

STATE OF NORTH CAROLINA  
MACON COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
13 CVS 719

CHUCK STRUM,

Plaintiff,

v.

ULTIMA WNC DEVELOPMENT,  
LLC, ULTIMA HOLDINGS, LLC,  
ROBERT M. ULLMANN,  
Individually, RHS HOLDINGS, LLC,  
R. HARDY SMITH, Individually, and  
MARILIN HOLDINGS, L.L.L.P.,

Defendants.

**CHARGING ORDER AGAINST  
ULLMANN'S PARTNERSHIP  
INTEREST  
(N.C.G.S. §§ 59-58, -703)**

1. **THIS MATTER** is before the Court upon Plaintiff and judgment creditor Chuck Strum's ("Plaintiff") Motion for Entry of Charging Order (N.C.G.S. § 59-58) (the "First Motion"), (ECF No. 37), and Memorandum and Motion for Entry of Charging Order (N.C.G.S. § 59-58) (the "Second Motion"; together, the "Motions"), (ECF No. 42), in the above-captioned case.

2. The Court, after considering the Motions, accompanying briefs, exhibits, and other appropriate matters of record, makes the following **FINDINGS OF FACT** and **CONCLUSIONS OF LAW** and concludes, in the exercise of its discretion, that the Motions should be **GRANTED in part** and **DENIED in part** for the reasons set forth below.

I.

FINDINGS OF FACT

3. On 24 July 2015, this Court entered a Consent Order Confirming Arbitration Award (the "Judgment"), granting a judgment in favor of Plaintiff and

against Defendants Robert M. Ullmann (“Ullmann”) and Ultima WNC Development, LLC (“Ultima WNC”), in the principal amount of \$401,582.00, plus post-judgment interest at the legal rate.<sup>1</sup>

4. Plaintiff represents that the public record shows that “the [J]udgment . . . remains unsatisfied.”<sup>2</sup>

5. Plaintiff has been unable to locate any assets of Ullmann, in his individual capacity, in North Carolina.

6. Plaintiff served Ullmann with a Notice of Right to Have Exemptions Designated and Motion to Claim Exempt Property on 19 April 2022.<sup>3</sup> No response appears of record.

7. Also on 19 April 2022, Plaintiff filed the First Motion, a supporting brief, and exhibits, seeking to charge Ullmann’s partnership interest in the Robert M. Ullmann Family Partnership, LLLP (“RUFPP”) with satisfaction of the Judgment.<sup>4</sup> Plaintiff subsequently filed the Second Motion and supporting exhibits on 10 May 2022, seeking to charge Ullmann’s interest in Marilyn Holdings, LLLP (“Marilyn”).<sup>5</sup>

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<sup>1</sup> (See Consent Order Confirming Arbitration Award 2 [hereinafter “Judgment”], ECF No. 36.)

<sup>2</sup> (See Mot. Entry Charging Order (N.C.G.S. § 59-58) ¶ 2 [hereinafter “First P’ship Mot.”], ECF No. 37; Mem. and Mot. Entry Charging Order (N.C.G.S. § 59-58) ¶ 5 [hereinafter “Second P’ship Mot.”], ECF No. 42.)

<sup>3</sup> (See Aff. Service Kevin A. Rust, ECF No. 41; Notice Right Have Exemptions Designated, ECF No. 46.)

<sup>4</sup> (See First P’ship Mot.; First P’ship Mot. Ex. A, ECF No. 37.1; First P’ship Mot. Ex. B [hereinafter “RUFPP Info.”], ECF No. 37.2; Br. Supp. Entry Charging Orders, ECF No. 39.)

<sup>5</sup> (See Second P’ship Mot.; Second P’ship Mot. Ex. A, ECF No. 42.1; Second P’ship Mot. Ex. B [hereinafter “Marilyn Info.”], ECF No. 42.2.)

8. Through both Motions, Plaintiff seeks the appointment of a receiver over Ullmann's charged partnership interests and has nominated Lawrence C. Turner, CPA of Turner & Company CPAs, P.A. in Murphy, North Carolina to serve as receiver. Mr. Turner has indicated his willingness to serve as receiver and to charge \$200/hour for his services.

