

SUPREME COURT, STATE OF NEW YORK
COUNTY OF NEW YORK

Application of

Index No.

AMUSING DIVERSIONS, INC.,

Date Purchased

Petitioner

For a Judgment Pursuant to CPLR
5225 and 5227 Directing Payment
to the Petitioner-Judgment Creditor
of Debts Owed to the Judgment
Debtor Earl Simmons a/k/a DMX

PETITION

-against-

UNIVERSAL ATTRACTIONS, INC.,

Respondents

NATURE OF THE PROCEEDING

1. The petitioner-judgment creditor, Amusing Diversions, Inc., brings this special proceeding for a judgment directing respondent Universal Attractions, Inc. to turn over to the petitioner live performance payments and any other monies and debts that it holds for or owes to, and will hold for or owe to, the petitioner's judgment debtor.

2. In particular the respondent, as the judgment debtor's booking agent, holds at least \$ 57,000 on account for the judgment debtor's past and

scheduled in-person performances. This money should be paid to the petitioner-judgment creditor out of hand.

3. The respondent's co-owner testified on oath at a deposition, June 3, 2014, that respondent is the judgment debtor's booking agent for live U.S. performances and that respondent has received and is currently holding upwards of \$ such money to be transmitted to the judgment debtor's manager/agent on the judgment debtor's behalf. CPLR 5225(b) requires this money to be paid directly to the judgment creditor.

THE PARTIES

4. Petitioner Amusing Diversions, Inc., is a New York corporation with a principal place of business at 3 Edwards Place, Ellenville, New York.

5. Respondent Universal Attractions, Inc. ("Attractions") is a New York corporation with a principal place of business at 15 West 36th Street, New York, New York.

THE JUDGMENT DEBTOR

6. Although the judgment debtor Earl Simmons a/k/a DMX ("DMX") is not a party he will have notice of this proceeding pursuant to CPLR 5225(b) and CPLR 5227 immediately on its filing.

7. DMX is a widely promoted and recognized figure in rap music. He performs before audiences, composes songs and motion picture sound tracks, appears in films, and sells recordings by the hundreds of thousands.

UNDERLYING FACTS

8. On or about August 2, 2007, Supreme Court, New York County, entered judgment in the matter of *Amusing Diversions, Inc. v. Dogwear,*

Inc., Earl Simmons a/k/a DMX et al., index number 108606/2004 in favor of Amusing Diversions, Inc., the petitioner here, and against judgment debtor Earl Simmons a/k/a DMX (“DMX”) in the sum of \$ 281,565.61.

9. On this judgment, DMX owes Amusing Diversions, Inc. the sum of \$ 200,590.61 plus interest from August 14, 2008.

10. On June 2, 2008, this Court entered judgment in *Amusing Diversions, Inc. v. Earl Simmons and ET Prperties 2, LLC* index number 113729/2007 in favor of petitioner Amusing Diversions, Inc., and against judgment debtor DMX voiding, on the ground of actual fraudulent intent as opposed to fraud implied in law, DMX’s transfer of Manhattan real property to an alter ego limited liability company and awarding petitioner \$ 7,115.69 against DMX.

11. No payment has been made toward the judgment, and the entire \$ 7,115.69 remains due with interest from June 2, 2008.

12. On or about April 21, 2009 Supreme Court, Westchester County, entered judgment in *Amusing Diversions, Inc. v. Earl Simmons a/k/a DMX, Tashera Simmons a/k/a Tashera Draughn, and ET Properties 1, LLC*, index number 22226/2008, in favor of petitioner Amusing Diversions, Inc., and against judgment debtor DMX, voiding a chain of DMX’s real property transfers, again on the ground of fraud.

13. No portion of that judgment has been paid, and \$ 5,580 remains due and owing with interest from April 21, 2009.

14. On these facts the funds of judgment debtor Earl Simmons a/k/a DMX now in the custody or possession of respondent Universal Attractions, Inc. should be paid over by the respondent to the judgment creditor Amusing Diversions, Inc., and each and every debt, certain or contingent, of respondent Universal Attractions, Inc. to DMX should be paid over to the petitioner judgment creditor immediately that it becomes due, until the judgment debts of DMX to the petitioner are satisfied.

WHEREFORE petitioner Amusing Diversions, Inc., demands judgment:

1. ordering respondent Universal Attractions, Inc., pursuant to CPLR 5225(b) to pay over directly to the petitioner any and all property and money of the judgment debtor Earl Simmons a/k/a DMX that is in the possession or custody of the said respondent;

2. ordering respondent Universal Attractions, Inc. pursuant to CPLR 5227, to pay over to the petitioner any and all property that the said respondent owes or will owe to the judgment debtor Earl Simmons a/k/a DMX, certain or contingent, until the judgments awarded petitioner against the said judgment debtor by this Court on August 2, 2007 and June 2, 2008 and by Supreme Court, Westchester County on April 21, 2009, together with the interest on each of them, are fully paid;

3. directing the said respondent to execute and deliver to the petitioner all documents necessary to effect such payment or turnover;

4. awarding the petitioner the costs and disbursements of this proceeding, together with

5. such other, further, and different relief as the Court deems just.

VERIFICATION

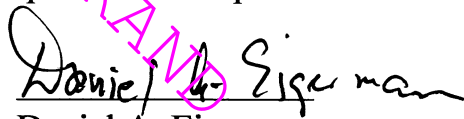
STATE OF NEW YORK)
COUNTY OF NEW YORK) s.s.:

DANIEL A. EIGERMAN, being duly sworn, deposes and says:

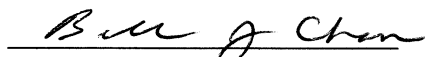
1. I am an attorney admitted in the Courts of the State, with an office for the practice of law at 260 Madison Avenue, New York, New York, and I am attorney for the petitioner, Amusing Diversions, Inc.

2. I have read the foregoing petition and know it to be true of my own knowledge, except as to those matters stated on information and belief, and as to those matters, I believe it to be true.

3. The reason that this verification is made by me is that my client, Amusing Diversions, Inc., is not in the County in which I have my office and that the procedural facts of which it is comprised are known to me of my direct personal knowledge as a participant and witness, rather than to my client, which could not have made this petition of its personal knowledge.


Daniel A. Eigerman

Sworn to before me this
24th day of June 2014


Notary Public

BELLA J. CHAN
Notary Public, State of New York
No. 02CH6140081
Qualified in Queens County
Commission Expires January 17, 2018