Amended Motion for Charging Lien against Corporate Defendants and Appointment of a Receiver was filed on behalf of the Plaintiff. The Plaintiff is represented by Desa Ballard, Esquire.

¹As reflected in the caption, since the filing of the motion, Mrs. Hammer passed away and Alvin J. Hammer, as Personal Representative of her estate, has been substituted for her.

After considering arguments of counsel, I have determined the Motion to Dismiss Defendants Alvin Hammer, Eleanor Hammer, Stanley Hammer, HASCI, LLC, and Heart of Columbia, LLC (properly known as Heart of Columbia, Inc.) , should be granted and the Amended Motion for a Charging Lien should be denied as to these defendants only.

On January 21, 2014, this Court issued an Order directing the transfer of real property to satisfy various judgments. This Order involved the cases of *Shirley Hammer v. Howard Hammer* (Civil Action No. 2009-CP-40-05911) and *Shirley Hammer v. 1634 Main, LP* (Civil Action No. 2010-CP-40-2889). On page two of that Order, this Court included a chart showing the total of the judgments against 1634 Main, LP and Howard Hammer.

The January 21, 2014, Order that was issued by this Court followed a hearing earlier in January of 2014. As this Court stated:

At the hearing on January 9, 2014, Counsel for Plaintiff renewed Plaintiff's request that this Court execute against property owned by Howard Hammer and 1634 Main to satisfy the judgments.

Order of January 21, 2014, p. 5. As the Order further stated:

Counsel for Plaintiff noted that the foreclosure matter would be rendered moot if these supplementary proceedings resulted in an execution against property owned by the judgment debtors, and the foreclosure matter was filed in order to attach other property to the judgment if it became necessary to do so.

Order of January 21, 2014, p. 5-6.

The foreclosure matter referenced above is the very same foreclosure matter Defendants seek to dismiss. In the January 21, 2014, Order, this Court ordered that any and all interest of Howard Hammer and 1634 Main, LP in real property located at 1634 Main Street, Columbia, South Carolina, be transferred to Shirley Hammer.

In order to obtain a charging lien, a Plaintiff must have an unsatisfied judgment. S.C.

Code Ann. § 33-44-504(a), S.C. Code Ann. provides that:

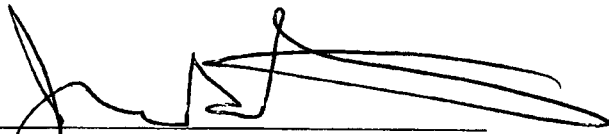
On application by a judgment creditor of a member of a limited liability company or of a member's transferee, a Court having jurisdiction may charge the distributional interest of the judgment debtor to satisfy the judgment. (Emphasis added).

The Plaintiff is not entitled to a charging lien against defendants Alvin Hammer, Eleanor Hammer, Stanley Hammer, HASCI, LLC, and Heart of Columbia, LLC (more properly known as Heart of Columbia, Inc.) Defendants' Motion to Dismiss by these Defendants Alvin Hammer, Eleanor Hammer, Stanley Hammer, HASCI, LLC, and Heart of Columbia, LLC (more properly known as heart of Columbia, Inc.) is granted.

THEREFORE, IT IS ORDERED that:

1. The Plaintiff's Amended Motion for Charging Lien against these defendants Alvin Hammer, Eleanor Hammer, Stanley Hammer, HASCI, LLC, and Heart of Columbia, LLC (more properly known as Heart of Columbia, Inc.), is denied, and
2. The Motion to Dismiss the Plaintiff's Verified Complaint for Attachment and Foreclosure of Judgment by Defendants Alvin Hammer, Eleanor Hammer, Stanley Hammer, HASCI, LLC, and Heart of Columbia, LLC (more properly known as Heart of Columbia, Inc.), is granted.

IT IS SO ORDERED this 16th day of March 2015.



Joseph M. Strickland
Master-in-Equity for Richland County

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
Case Number: 2013-CP-40-6898

Shirley Hammer,)
Plaintiff,)

v.)

Howard Hammer, 1634 Main, LP, Alvin)
Hammer; SH5, LLC; SH4, LLC; SH3, LLC;))
HASCI, LLC; D&M Chateau, LLC; Heart)
Of Columbia, LLC a/k/a Heart of Columbia)
Inc., Alvin Hammer, personal representative)
Of the Estate of Eleanor Hammer; Joye)
Elizabeth Life Estate; Stanley Hammer;)
Department of the Treasury- IRS; Chateau)
DeVile Association, Inc. and/or Chateau)
DeVile Horizontal Property Regime; David)
H██████, a minor under the age of 14,)
Defendants.)