9. Plaintiff's writ of execution had not been returned by the Macon County, North Carolina Sheriff as of 11 May 2022.

10. In a series of e-mails dated 24 and 25 May 2022 to the Court's law clerk and copying all counsel of record, former counsel for Ullmann confirmed that he no longer represents Ullmann and former counsel for Ultima WNC confirmed that former counsel no longer represents Ultima WNC.

11. Recognizing that Ullmann may be proceeding pro se, and in the interests of fairness in the particular circumstances of this case, the Court entered a Scheduling Order on 27 May 2022, which (i) directed Plaintiff to serve Ullmann with a copy of the Motions and the Scheduling Order and file a certificate reflecting service thereof; (ii) directed counsel for Ullmann to promptly enter a notice of appearance or, if Ullmann chose not to retain counsel, directed Ullmann to create a user account with the Court's electronic filing system and associate himself with the case; (iii) directed Plaintiff to file a supplementary brief to address certain specific issues; and (iv) set out a briefing schedule for the Motions.<sup>6</sup>

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<sup>6</sup> (See Scheduling Order, ECF No. 47.)

12. The following day, Plaintiff filed his Memorandum and Motion to Expedite Hearing and Briefing Schedule on Motions for Charging Orders<sup>7</sup> and, in response, the Court entered an Amended Scheduling Order on 31 May 2022, shortening the briefing schedule for the Motions.<sup>8</sup>

13. Plaintiff timely filed certificates reflecting service of the Motions, Scheduling Order, and Amended Scheduling Order on Ullmann.<sup>9</sup> In compliance with the Amended Scheduling Order, Plaintiff filed a Supplemental Brief in Support of Motions for Charging Orders and supporting exhibits on 3 June 2022.<sup>10</sup>

14. No counsel has made an appearance on behalf of Ullmann or Ultima WNC nor has Ullmann created a user account with the Court's electronic filing system.

15. Ullmann did not file a response to the Motions and, as such, the Motions are unopposed and shall be treated as uncontested.<sup>11</sup> Plaintiff's Motions are now ripe for resolution, and the Court elects to rule on the Motions without a hearing.<sup>12</sup>

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<sup>7</sup> (Mem. and Mot. Expedite Hr'g and Br. Schedule Mots. Charging Orders, ECF No. 49.)

<sup>8</sup> (Am. Scheduling Order, ECF No. 50.)

<sup>9</sup> (See Certificate Service of ECF Nos. 37–38,42, 46–47, ECF No. 48; Certificate Service of ECF No. 50, ECF No. 51.)

<sup>10</sup> (Suppl. Br. Supp. Entry Charging Orders [hereinafter "Suppl. Br."], ECF No. 52; Suppl. Br. Exs. A–I, ECF No. 52.1.)

<sup>11</sup> See BCR 7.6 ("If a party fails to file a response within the time required . . . , the motion will be considered and decided as an uncontested motion."); 7.11 ("[T]he failure to timely file a brief or supporting material waives a party's right to file the brief or supporting material.").

<sup>12</sup> See BCR 7.4.

## II.

### CONCLUSIONS OF LAW

16. Article 5 of Chapter 59 of the North Carolina General Statutes, commonly known as the “Revised Uniform Limited Partnership Act” (the “NC RULPA”), N.C.G.S. § 59-101, governs the affairs of limited partnerships as well as limited liability limited partnerships (“LLLPs”), *see id.* § 59-210. In addition, Article 2 of Chapter 59, commonly known as the “North Carolina Uniform Partnership Act” (the “NC UPA”), *id.* § 59-31, “shall apply to limited partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith[.]” *id.* § 59-36(b).

17. Under the NC RULPA, the term “partner” refers to both limited and general partners, *id.* § 59-102(9), and a “partnership interest” is defined as “a partner’s share of the allocations of income, gain, loss, deduction or credit of a limited partnership and the right to receive distributions of cash or other partnership assets[.]” *id.* § 59-102(11).

18. The NC RULPA contains a charging order provision, section 59-703, which provides as follows:

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. The general partners shall have no liability to a partner for payments to a judgment creditor pursuant to this provision. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This Article does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

19. Rather than pursue a charging order under this section, Plaintiff seeks relief pursuant to the charging order provision found in the NC UPA:

- (a) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.
- (b) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:
  - (1) With separate property, by any one or more of the partners, or
  - (2) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.
- (c) Nothing in this Act shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

*Id.* § 59-58.

