

Re: Motion for Assignment Order and Restraining Order Against Judgment Debtor

Date: January 16, 2018

National Credit Acceptance obtained a \$3,250.91 default judgment against David Oroz (“Defendant”). Subsequently, the judgment was assigned to Sacor Financial, Inc. (“Assignee”). Pliny Jones, Account Manager at Assignee, declares that the sum of \$665.00 has been paid on the judgment, and the current balance due on the judgment is \$6,208.15, including accrued interest from the date of entry of judgment until November 10, 2017, and post judgment costs incurred.

Pursuant to Code of Civil Procedure section 708.510, Assignee seeks an assignment order assigning to it 25% of all fees, commissions and other payments due to Defendant from Harry’s Upholstery until the judgment is paid in full or the order is amended. Notice of the motion was timely served by mail on Defendant in compliance with Code of Civil Procedure section 708.510(b). The motion is unopposed.

Jones declares that he has done research to locate other assets in order to satisfy this judgment and to date has been unable to locate any assets that are subject to attachment. Jones further declares that Defendant is not an employee, but that he is informed and believes that Defendant has right to payments due from Harry’s Upholstery for services rendered as an independent contractor.

All or part of a right to payment due or to become due, including any commissions, may be ordered assigned whether or not such right is conditioned upon future developments. (Code Civ. Proc., § 708.510(a); Ahart, Cal. Practice Guide: Enforcing Judgments and Debts (The Rutter Group 2017) ¶ 6:1423) Commissions payable to an independent contractor are reachable by an assignment order. (Ahart, Cal. Practice Guide: Enforcing Judgments and Debts (The Rutter Group 2017) ¶ 6:1430.2) The amount of the assignment order may not exceed the amount necessary to satisfy the money judgment. (Code Civ. Proc., § 708.510(d).)

Assignee may also request an order restraining Defendant from assigning or otherwise disposing of or encumbering the right to payment. (Code Civ. Proc., § 708.520(a).) Here, Assignee seeks a restraining order in addition to the assignment order. Assignee declares that such an order is necessary because there is a lack of documentation of the payments, a possibility that cash payments may not be reported and that Defendant may spend the payments received.

Plaintiff’s motion for an assignment order is granted. Assignee’s request for a restraining order against Defendant is also granted.