

possession and assumed control over all the North Jersey property.

4. Upon a limited relief from automatic stay, the \$ 4 million final judgments for Charney on behalf of North Jersey were entered by this Court upon default against ~~Robert Herskowitz~~ Herskowitz in November 1993 and against Judith Herskowitz in January 1994. Windels was not appointed permanent receiver in these judgments.

5. Upon order dated August 3, 1994 (Exhibit 2) the bankruptcy trustee, liquidated the North Jersey property in a bankruptcy court cash sale for which issued a trustee deed dated September 9, 1994 passing title to Tomer Realty for the property "known as 200 Riverside Drive, New York City, New York (Exhibit 3) . Thereupon, trustee retained the proceeds of the cash sale in the state of New Jersey and North Jersey had no assets, no place of business and conducted no further business within the state of New York.

6. Upon motion by Order to Show Cause dated September 28, 1995 Charney moved solely on the ground of "CPLR, 5106, 5228 and 6401" for appointment of a post-judgment receiver to collect on that \$4.3 million judgment against the property of the judgment debtor, Robert Herskowitz, with no mention of Article 12 Business Corporation Law. (Exhibit 9 to Motion for Disqualification).

7. Thereupon, a November 20, 1995 post-judgment order by default was entered for plaintiff Susan Charney, on her CPLR 5228 motion, with no mention of Article 12 B.C.L. and no mention that "Windels is appointed permanent receiver" nor did it direct him to liquidate the assets of North Jersey, nor could it, since North Jersey had no property within the state of New York.

8. Yet, Windels attached to his Motion for Approval of Accounting of Receiver his oath

pre-sworn on January 1995 on that November 20th 1995 order verifying as follows:

“PAUL WINDELS, III ESQ. duly appointed Receiver for the benefit of Plaintiff’s of all rents, issues and profits of the mortgaged premises described in the Complaint in the above entitled action by order of this Court made and entered herein on the 20th day of November 1995, do swear that I faithfully honestly and impartially discharge the trust committed to me as such receiver.” (Exhibit 4)

As noted in ¶2 of the Complaint dated December 1988 that reference is to

“Defendant North Jersey Trading Corporation) hereafter “North Jersey” or “Corporate Defendant”) is a New Jersey corporation.....and owning as its principal asset a parcel of real property located at and known as No. 200 Riverside Drive, within the City and County of New York.” (Exhibit 5)

As noted above no title to that property at 200 Riverside Drive vested in North Jersey in 1995 since trustee by deed dated September 9, 1994 passed title to Tomer Realty. So, that this was clearly a falsified oath that cannot support that November 20, 1995 order, and which incorrectly predates that oath to January 4, 1995.

JUDITH HERSKOWITZ

SWORN to before me
this 29th day of June, 2006

Notary Public - State of Florida