20. Plaintiff's Motion raises an issue of first impression under North Carolina law: whether a judgment creditor may use the enforcement remedies in the NC UPA's charging order provision when seeking a charging order against a limited partnership.

21. Few courts have addressed this question. The Supreme Court of Oregon has, however, and its decision in *Law v. Zemp* is particularly instructive. *See generally* 362 Or. 302 (Or. 2018). The charging order provisions codified in Oregon's Uniform Partnership Act ("UPA") and Uniform Limited Partnership Act ("ULPA")

are substantially similar to the charging order provisions of the NC UPA and NC RULPA. *Compare id.* at 313–15, *with* N.C.G.S. §§ 59-58, -703. Additionally, although the Oregon legislature omitted the UPA’s express statement regarding its application to limited partnerships—the same statement found in N.C.G.S. § 59-36(b)—when it adopted a revised version of the UPA, “the omission [did] not reflect an intention to delink the [revised UPA] from the [revised ULPA], but rather an understanding that the provision was unnecessary in light of [the addition of a similar provision to the revised ULPA].” *Law*, 362 Or. at 312, 316.

22. The *Law* court therefore concluded that

because [the revised ULPA’s charging order provision] does not provide for any enforcement mechanism, the enforcement mechanism provided in the charging order provision in the UPA . . . (*i.e.*, the express grant of authority to appoint receivers and make “all other orders that the circumstances require”) is imported, by operation of [the UPA’s linking provision], into [the revised ULPA’s charging order provision].

*Id.* at 320 (quoting the Oregon UPA charging order provision).

23. Other states have reached the same conclusion concerning similar partnership statutes with similar provisions. *See, e.g., Madison Hills Ltd. P’ship II v. Madison Hills, Inc.*, 35 Conn. App. 81, 87–88 (Conn. App. Ct. 1994) (determining that the enforcement mechanisms included in the general partnership statute’s charging order provision are imported into the limited partnership statute’s charging order provision); *Lauer Constr., Inc. v. Schrift*, 123 Md. App. 112, 118–19 (Md. 1998) (same); *DiSalvo Props., LLC v. Bluff View Com., LLC*, No. ED101977, 2015 Mo. App. LEXIS 645, at \*8–10 (Mo. Ct. App. June 16, 2015) (same); *Baybank v. Catamont Constr., Inc.*, 141 N.H. 780, 782–84 (N.H. 1997) (same).

24. The Court finds these cases persuasive and therefore concludes that the Supreme Court of North Carolina would likely find that the charging order enforcement mechanisms found in the NC UPA at section 59–58 are properly imported into the charging order provision of NC RULPA, thereby permitting a court to appoint a receiver over a judgment debtor’s share of profits and order a foreclosure or court-ordered sale of a charged membership interest in a limited partnership.

25. Here, Plaintiff seeks to charge the Judgment against Ullmann’s interest in two LLLPs.<sup>13</sup> In the First Motion, Plaintiff seeks entry of a charging order against Ullmann’s partnership interest in RUFPP, a Georgia LLLP registered in North Carolina.<sup>14</sup> Exhibit B to the First Motion includes a copy of RUFPP’s Application for Registration as a Foreign Limited Partnership with the North Carolina Secretary of State<sup>15</sup> in which Ullmann represents that he is a general partner of RUFPP.<sup>16</sup>

26. In the Second Motion, Plaintiff seeks entry of a charging order against Ullmann’s partnership interest in Marilyn, a Georgia LLLP.<sup>17</sup> Exhibit B to the

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<sup>13</sup> The NC RULPA treats an LLLP as a type of limited partnership. *See* N.C.G.S. §§ 59-102(4c), -201(e), -210.

<sup>14</sup> (*See* First P’ship Mot. ¶¶ 3, 12, 15.)

<sup>15</sup> “The Court may take judicial notice of public filings available on the North Carolina Secretary of State’s official website.” *Banc of Am. Merch. Servs., LLC v. Arby’s Rest. Grp., Inc.*, 2021 NCBC LEXIS 60, at \*5 n.3 (N.C. Super. Ct. June 30, 2021) (citing N.C. R. Evid. 201(b), (c)).