**ORDER GRANTING
CHARGING ORDER**

2015 MAR 15 AM 10:02
JANETTE W. HOOPER
C.C.P. & G.S.
FILED
COURT

Shirley Hammer moves for an order pursuant to S.C. Code Ann. Section 33-44-504 establishing a charging order on Howard Hammer’s distributional interest in the defendant limited liability corporations, *i e* , HASCI, LLC, SH5, LLC, SH4, LLC, SH3, LLC, D&M Chateau, LLC, and Heart of Columbia, LLC (which is now known to be improperly named and is, instead, a regular corporation). The motion is granted.

In two (2) prior cases, Mrs. Hammer obtained judgments against Howard Hammer and 1634, LP, a limited partnership in which Mr. Hammer was the general partner by virtue of his sole ownership of SH5, LLC. Those judgments were conditionally satisfied by this Court’s order of January 21, 2014 in the collection proceedings, in which this Court transferred the only known non-exempt assets of Mr. Hammer to Mrs. Hammer, with directives to sell the real property, pay

herself the amount of the judgments, as well as certain other funds to which the Court determined she was entitled. That order was appealed and affirmed (other than vacating and remanding for a new sanctions hearing) by the Supreme Court on November 14, 2014. Despite Mrs. Hammer's diligent efforts, a sale has not yet been concluded, so she has not yet received any funds to satisfy either the earlier judgments or the judgment entered on January 21, 2014.

Mrs. Hammer was notified by counsel for Alvin Hammer and HASCI, LLC, that a pending sale of real property was scheduled to occur in January, 2015. This action had not yet been heard on the merits because it was anticipated that the sale of the real property awarded to Mrs. Hammer in the earlier cases would have operated to satisfy her judgments. Several defendants had filed motions to dismiss, and hearings on those motions had been delayed by consent, anticipating they would become moot.

In the Supreme Court's order dated November 14, 2014, Mr. Hammer was ordered to provide this Court with a complete financial statement of his income and assets. For the first time, this Court learned Mr. Hammer's financial disclosure dated November 20, 2014 that Mr. Hammer owned significant assets that he had not previously divulged to the Court, despite earlier orders that required him to disclose that information to the court and the parties in the collection proceedings. Among the assets listed in his financial disclosure of November 20, 2014, Mr. Hammer now acknowledges he owns a membership interest in HASCI, LLC, HOC, LLC, and other real property and interests he had not previously disclosed. Mr. Hammer's financial disclosure also contained a letter dated November 17, 2014 which confirmed Mr. Hammer's "approximately 12%" interest in HASCI, LLC, and that a sale of real property owned by that LLC was anticipated to occur in 2015. It is upon that basis that Mrs. Hammer seeks to obtain a

charging order against Mr. Hammer's distributional interest in HASCI, LLC and the other defendant LLCs.

Mr. Hammer asserts that Mrs. Hammer no longer holds any judgments against him, asserting that the earlier judgments were satisfied by the Court's order of January 21, 2014 in the collection action. Mrs. Hammer asserts that the transfer of real property to her for sale purposes only partially satisfied the judgments, since the real property has not yet been sold and she has not received any payment on the judgments.

This Court's order of January 21, 2014, which was made necessary by Mr. Hammer's intentional withholding of information regarding his other assets, specifically anticipated that additional steps would be taken before Mrs. Hammer's judgments would be fully satisfied. Transfer of title of real property to her, with specific instructions regarding sale, did not fully satisfy the judgments in full, but simply set in place a mechanism by which the earlier judgments, and the additional judgments of January 21, 2014, would be satisfied. Neither Mr. Hammer nor any other party asserts that Mrs. Hammer has received any money toward her judgments against Mr. Hammer and 1634 Main LP.

Mr. Hammer asserts the January 21, 2014 order provided for a termination of post-judgment interest on the earlier judgments, thus establishing full satisfaction of the earlier judgments. The post-judgment interest was terminated by the January 21, 2014 order, but it was specifically anticipated by that order that Mrs. Hammer would incur additional costs related to the marketing and sale of the building and the order specifically provided for her recovery of those funds as a part of any "satisfaction" of the judgments she was owed.

Since the real property transferred to Mrs. Hammer has not yet sold, Mrs. Hammer retains

the right to recover against other assets owned by Mr. Hammer. Should she recover all funds to which she is entitled from other assets, the proceeds from the sale required by the January 21, 2014 order will be held in escrow pending further order of the Court, as set forth in Paragraph 7 of that order.

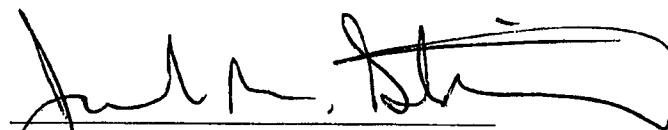
Mrs. Hammer is entitled to a charging order against Mr. Hammer's distributional interest in any of the defendant LLCs in which he has an ownership, membership, or distributional interest. He acknowledges a distributional interest in HASCI, LLC and Chateau Deville LLC, as well as HOC, LLC, which is not a named defendant in this action¹.

