

EXHIBIT 2

Filed 6/20/17 Stoltenberg v. Sheppard, Mullin, Richter & Hampton CA2/5

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

HERBERT A. STOLTENBERG,
TRUSTEE OF THE 1680
PROPERTY TRUST, et al.,

Plaintiffs and Appellants,

v.

SHEPPARD, MULLIN, RICHTER, &
HAMPTON, LLP,

Defendant and Respondent.

B271524

(Los Angeles County
Super. Ct. No. BC556922)

APPEAL from a judgment of the Superior Court of the County of Los Angeles. Daniel S. Murphy, Judge. Affirmed. LOVE, LLP, Richard A. Love, for Plaintiffs and Appellants. Sheppard, Mullin, Richter & Hampton, LLP, Richard W. Brunette and Robert T. Sturgeon, for Defendant and Respondent.

The law firm that represented the losing defendants at trial obtained a lien on specific client property to secure payment of accrued, but unpaid, legal fees. Plaintiffs/judgment creditors, unable to satisfy the judgment, sued the law firm to set aside the lien, alleging actual and constructive fraud. The trial court granted the law firm's motion for summary judgment. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. The Underlying Action and Sheppard Mullin's Security Interest

This legal saga began in 2004 when plaintiffs¹ sued Ampton Investments, Inc. and Laurence Strenger (the Ampton defendants) for fraud (underlying action). The Ampton defendants retained Sheppard, Mullin, Richter & Hampton (Sheppard Mullin) in February 2011, and the firm filed a formal substitution of attorneys in early March 2011.

The jury trial in the underlying action began April 4, 2011. On May 4, 2011, the jury returned a special verdict in favor of plaintiffs in the amount of \$8,516,704 and found the Ampton defendants acted with malice and oppression. Despite the trial court's order that the Ampton defendants turn over financial information relating to their net worth for the punitive damage phase of the trial, the Ampton defendants only provided federal

¹ The plaintiffs and appellants are: Herbert W. Stoltenberg, trustee of the 1680 Property Trust; Michael L. Epstein, trustee of the Michael L. Epstein Trust; Stephen Ellis Gordon, trustee of the Stephen Ellis Gordon and Linda S. Gordon Revocable Trust; and Ruth Ann Runnels LaMonica, trustee of the LaMonica Family Trust. We refer to them collectively as plaintiffs.

tax returns for years 2008 and 2009. The jury did not award punitive damages.

On June 9, 2011, the trial court entered judgment on the jury's verdict. That same day, the Ampton defendants applied ex parte for an order temporarily staying enforcement of the judgment. The trial court granted a one-week stay, ordered defendant Strenger to file a declaration explaining why a temporary stay was appropriate, and set the matter for further hearing on June 16, 2011.

In the meantime, before judgment was entered, Sheppard Mullin began to press the Ampton defendants to pay their legal fees. According to Sheppard Mullin, as of April 30, 2011, the Ampton defendants incurred \$837,702.31 in attorney fees for the defense of the underlying action, but had not made any payments to Sheppard Mullin. On June 8, 2011, the day before judgment was entered, Sheppard Mullin e-mailed Strenger a draft security agreement dated June 6, 2011, in which Strenger would grant Sheppard Mullin a security interest in two pieces of art to secure the Ampton defendants' outstanding legal fees. The cover letter advised payment was expected on or before July 15, 2011; the agreement itself also provided it constituted an inducement for Sheppard Mullin "to continue to represent the [Ampton defendants] in connection with the post-trial motions in the [underlying action]."

After sending this letter, Sheppard Mullin apparently discovered a UCC-1 financing statement evidencing a financial institution's preexisting security interest in Strenger's art

collection,² including the two paintings that were originally intended to serve as the security for the payment of Sheppard Mullin's attorney fees. Sheppard Mullin sent Strenger a revised security agreement that expanded the collateral securing the payment of past and future attorney fees to include Strenger's entire art collection. On June 14, 2011, Strenger agreed in substance to grant Sheppard Mullin a lien on his art collection.

The parties returned to court on June 16, 2011, for the hearing on the Ampton defendants' request for a temporary stay of enforcement. Plaintiffs' counsel voiced concern about the Ampton defendants' transferring assets during the requested stay:

Mr. Strenger talks in terms of the business of Ampton, a limited number of employees, and some obscure need for cash or credit lines for that business to go forward. For what, we don't know.

My major concern here is that there's a substantial amount of real property and personal property unconnected to the business of Ampton which is subject to transfer in the

² On March 30, 2011, Strenger executed a valuation agreement with Sotheby's in New York, requesting an appraisal of the fine art and antiques he owned. Sotheby's issued a final appraisal to Strenger in December 2011, concluding 875 pieces of fine art and furnishings had a fair market value of \$6,084,390 and an insurance value of \$13,660,960. Strenger gave Sheppard Mullin a draft of the appraisal during the negotiation of the security agreement in May and June 2011.

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