<sup>16</sup> (*See* RUFPP Info. 2–3.) Citations to the page numbers of this document refer to the electronic PDF page numbers as there are no page numbers on the pages themselves.

<sup>17</sup> (*See* Second P’ship Mot. ¶¶ 6, 10, 20, 24.)



Second Motion is a copy of Marilyn's 2022 Annual Registration with the Georgia Secretary of State in which Ullmann represents that he is a general partner of Marilyn.<sup>18</sup>

27. The NC RULPA defines a "foreign limited liability limited partnership" as "a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to the provisions of G.S. 59-403(b) pertaining to general partners in limited liability limited partnerships." N.C.G.S. § 59-102(4c). "Before transacting business in this State, a foreign limited partnership shall procure a certificate of authority to transact business in this State from the Secretary of State." *Id.* § 59-902(a).

28. Although Plaintiff contends that Marilyn is a foreign LLLP transacting business in North Carolina without obtaining the necessary certificate of authority to do so,<sup>19</sup> a search of the Georgia Secretary of State website reveals that RUFPP filed a Certificate of Amendment: Name Change on 16 June 2008, changing its name to Marilyn.<sup>20</sup> Furthermore, the "Control Number" that appears on the 15 February 2005 Georgia Secretary of State Certificate of Existence for RUFPP in Exhibit B to the First Motion is identical to the "Entity Control No." that appears on the 8 March 2022 Georgia Secretary of State Annual Registration in Exhibit B to

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<sup>18</sup> (See Marilyn Info.)

<sup>19</sup> (See Second P'ship Mot. ¶¶ 8–9; Suppl. Br. 3.)

<sup>20</sup> See *Business Amendment for Marilyn Holdings, LLLP* (Control Number: 0000959) (filed June 14, 2008), available at <https://ecorp.sos.ga.gov/BusinessSearch>.

the Second Motion.<sup>21</sup> Thus, it appears to the Court that RUFPP and Marilin are the same entity and that Marilin simply failed to file a certificate of amendment with the North Carolina Secretary of State as required by sections 59-202 and 59-905.<sup>22</sup>

29. Because Ullmann has presented no evidence to refute the filings made with the North Carolina Secretary of State and Georgia Secretary of State that show that he is a general partner of Marilin, the Court concludes that Ullmann has a partnership interest in Marilin.

30. The Court also concludes that Plaintiff is a judgment creditor of Ullmann since there is no evidence that the Judgment has been assigned or cancelled and the public record reveals that the Judgment remains unsatisfied.

31. Accordingly, the Court concludes that, on Plaintiff's Motions, it may charge Ullmann's partnership interest in Marilin with the payment of the unsatisfied amount of the Judgment with interest. *See* N.C.G.S. § 59-703.

32. The Court further concludes that it may appoint a receiver to recover Ullmann's share of the profits or any other money due to him in respect of the partnership and order a foreclosure or sale of Ullmann's partnership interest. *See id.* § 59-58; *see also Law*, 362 Or. at 320 (importing the court's authority to appoint a receiver under Oregon's revised UPA charging order provision into its revised ULPA charging order provision).

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<sup>21</sup> (*Compare* RUFPP Info. 4, *with* Marilin Info.)

<sup>22</sup> In light of the Court's conclusion, "Marilin" shall hereafter refer to both Marilin Holdings, LLLP and RUFPP.

33. The Court has reviewed Mr. Turner's qualifications to serve as receiver and concludes that he is well-qualified to serve as the receiver over Marilyn in this action.<sup>23</sup> The Court has also reviewed Mr. Turner's proposed hourly rate of \$200 and concludes that this rate is well within the range of normal and customary hourly rates for receivership services in western North Carolina, including Macon County. The Court therefore shall appoint Mr. Turner to serve as receiver over Marilyn as more specifically set forth below.<sup>24</sup>

34. Plaintiff seeks the following additional relief in his Motions, presumably based on the NC UPA's language that permits the Court to "make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require[,]" N.C.G.S. §59-58(a):

- a. prohibit the partnership "from making any loans to any partner or anyone else without either Court approval or approval of the Plaintiff";
- b. prohibit the partnership from making "capital acquisitions without either Court approval or approval of the [P]laintiff";
- c. prohibit the partnership and its partners from "undertak[ing], enter[ing] into, or consummate[ing] any sale, encumbrance, hypothecation, or modification of any interest therein, without either Court approval or approval of the Plaintiff";

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<sup>23</sup> Mr. Turner is a certified public accountant with 53 years of accounting experience. He is a member of the American Institute of Certified Public Accountants, the North Carolina Association of Certified Public Accountants, and the Georgia Society of Certified Public Accountants and is founding partner and president of Turner & Company CPAs P.A. in Murphy, North Carolina.

