

ER

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT  
DEPARTMENT OF THE TRIAL COURT

CITY OF BOSTON OFFICE OF THE )  
COLLECTOR-TREASURER )  
Plaintiff )

v. )

CIVIL ACTION NO.: \_\_\_\_\_

BARBARA LYNCH, )  
NO. 9 PARK, LLC, )  
BARBARA LYNCH GRUPPO, INC., )  
550 TREMONT LLC, )  
552 TREMONT LLC, )  
354 CONGRESS LLC, )  
BAR 348 CONGRESS LLC, )  
552 TREMONT LLC, STIR, and )  
SPORTELLO )  
Defendants )

BARBARA LYNCH COLLECTIVE, INC. and )  
BARBARALYNCH INC. )  
Reach And Apply Defendants )

**PLAINTIFF’S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR**  
**TEMPORARY RESTRAINING ORDER**  
**AND PRELIMINARY INJUNCTION**  
**TO PRESERVE ASSETS TO SECURE EVENTUAL JUDGMENT**

Plaintiff City of Boston Office of the Collector-Treasurer (“City of Boston”) submits this Memorandum of Law in support of its Motion For Temporary Restraining Order And Preliminary Injunction To Preserve Assets To Secure Eventual Judgment. City of Boston requests that the Court issue a temporary restraining order, an order of notice for hearing on preliminary injunction, and after hearing, a preliminary injunction commanding No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552

Tremont LLC, Stir, Sportello, Barbara Lynch Collective, Inc. and BarbaraLynch Inc. to hold, preserve and protect Defendant Barbara Lynch's interests in these entities in the manner set forth in the Proposed Order attached hereto on the ground that such order is necessary to secure the City of Boston's likely judgment against the Defendants in this case.<sup>1</sup>

**MS. LYNCH'S BUSINESSES AND UNPAID PERSONAL PROPERTY TAXES<sup>2</sup>**

Ms. Lynch owns membership interests in her various businesses: No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, Sportello, Barbara Lynch Collective, Inc. and BarbaraLynch Inc. Ver. Compl. ¶¶ 15-35. Ms. Lynch has failed, directly and through her corporate entities, to pay taxes due and owing to City of Boston despite clear notification from City of Boston to each and all the corporate entities and to Ms. Lynch directly regarding the unpaid amounts. *Id.* ¶¶ 39-49. As Ms. Lynch continues to evade these taxes due and has publicly announced her plans to sell her remaining restaurant businesses, City of Boston has filed a lawsuit to recover the over \$1.6 million due and accruing. *See id.* at p. 1, ¶¶ 39-49. Ms. Lynch's membership interests in her multiple businesses confer upon her an ownership interest in the assets of the companies/LLCs and a right to disbursements and allocations declared and made by the LLCs. *Id.* ¶¶ 15-38. In order to secure and satisfy City of Boston's eventual judgment against Ms. Lynch, as set forth more fully below, City of Boston requests that this Court allow its motion for injunctive relief (i.e., equitable attachments) and

---

<sup>1</sup> City of Boston's specific request for relief is set forth in its Proposed Order, filed herewith.

<sup>2</sup> City of Boston incorporates herein by reference its Verified Complaint, filed herewith, hereinafter referenced as "Ver. Compl."

order Ms. Lynch to hold, preserve and protect Ms. Lynch's interests in No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, Sportello, Barbara Lynch Collective, Inc., and BarbaraLynch Inc.<sup>3</sup>

Except for her interests in her various corporate entities, Ms. Lynch individually is not known to own substantial assets in Massachusetts and is actively selling her remaining companies. *Id.* at p. 1, ¶ 36. Rather, based upon her Barbara Lynch Collective, Inc. and/or BarbaraLynch Inc. entities she is known to operate completely within and under the protection of her group of corporate entities. *Id.* ¶¶ 15-38. Upon information and belief, when a restaurant is sold, Ms. Lynch individually does not take the sales proceeds directly, but instead funnels them through Barbara Lynch Collective, Inc. and BarbaraLynch Inc. and ultimately in part to herself individually. *Id.*

## ARGUMENT

### **I. AN EQUITABLE ATTACHMENT IN THE FORM OF A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION SHOULD ENTER AGAINST MS. LYNCH AND HER ENTITIES.**

#### **A. The Court Should Apply the Attachment Standard of Mass. R. Civ. P. 4.1 and Issue the Requested Injunctive Relief Against Ms. Lynch.**

City of Boston requests a temporary restraining order and preliminary injunction preventing Ms. Lynch from transferring or encumbering in any way her direct and indirect interests in No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, Sportello, Barbara Lynch Collective, Inc. and BarbaraLynch Inc. Where, as here, the request for an injunction seeks to encumber a person's

---

<sup>3</sup> The full scope of City of Boston's requested relief is set forth in the Proposed Temporary Restraining Order/Preliminary Injunction, filed herewith.

