

SHORT FORM ORDER

**SUPREME COURT : STATE OF NEW YORK
COUNTY OF NASSAU**

PRESENT:

HON. IRA B. WARSHAWSKY,

Justice.

TRIAL/IAS PART 7

FORD MOTOR CREDIT COMPANY LLC, f/k/a
FORD MOTOR CREDIT COMPANY and f/d/b/a
JAGUAR CREDIT CORPORATION

Plaintiffs,

- against -

INDEX NO.: 015671/2010

MOTION DATE: 2/25/11

SEQUENCE NO.: 01

NORTH SHORE MOTOR GROUP, INC., NSMG,
LLC, CDMS, INC., RICHARD ABRAHAM COHEN
a/k/a RICK COHEN a/k/a R.A. COHEN, LOUIS
ROTH, DEBORAH GOLDBERG, LAURA ROTH,
CARLOS DIAZ, CARLOS VARGAS, MARIE
BRESLIN, EDWIN AGUILAR, ERNESTO BONILLA,
BOBBY HIEB, NOCOLE HOLTMAYER, HEROLD
MOTOR CARS, INC., JOHN C. HEROLD, MARK
PRICE, a/k/a MARC PRICE, N.J. MADONIA, JR.,
AMY R. FARINA, HELENE KORMAN, GLORIA S.
YOUNG, DANIELLE I. LERNER, ROBERT J.
WESLOWSKI, JR., RICHI O. OSVALDO, LIPSCO LTD.,
FRANK'S FAR ROCKAWAY AUTO SCHOOL, INC.,
DANA MAGLIANA, SUE ROGERS, GEORGE
KOSMOPOULOS, a/k/a GABIN KOSMO, AMANDA
D. WOLLMAN and LINDA OBEDA,

Defendants.

The following documents were read on this motion:

- | | |
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| Order to Show Cause for Appointment of Receiver and Injunction | 1. |
| Affirmation of Andrew L. Crabtree for North Shore Defendant | 2. |

PRELIMINARY STATEMENT

Plaintiff Ford Motor Credit Company, LLC ("Ford Credit") moves by Order to Show Cause for appointment of a Temporary Receiver to insure that the assets of defendants North Shore Motor Group, Inc. ("North Shore"), NSMG LLC ("NSMG"), CDMS, Inc. ("CDMS"), and Rick Cohen ("Cohen") are not removed from the state, dissipated, or concealed pending a resolution of the action. Plaintiff also seeks an order of replevin under Article 71 of the CPLR, to take possession of vehicles in which Ford Credit has a first priority, perfected security interest, as well as proceeds from the sale of such vehicles. They also seek to enjoin defendants, their principals, agents and employees from moving, selling, transferring, pledging, assigning, disposing of, or otherwise dissipating, altering or spoliating the subject vehicles, proceeds of sale of those vehicles, and any files or other records relating thereto, pending the outcome of the litigation. Plaintiff also seeks immediate access to business records of North Shore, NSMG, and CDMS for inspection and copying, and to ensure that the records are not altered, disposed of, or spoliated during the pendency of the action. Alternatively, in the absence of the appointment of a Receiver, plaintiffs request that the Court immediately freeze the assets and accounts of North Shore, NSMG, CDMS, and Cohen, to ensure that assets and accounts are not removed from the state, dissipated, or wasted pending the resolution of this action. Many of the above requests were disposed of over a 5 month period, prior to actual submission except for the issue of the receiver.

Upon reading of the papers submitted in support and in opposition to the application, it appears that plaintiff is entitled to the appointment of a Receiver pursuant to Civil Practice Law and Rules § 6401. However, all action that a receiver would take or would have taken to preserve the books, records and property in question have been accomplished by the voluntary action of the parties and prior interim orders of the Court.

Criminal charges are now pending against the defendant Richard Cohn and none of the other remaining defendants controlled Cohen's enterprise. The degree of their

involvement with him remains in question.

Pursuant to a letter dated May 11, 2011, counsel for Plaintiff now formally withdrawn the request for the appointment of a receiver. Therefore plaintiff's request for a receiver is deemed withdrawn.

So Ordered.

Dated: May 17, 2011


J.S.C.

ENTERED
MAY 23 2011
NASSAU COUNTY
COUNTY CLERK'S OFFICE