<sup>24</sup> Mr. Turner shall hereafter be referenced as "the Receiver."

- d. prohibit the partnership and its partners from “alter[ing], chang[ing], or modify[ing] any compensation plan or structure without either Court approval or approval of the Plaintiff”;
- e. require the partnership to provide Plaintiff with a list of current partners that identifies the percentage of their ownership interest in the partnership; and
- f. require the partnership to provide Plaintiff with a current balance sheet and income statement. (See First P’ship Mot. ¶¶ 16–21; Second P’ship Mot. ¶¶ 25–30.)

35. Section 59-58’s grant of authority to make “all other orders” must be read in context with the other relevant provisions of Chapter 59. Under the plain language of the NC UPA, the court may “charge the *interest of the debtor partner* with payment of the unsatisfied amount of such judgment with interest[.]” N.C.G.S. § 59-58(a) (emphasis added). Similarly, the NC RULPA allows the court to “charge the *partnership interest* of the partner with payment of the unsatisfied amount of the judgment with interest[.]” *id.* § 59-703 (emphasis added), which is defined as “a partner’s share of the allocations of income, gain, loss, deduction or credit of a limited partnership and the right to receive distributions of cash or other partnership assets[.]” *id.* § 59-102(11).

36. Under the charging order provision of the NC RULPA, “the judgment creditor has only the rights of an assignee of the partnership interest[.]” *id.* § 59-703, and “an assignment of a partnership interest *does not* dissolve a limited

partnership or entitle the assignee to become or exercise any rights of a partner[.]" *id.* § 59-702 (emphasis added). Section 59-58(b) further underscores the limited nature of the charging remedy by permitting the judgment debtor's interest in the partnership to be redeemed with partnership property, but only "with the consent of all the partners whose interests are not so charged or sold." Consequently, neither the NC RULPA nor the NC UPA authorize the Court to permit a judgment creditor to exercise the judgment debtor's membership rights in the partnership, nor can the Court enjoin the other partners from exercising their membership rights.

37. Plaintiff's reliance on N.C.G.S. § 1-358 does not change this result. That section permits the Court to "forbid a transfer or other disposition of, or any interference with, the *property of the judgment debtor* not exempt from execution." *Id.* § 1-358 (emphasis added). Here again, the statute focuses on the Court's ability to enjoin actions taken with respect to the judgment debtor's property, not the partnership's property.

38. The Court's conclusion is the same as that reached by the Supreme Court of Oregon in *Law*: "Taken together, [the statutory provisions] point to a general legislative understanding that outsiders (creditors and assignees) should be excluded from participating in the conduct of partnership business and accessing partnership information even if, through a charging order . . . they can obtain an interest in the partnership's profits and distributions." *Law*, 362 Or. at 324. As such, the Court concludes that the scope of its authority to "make all other orders, directions, accounts and inquiries which the debtor partner might have

made” in support of a charging order issued pursuant to sections 59-58 and/or 59-703, is qualified by the subsequent phrase “which the circumstances of the case may require.” N.C.G.S. § 59-58(a).

39. Bearing this in mind, the Court must now determine, as did the court in *Law*, whether the additional relief Plaintiff seeks is “necessary to effectuate the court’s obligation to allow the judgment creditor access [to] the debtor’s distributional interest to satisfy his . . . judgment, without unduly interfering with the entity’s management.” *Law*, 362 Or. at 331. On the current record, the Court determines that some, but not all, of Plaintiff’s requested relief is “necessary” to ensure the charging order’s effectiveness.

