

M.S. - [Signature]

At IAS Part 7 of the Supreme Court of the State of New York, County of New York, held at the Courthouse, Centre Street, New York, New York on JUNE 13, 2017

PRESENT: Hon. Lebovits Justice

NEW YORK SUPREME COURT  
COUNTY OF NEW YORK

Freeman Lewis LLP,

Plaintiff,

v.

Financiera de Desarrollo Industrial y Comercial S.A., Trecedieciocho S.A., Amherst Inc.,

~~Freeman Lewis, LLP,~~

Edith Sara Heredia Garcia de Daneri,

Liliana Heredia del Solar, Lorena Tania Heredia

Mangalji del Solar, Enrique Constantino Heredia del Solar, Estate of José Enrique Heredia,

Constantino Heredia Garcia, Compania

Embotteladora del Pacifico S.A.-in-Liquidacion, and Pepsi Cola Company,

Defendants.

**FILED**

AND FEE PAID

JUN 13 2017

COUNTY CLERKS OFFICE  
NEW YORK

Index No. 651458/2017

EX PARTE MOTION OFFICE

APPROVED  
FOR THE PAYMENT  
OF MOTION FEE  
ONLY

ORDER TO SHOW CAUSE WITH TEMPORARY RESTRAINT  
(PROPOSED)

Upon reading the annexed Supplemental Affirmation of Robert Y. Lewis affirmed on June 13, 2017 and the Amended Complaint, and on all pleadings and proceedings previously had, including the Affirmation of Robert Y. Lewis dated

March 20, 2017 and the accompanying Memorandum of Law (with exhibits), dated

March 20, 2107, IT IS ORDERED that the Defendants Lorena Tania Heredia

Mangalji del Solar ("Defendant Lorena") and Enrique Constantino Heredia del

Solar ("Defendant Enrique Jr.") show cause at IAS Part 7, Room ~~427A~~<sup>345</sup>, of this

Court, ~~111~~<sup>60</sup> Centre Street, New York, New York, on the 6<sup>th</sup> day of September

2017, at 2:15 PM, or as soon thereafter as counsel can be heard, why:

- (1) an order should not be entered pursuant to CPLR Article 63 enjoining and restraining Defendants Lorena and Enrique Jr., or any other agent or representative thereof, up to the total amount of \$2 million, pending a final determination of this action from
  - (a) transferring, giving up, or causing the transfer or giving up of any assets with a total value of up to \$2 million (including any assets of any of the other Defendants pursuant to the Order to Show Cause issued on March 3, 2017) upon which Freeman Lewis LLP has a charging lien, to wit, assets of any kind paid on any verdict, report, determination, decision, award, settlement, judgment or final order in favor or for the benefit of Financiera de Desarrollo Industrial y Comercial S.A. ("FIDEICOSA") in the case of *Financiera de Desarrollo Industrial y Comerical SA v. Pepsi Cola Company* (Civ. 05-2761, S.D.N.Y.) or in favor or for the benefit of Compania Embotelladora del Pacifico SA-in-Liquidacion ("CEPSA") in the case of *Compania Embotelladora del Pacifico S.A. v. Pepsi Cola Company* (Civ. 00-7677 S.D.N.Y)(11-5458 2d Cir.), in whatever hands they may come or form they may take, including but not limited to any CEPSA liquidation credits or moneys owing on those credits if those credits or moneys are transferred as part of or are otherwise the subject of any settlement of these actions; and
  - (b) transferring, giving up, or causing the transfer or giving up of distributions up to a value of \$2 million owed to Trecedieciocho S.A. ("TREDISA") as a creditor of CEPSA.

(2) an order should not be entered pursuant to CPLR Article 62 directing the Sheriff of the City of New York or any County of the State of New York to levy within his or her jurisdiction, at any time before final judgment, upon such real and personal property in which Defendants Lorena or Enrique Jr. has an interest, and upon such debts owing to either Defendants Lorena or Enrique Jr., including, without limitation, any checking accounts, savings accounts, or securities accounts, held for them in the State, or real estate/timeshares located in the State, or by any garnishee who may be served in the State as will satisfy \$2 million.

AND IT IS ORDERED that pending the hearing by the Court of this Order to Show Cause, that

(1) Defendants Lorena and Enrique Jr., or any other agent or representative thereof, are enjoined and restrained, up to the total amount of \$2.0 million, from

(a) transferring, giving up, or causing the transfer or giving up of assets with a total value of up to \$2.0 million upon which Freeman Lewis LLP has a charging lien, to wit, assets of any kind paid on any verdict, report, determination, decision, award, settlement, judgment or final order in favor or for the benefit of FIDEICOSA in the case of *Financiera de Desarrollo Industrial y Comercial SA v. Pepsi Cola Company* (Civ. 05-2761, S.D.N.Y.) or in favor or for the benefit of CEPSA in the case of *Compania Embotelladora del Pacifico, SA v. Pepsi Cola Company* (Civ. 00-7677 S.D.N.Y.) (11-5458 2d Cir.), in whatever hands they may come or form they may take, including but not limited to any CEPSA liquidation credits or moneys owing on those credits if those credits or moneys are transferred as part of or are otherwise the subject of any settlement of these actions; and

(b) transferring, giving up, or causing the transfer or giving up of distributions up to a value of \$2 million owed to TREDISA as a creditor of CEPSA; and

(2) Any person in the State of New York who owes a debt to Lorena or Enrique Jr. or is in possession or custody of property in which such person knows or has reason to believe either Lorena or Enrique Jr. has an

HON. GERALD LEBOVITZ

HON. GERALD LEBOVITZ

interest is enjoined from transferring, giving up or causing the transfer or giving up of such property to the extent of \$2 million; and

HON. GERALD LEOVITS

(3) The undertaking of \$10,000 previously posted by Plaintiff with the Clerk of the Court is sufficient for present purposes; and furthermore

(4) Let personal service of a copy of this Order to Show Cause and the papers submitted in connection therewith, along with service of the summons and complaint, be made on Defendant Lorena and Defendant Enrique Jr. on or before July 7, 2017; opposition papers shall be served upon all parties, with a copy to the Court on or before August 30, 2017.

Enter:

ORAL ARGUMENT REQUIRED.

[Signature]  
J.S.C.

HON. GERALD LEOVITS  
J.S.C.

[Signature]  
[J.S.C.]  
Honorable Gerald Lebovits

HON. GERALD LEOVITS  
J.S.C.