Pursuant to S.C. Code Ann. Section 33-44-504, Mrs. Hammer's request for a charging order against Mr. Hammer's distributional interest in HASCI, LLC and Chateau DeVille LLC is granted. The court does not find it necessary, at least at this time, to appoint a receiver; three (3) lawyers who represented themselves to have some interest in HASCI, LLC, as well as Keith Babcock, attorney for HASCI, LLC attended the hearing and are aware of the request for a charging order.

Mrs. Hammer's motion for a charging order against Mr. Hammer's distributional interest in the LLC defendants is:

GRANTED.

IT IS SO ORDERED.



Joseph M. Strickland
Master in Equity
Richland County

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Shirley Hammer,)
 Plaintiff,)
)
 vs.)
)
 Howard Hammer, 1634 Main, LP,)
 Alvin Hammer; SH5, LLC;)
 SH4, LLC; SH3, LLC; HASCI, LLC;))
 D&M Chateau, LLC; Heart of)
 Columbia, LLC; Alvin J. Hammer,)
 as Personal Representative of the)
 Estate of Eleanor Bernstein Hammer;))
 Joye Elizabeth Life Estate;)
 Stanley Hammer; Department of the)
 Treasury-IRS; Chateau DeVille)
 Association, Inc. and/or Chateau)
 DeVille Horizontal Property Regime;))
 David H██████, a minor under the)
 age of 14,)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT
 CASE NO. 2013-CP-40-6898

ORDER DENYING MOTION
 TO ALTER OR AMEND JUDGMENT
 OR DETERMINE A SPECIFIC AMOUNT
 OF THE JUDGMENT OF PLAINTIFF
 AND REQUIRE SALE OF 1634 MAIN ST.


RICHLAND COUNTY
 FILED
 2015 MAR 31 PM 12:07
 JEANETTE W. MCBRIDE
 C.C.P. & G.S.

Pursuant to Rules 59 and 60 SCRPC, former Defendants, Alvin Hammer, HASCI, LLC, and Heart of Columbia, LLC a/k/a Heart of Columbia, Inc.), Alvin Hammer, Personal Representative of the Estate of Eleanor Hammer, and Stanley Hammer (“Movants”) moved for an order altering and amending the judgment of this court filed March 16, 2015 against Howard Hammer. These former Defendants asked me to amend the Order denying a charging order against them and/or to amend it to clarify the amount of the actual judgment against Howard Hammer and 1634 Main LP. They further asked me to order the expedited sale of 1634 Main Street, previously transferred to Plaintiff for purposes of satisfying a judgment against Howard Hammer and 1634 Main Street LP.

The former Defendants do not have the standing to ask for the relief sought. As for the former LLC Defendants, their only remedy at this stage is to expel Howard Hammer or disassociate themselves from him, in accord with state law and their operating agreement. This would end any negative consequences from a charging order as to Howard Hammer's interest in any LLC.

Thus, the motion is denied.

IT IS SO ORDERED this 30th day of March, 2015.



Joseph M. Strickland
Master-in-Equity for Richland County

Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Master-in-Equity

Case No. 2013-CP-40-6898

RECEIVED
APR 24 2015
SC Court of Appeals

Shirley Hammer,

Respondent,

v.

Howard Hammer, 1634 Main, LP; Alvin Hammer, SH5, LLC; SH4, LLC; SH3, LLC; HASCI, LLC; D&M Chateau, LLC; Heart of Columbia, LLC a/k/a Heart of Columbia, Inc.; Alvin J. Hammer, as Personal Representative of the Estate of Eleanor Bernstein Hammer; Joye Elizabeth Life Estate; Stanley Hammer; Department of the Treasury-IRS; Chateau DeVille Association, Inc. and/or Chateau DeVille Horizontal Property Regime; David H., a minor under the age of 14,

Defendants,

Of Whom,

Alvin Hammer; HASCI, LLC; Heart of Columbia, LLC a/k/a Heart of Columbia, Inc.; Alvin J. Hammer, as Personal Representative of the Estate of Eleanor Bernstein Hammer; and Stanley Hammer are

Appellants.

PROOF OF SERVICE

I, Connie W. Grugan, secretary to the law firm of Lewis, Babcock & Griffin, L.L.P., hereby certify that I have served Amended Notice of Appeal upon counsel of record and lower court by mailing a copy of same, postage prepaid and return address clearly indicated, to said opposing counsel addressed as follows:

Honorable Jeanette W. McBride
Richland County Clerk of Court
Post Office Box 2796
Columbia, SC 29202

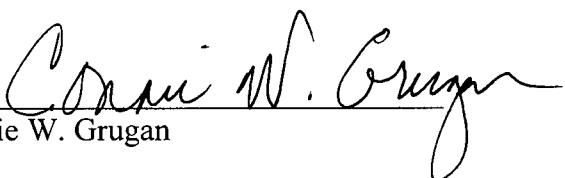
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Connie W. Grugan

This 24th day of April, 2015.