40. First, Plaintiff seeks to prohibit Marilin from making loans to anyone, selling or otherwise encumbering any partnership interest, and modifying any compensation plan, unless permitted by Plaintiff or the Court.<sup>25</sup> Plaintiff also seeks information about the structure and finances of the partnership.<sup>26</sup> All of these provisions appear to relate to the management of the partnership and should be included in a charging order only if they are “necessary” to enforce the judgment creditor’s ability to obtain satisfaction of a judgment.

41. The Court entered the Judgment almost seven years ago.<sup>27</sup> Plaintiff has proffered no information about any past efforts to collect judgments from Ullmann

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<sup>25</sup> (See First P’ship Mot. ¶¶ 16–19; Second P’ship Mot. ¶¶ 25–28.)

<sup>26</sup> (See First P’ship Mot. ¶¶ 20–21; Second P’ship Mot. ¶¶ 29–30.)

<sup>27</sup> (See Judgment 2.)

or Ultima WNC, except to assert that, “[a]s evidenced in the public record, the judgment . . . remains unsatisfied.”<sup>28</sup> There is no evidence that Plaintiff sought an order of the court requiring Ullmann and/or Ultima WNC to “appear and answer concerning [their] property” pursuant to N.C.G.S. § 1-352, prepared and served on Ullmann and Ultima WNC “written interrogatories concerning [their] property” pursuant to N.C.G.S. § 1-352.1, or engaged in any of the additional methods for discovering assets permitted under N.C.G.S. § 1-352.2.

42. Instead, Plaintiff contends that given “Ullmann’s history of excessive fragmentation and hiding of assets, . . . a broad request for relief was made, and he should be enjoined from taking any steps to undercut this Court’s authority in protecting judgments.”<sup>29</sup> Although it appears that Ullmann has a history of creating business entities,<sup>30</sup> most of these entities are no longer active and, aside from Plaintiff’s assertion in his supplemental brief that the fact that Ultima WNC deeded a parcel of real property to Marilyn “appears to have prevented the [Macon County, North Carolina Sheriff] from selling that property[,]”<sup>31</sup> the current record does not support a conclusion that Ullman is using the corporate form to protect his assets from creditors rather than for legitimate business purposes.

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<sup>28</sup> (First P’ship Mot. ¶ 2; Second P’ship Mot. ¶ 5.)

<sup>29</sup> (Suppl. Br. 8.)

<sup>30</sup> (*See, e.g.*, Mot. Entry Charging Order (N.C.G.S. § 57D-5-03) Ex. B, ECF No. 38.2 (compilation of North Carolina LLCs of which Ullmann is a manager and/or member).)

<sup>31</sup> (Suppl. Br. 8.)

43. Further, there is limited information in the record regarding the structure of the partnership and the interests and relationships between Ullmann and the other Marilin partners. As a result, the Court finds Plaintiff's request for information about the structure and finances of the partnership reasonable and necessary for the Receiver to determine Ullmann's "share of the allocations of income, gain, loss, deduction or credit of [the] partnership and the right to receive distributions of cash or other partnership assets." N.C.G.S. § 59-102(11).

44. The Court will therefore grant Plaintiff's Motions with respect to his request to receive a list of current partners and their percentage ownership interests in the partnership as well as a current income statement and balance sheet from Marilin, but shall otherwise deny the additional relief requested without prejudice to Plaintiff's right to renew the Motions as to these additional provisions should he identify evidence that such actions are necessary to ensure the effectiveness of this Charging Order.

45. **WHEREFORE**, based upon the foregoing **FINDINGS OF FACT** and **CONCLUSIONS OF LAW**, it is hereby **ORDERED, ADJUDGED**, and **DECREED** as follows:

a. Plaintiff's Motions are hereby **GRANTED in part** as follows:

(1) Pursuant to N.C.G.S. §§ 59-58, -703, a Charging Order is hereby **ENTERED** against Ullmann's partnership interest in Marilin for payment of the Judgment.



