

Akhmedova v Akhmedov
2020 NY Slip Op 30092(U)
January 10, 2020
Supreme Court, New York County
Docket Number: 155688/2018
Judge: Debra A. James
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. DEBRA A. JAMES

PART

IAS MOTION 59EFM

Justice

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INDEX NO. 155688/2018

TATIANA AKHMEDOVA,

MOTION DATE 11/13/2019

Plaintiff,

MOTION SEQ. NO. 003

- v -

FARKHAD AKHMEDOV, COTOR INVESTMENT, S.A.,
QUBO 1 ESTABLISHMENT, QUBO 2 ESTABLISHMENT,
STRAIGHT ESTABLISHMENT, AVENGER ASSETS
CORPORATION,**RESETTLED DECISION +
ORDER ON MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 58, 59, 60, 61, 63,
81

were read on this motion to/for

MODIFY ORDER/JUDGMENTORDER

Upon the foregoing documents, it is

ORDERED that the Order of this Court dated September 30, 2019,
is resettled pursuant to CPLR 5019(a) as follows:

TATIANA AKHMEDOVA,

Plaintiff,

- v -

FARKHAD AKHMEDOV, COTOR INVESTMENT, S.A.,
QUBO 1 ESTABLISHMENT, QUBO 2 ESTABLISHMENT,
STRAIGHT ESTABLISHMENT, AVENGER ASSETS
CORPORATION,

Defendant.

TATIANA AKHMEDOVA,

Plaintiff,

- v -

FARKHAD AKHMEDOV, COTOR INVESTMENT, S.A.,
QUBO 1 ESTABLISHMENT, QUBO 2 ESTABLISHMENT,
STRAIGHT ESTABLISHMENT, AVENGER ASSETS
CORPORATION,

Defendant.

ORDER

WHEREAS, on June 15, 2018 Plaintiff Tatiana Akhmedova ("Plaintiff") commenced the above-captioned action against defendants Farkhad Akhmedov, Cotor Investment, S.A., Qubo 1 Establishment, Qubo 2 Establishment, Straight Establishment and Avenger Assets Corp. (collectively, "Defendants") for an order entering judgment pursuant to New York Civil Practice Laws and Rules ("CPLR") Article 53, on the basis of two foreign judgments against Defendants obtained in the High Court of the United Kingdom (the "U.K. Judgments"); and

WHEREAS, on September 30, 2019 the Court granted summary judgment in Plaintiffs favor and against Defendants recognizing the U.K. Judgment dated December 15, 2016 in the amount of US \$166,743,728, plus interest at the statutory rate; and

WHEREAS, on September 30, 2019 the Court granted summary judgment in Plaintiffs favor and against defendant Straight Establishment recognizing the U.K. Judgment dated March 21, 2018 in the amount of US \$487,278,000, plus interest at the statutory rate; it is hereby

ADJUDGED that Plaintiff Tatiana Akhmedova shall have judgment and recover from Defendants Farkhad Akhmedov, Cotor Investment, S.A., Qubo 1 Establishment, Qubo 2 Establishment, Straight Establishment and Avenger Assets Corp. (joint and severally), the sum of:

1) US \$166,743,728;

2) US \$37,240,955.36 (8% per annum pre-judgment interest awarded pursuant to the terms of the U.K Judgment, calculated from December 15, 2016 through September 30, 2019);

3) US \$550 (statutory costs and disbursements);

totaling US \$203,985,233.36, plus \$_____ in interest at the statutory rate of 9% from September 30, 2019 at the per diem rate of US \$50,297.72 per day, up to and until the

date of entry of judgment, in all the sum of US \$ _____ and that Plaintiff have execution thereof; and it is further

ADJUDGED that Plaintiff Tatiana Akhmedova shall have judgment and recover from Defendant Straight Establishment the sum of:

1) US \$487,278,000;
plus \$ _____ in interest at the statutory rate of 9% from September 30, 2019 at the per diem rate of US \$120,150.74 per day, up to and until the date of entry of judgment, in all the sum of US \$ _____ and that Plaintiff have execution thereof; and it is further

ORDERED AND ADJUDGED that the payments toward either of the foregoing judgments shall reduce pro tanto the amount outstanding on the other judgment; and it is further

ORDERED AND ADJUDGED that post-judgment interest shall run on the above judgments in the amount of 9% per annum pursuant to N.Y. CPLR § 5004 until the date of payment; and it is further

ORDERED AND ADJUDGED that this Court reserves jurisdiction over the parties and action to enforce this judgment.

DECISION

This court finds that plaintiff has sufficiently established that the two foreign money judgments in question, entered by the Family Division of the English High Court, are each final, conclusive and were enforceable when rendered, and

that neither of the CPLR §5403(a) mandatory grounds for non-recognition apply here. Nor have defendants met their burden of persuading the court that it should deny recognition on discretionary grounds.

Defendant does not assert that the English judicial system in general fails to protect litigants' due process rights. Instead, he challenges the British tribunal's application of an exception to his attorney client privilege. Such argument fails because CPLR 5304(a)(1) refers to "a **system** which does not provide impartial tribunals or procedures compatible with the requirements of due process of law", but not to any particular procedure of that tribunal (Harvardsky Prumyslovy Holding, A.S.- V Likvidaci v Kozeny, 166 AD3d 494, 494-495 [1st Dept. 2018][emphasis supplied]). Thus, defendant fails to raise a "non-frivolous" ground for non-recognition, and this court need not ascertain whether it has personal jurisdiction over the defendant. On such basis, this court shall deny defendants' cross motion to dismiss plaintiff's summary judgment motion in lieu of complaint.

Likewise, this court agrees with plaintiff that defendant has not come forward with any evidence of a final and conflicting Russian judgment, and therefore, his challenge pursuant to CPLR 5304(b)(5) lacks any merit.

Nor, as argued by plaintiff, is there any merit to defendant's argument that the "cause of action on which the judgment is based is repugnant to public policy of this state" under CPRL 5304(b)(4), as the cause of action underlying the English judgments is simply the equitable distribution of the assets of dissolved marital estate of the parties. This court also finds that, in compelling the testimony of defendant's attorney, the English court did not violate any public policy of New York state, as such compunction was based upon the same analysis and/or exceptions found in New York state law (see, e.g., Matter of Bekins Record Storage Co., Inc. v Morgenthau, 62 NY2d 324, 329 [1984])).

<u>1/10/2020</u>		<u>DEBRA A. JAMES, J.S.C.</u>	
DATE			
CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE