

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION—CIVIL

MELROSE CREDIT UNION

Plaintiff

v.

VIOLET ALAM, INC., MANWAR ALAM and VIOLET ALAM

Defendants

: August Term, 2018

: Case No. 03207

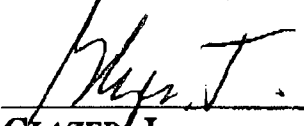
: Commerce Program

: Control No. 19052078

ORDER

AND NOW, this 11th day of February, 2020, upon consideration of the
defendants' petition to open default judgment, the answer of plaintiff, and the respective
briefs, it is **ORDERED** that the petition **DENIED**.

BY THE COURT,


GLAZER, J.

Melrose Credit Union Vs Violet Alam, Inc. E-ORDOP



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DOCKETED
FEB 11 2020
N. ERICKSON
DAY FORWARD

OPINION

Plaintiff is Melrose Credit Union (“Lender”). Corporate defendant is Violet Alam, Inc., a Pennsylvania corporation engaged in the taxicab business. Individual defendant, Mr. Manwar Alam, is the president of Violet Alam, Inc.; the other individual defendant, Ms. Violet Alam, is allegedly deceased.

On September 3, 2013, Violet Alam, Inc., Mr., Manwar Alam, and Ms. Violet Alam, executed a “Balloon Note” in favor of Lender. The Balloon Note was executed pursuant to a loan of \$1,148,000.00, which the three defendants (collectively, the “Borrowers”), had received from Lender.¹ The Balloon Note contained a warrant-of-attorney empowering Lender to confess judgment against Borrowers in the event of a default.² A “Guaranty” was appended to the Balloon Note: under its terms, each of the three Borrowers agreed to be bound to the obligations in the Balloon Note.³ The Balloon Note-and-Guaranty were backed by collateral in the form of four taxi-cab medallions, pursuant to the terms of a Security Agreement executed by the parties on August 26, 2013.⁴

On August 31, 2019, Lender confessed judgment against Borrowers for their failure to repay the outstanding principal and interest under the Balloon Note. On April 15, 2019, Lender entered judgment by default against the Borrowers. On May 15, 2019, Borrowers filed the instant petition to open default judgment, and attached thereto a proposed answer with new matter and counterclaims; on May 30, 2019, Lender filed its answer in opposition to the petition to open judgment by default. The petition to open

¹ Promissory note, Exhibit A to the complaint.

² Id., pp. 4-5.

³ Id., p. 7.

⁴ Security Agreement, Exhibit C to the complaint.

judgment by default was assigned to this court on December 19, 2019.

DISCUSSION

The law on opening default judgments is well-settled:

a default judgment may be opened if the moving party has—

- (1) promptly filed a petition to open the default judgment,
- (2) provided a reasonable excuse or explanation for failing to file a responsive pleading, and
- (3) pleaded a meritorious defense to the allegations contained in the complaint.⁵

In addition, the Pennsylvania Rules of Civil Procedure instruct that—

[i]f the petition [to open default judgment] is filed within ten days after the entry of a default judgment on the docket, the court shall open the judgment if ... the proposed answer states a meritorious defense.⁶

Finally, a **“trial court cannot open a default judgment based on the equities of the case when the defendant has failed to establish all three of the required criteria.”⁷**

In this case, Borrowers attempt to explain that the twenty-day delay, beyond the ten day requirement in filing the instant petition, was caused by the failure of its prior counsel to timely act after the default judgment had been docketed.⁸ This excuse might have been reasonable if the Borrowers had been mere laypersons lacking the means to monitor the docket. This is so because Pennsylvania courts “make[] a distinction between corporations and laypersons with regard to opening judgments.”⁹ Specifically,

⁵ Myers v. Wells Fargo Bank, N.A., 986 A.2d 171, 175–76 (Pa. Super. 2009).

⁶ Pa. R.C.P. 237.3(b)(2).

⁷ Id., (emphasis supplied).

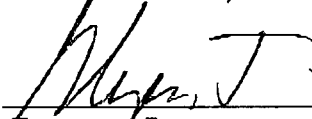
⁸ Petition to open default judgment, ¶ 6.

⁹ Myers v. Wells Fargo Bank, N.A., 986 A.2d 171, 177 (Pa. Super. 2009).

Pennsylvania courts distinguish between “a layperson and ... a corporate defendant with the means to monitor its legal claims.”¹⁰

Here however, one of the Borrowers/Guarantors is a corporation identified as Violet Alam, Inc., whereas the other two Borrowers/Guarantors, Mr. Manwar Alam and Ms. Violet Alam, are more than mere laypersons. Mr. Manwar Alam and Ms. Violet Alam are more than mere laypersons because they not only negotiated a sophisticated loan in excess of \$1 million, but also formed a corporation designed to shield themselves from the liabilities of their taxicab company.¹¹ The explanation provided by Borrowers to justify their untimeliness is of no avail in this case, and for the reasons above the court finds that Borrowers have failed to establish two of the three criteria required for opening a default judgment. The petition is denied.

BY THE COURT,



GLAZER, J.

¹⁰ *Id.*, (citing *Reid v. Boohar*, 856 A.2d 156, 162 (Pa. Super. 2004), wherein the Pennsylvania Superior Court held that that “Appellant, a layperson, [had] established a legitimate excuse for not filing a timely response to [a] ... complaint where ... [the layperson] had entrusted ... [an insurance] claim to his insurance carrier and reasonably relied on its representation. *Id.*

¹¹ “A shareholder of a business corporation shall not be liable, solely by reason of being a shareholder ... for a debt, obligation or liability of the corporation.” 15 Pa. Stat. and Cons. Stat. Ann. § 1526 (2020). “A corporation is a separate, fictional legal person distinct from its shareholders or employees.... When a corporation enters into a contract, it does so only on behalf of its separate, fictional capacity.” *Tayar v. Camelback Ski Corp.*, 957 A.2d 281, 289–90 (Pa. Super. 2008), *aff’d in part, rev’d in part on other grounds*, 47 A.3d 1190 (Pa. 2012).