- (2) The Court hereby appoints Lawrence C. Turner, CPA of Turner & Company CPAs, P.A. in Murphy, North Carolina as receiver over the charged partnership interest in Marilin.
- (3) The Receiver shall be compensated in the amount of \$200.00 per hour, which shall be taxed as costs against Ullmann and his interest in Marilin. In the event Ullmann fails to pay, Plaintiff shall be responsible for the unpaid fees, which shall be taxed as costs to Ullmann.
- (4) The Receiver is appointed over Ullmann's share of the profits, and of any other money due or to fall due to Ullmann with respect to his ownership interest in Marilin until the Judgment is satisfied or further order of the Court.
- (5) The Receiver may make all other orders, directions, accounts, and inquiries which Ullmann might have made, or which the circumstances of the case may require, including the following:
  - i. Taking control of the bank accounts and other depository or demand accounts exclusively maintained at any financial institution by Marilin and said funds, to the extent of Ullmann's charged partnership interest, and may use any funds therein to satisfy the Judgment;
  - ii. To deposit all income coming into Marilin's possession, to the extent of Ullmann's charged partnership interest, for the benefit

of Plaintiff, and to pay such income over to Plaintiff to satisfy the Judgment;

- iii. To engage or otherwise employ attorneys, accountants, other professionals, managing agents, and any other persons, firms, or corporations necessary or appropriate to efficiently comply with the terms of this Charging Order;
- iv. The Receiver shall have full access to all books and records, in whatever form, including but not limited to, tax returns, online banking information, income statements and balance sheets, contractual agreements, partnership agreements, and a list of all current partners and percentage interest of each partner's ownership interest for Marilin;
- v. The Receiver may deliver a copy of this Charging Order to any bank or other financial institution that maintains an account for the Marilin, and such bank or other financial institution, upon receipt of this Charging Order, to the extent of Ullmann's charged partnership interest, shall allow the Receiver to use such account(s) and funds on deposit in such account(s) to satisfy the Judgment; and
- vi. Following entry of this Charging Order, the Receiver shall notify all payors of Marilin, including tenants and/or property management companies of the real property owned or controlled

by Marilyn, to direct payments, to the extent of Ullmann's charged partnership interest, due to Marilyn to the Receiver. Payments made to the Receiver by payors, tenants, and/or property management companies shall be treated as if such payment had been made to Marilyn and shall satisfy the payor's obligation to Marilyn to the extent of the amount of each payment. To the extent necessary to recover payments otherwise due to Marilyn, the Receiver is authorized to communicate directly with known payors, tenants, and property managers of the property owned or controlled by Marilyn.

(6) Marilyn shall make no distributions, allocations, dividends, or any payment whatsoever to Ullmann on account of his ownership interest in such partnership until the Judgment is satisfied or further order of the Court. This expressly prohibits Ultima WNC from making any distributions, allocations, dividends, or payments to Ullmann that Ultima WNC derives or receives from any ownership interest it may have in Marilyn.

(7) If Ullmann receives any distributions, allocations, dividends, or payments on account of his ownership interest in Marilyn in violation of this Charging Order, Ullmann shall immediately deliver all such distributions, allocations, dividends, or payments on account of his ownership interest to the Receiver.

(8) Ullmann is enjoined and prohibited from circumventing the terms or purposes of this Charging Order.

- b. Plaintiff's Motions are **DENIED in part** with respect to the additional relief requested in Paragraphs 16–19 of the First Motion and Paragraphs 25–28 of the Second Motion **without prejudice** to Plaintiff's right to renew the Motions as to these provisions should he uncover evidence that such actions are necessary to ensure the effectiveness of this Charging Order.
- c. Plaintiff may seek further order of this Court requesting the judicial sale of Ullmann's charged partnership interest.
- d. Plaintiff is hereby **ORDERED** and **DIRECTED** to serve a copy of this Charging Order upon Ullmann and Marilyn by mailing a copy of this Charging Order to Ullmann as the registered agent of Marilyn.
- e. Plaintiff is hereby **ORDERED** and **DIRECTED** to serve a copy of this Charging Order upon the Receiver, and the Receiver is hereby **ORDERED** and **DIRECTED** to create a user account with the Court's electronic filing system and associate himself with the case.
- f. This Charging Order shall remain in effect until further order of this Court or until the Judgment is fully satisfied, in which event Plaintiff shall serve a Notice of Satisfaction of said Judgment within five (5) days of receipt of the final payment on such Judgment.

**SO ORDERED**, this the 16th day of June, 2022.

/s/ Louis A. Bledsoe, III

Louis A. Bledsoe, III

Chief Business Court Judge