property interest, the injunction is in the nature of an “equitable attachment,” and the attachment standard of Mass. R. Civ. P. 4.1 applies. *See Hasbro Inc. v. Serafino*, 958 F. Supp. 19, 23 (D. Mass, Jan. 9, 1997) (interpreting Massachusetts law). In such case, the Court need not require a “strong showing of irreparable injury or a favorable balance of harms.” *Id.* (quoting *Anderson Foreign Motors, Inc. v. New England Toyota Distributors, Inc.*, 475 F. Supp. 973, 978-79 (D. Mass. 1979) (interpreting Massachusetts law). Rather, pursuant to Mass. R. Civ. P. 4.1(c), the injunction should enter when the plaintiff shows “that there is a reasonable likelihood that the plaintiff will recover judgment, including interest and costs, in an amount equal to or greater than the amount of the attachment over and above any liability insurance shown by the defendant to be available to satisfy the judgment.”

Here, there is no question City of Boston has a reasonable likelihood of recovering judgment against Ms. Lynch and her corporate entities in the amount of \$1.6 million, plus interest, costs and attorneys fees. *See Ver. Compl; infra* at pp. 5-6. City of Boston’s specific request for relief is set forth in its Proposed Order, filed herewith.

For the foregoing reasons, City of Boston has satisfied the requirements for equitable attachment, and the requested temporary restraining order and preliminary injunction should issue to restrain Ms. Lynch from transferring or encumbering in any way her direct and indirect interests in No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, Sportello, Barbara Lynch Collective, Inc. and BarbaraLynch Inc.

**B. Even If the Injunction Standard is Applied, the Relief Sought Against Ms. Lynch Should Be Granted.**

Even if the Court does not apply the attachment standard, it still should issue the requested temporary restraining order and preliminary injunction because City of Boston easily satisfies the Mass. R. Civ. P. 65 standard by showing: (1) a likelihood of success on the merits, (2) a risk of irreparable harm, and (3) a balance of harms, in light of the likelihood of success on the merits, that weighs in its favor, and indeed heavily so. *Doe v. Worcester Public Schools*, 484 Mass. 598, 601 (2020).

**1. City of Boston is Likely to Succeed on the Merits.**

City of Boston's claims against Ms. Lynch are based on a straightforward tax law, which she has violated by not paying the personal property taxes for her entities. Those violations allow City of Boston to recover the unpaid taxes in breach of contract action. M.G.L. c. 60 § 35. As set forth in the Verified Complaint and at p. 2 above, Ms. Lynch failed to pay roughly \$1.6 million in property taxes to City of Boston notwithstanding City of Boston's demand upon Ms. Lynch for payment of the unpaid taxes on January 11, 2024. Ver. Compl. ¶¶ 44-45. To date, Ms. Lynch has refused to pay the taxes due. *Id.* ¶ 46. City of Boston is authorized to assess personal property taxes pursuant to M.G.L. c. 59 §§ 2, 4. Ver. Compl. ¶ 39. Taxable personal property for businesses consists of moveable physical items not permanently attached to real estate, including business and professional furnishings and machinery used in the conduct of business. *Id.* ¶ 40; see M.G.L. c. 60 § 5(16) ("The following property shall be exempt from taxation... in the case of a business corporation subject to tax under section 39 of chapter 63 that is not a manufacturing corporation, all property owned by the corporation...*other than the following*:— real estate, poles, underground conduits, wires and pipes, and machinery used in the conduct of the business.") City of Boston is authorized to send out bills for personal property taxes

and calculate interest thereon pursuant to M.G.L. c. 59 § 57. Ver. Compl. ¶ 41. City of Boston is authorized to collect personal property taxes pursuant to M.G.L. c. 60 § 2. Ver. Compl. ¶ 42. Ms. Lynch's restaurants, which are all businesses operating in the City of Boston, are subject to personal property tax. *Id.* ¶ 43. Ms. Lynch, directly and through her multiple restaurants, has failed to pay personal property taxes over many years, with the exception of one tax payment for each entity in August 2021. *Id.* ¶ 44. The law is clear that Ms. Lynch must pay City of Boston \$1.6 million.

2. **If the TRO and Preliminary Injunction Are Not Entered, City of Boston Will Suffer Immediate, Irreparable Harm.**

In this case, City of Boston will likely suffer immediate irreparable harm if the TRO/Preliminary Injunction does not issue because Ms. Lynch will likely take any action available to her to remove any of her assets from this Court's reach or will hide or transfer them to a person other than City of Boston. Ms. Lynch is a resident of Massachusetts, and City of Boston knows of no assets of Ms. Lynch in Massachusetts (apart from those previously referenced) which will be available to satisfy the judgment. Ver. Compl. ¶¶ 2, 36. If not restrained or enjoined, Ms. Lynch will likely transfer or otherwise hide or dispose of her interests in No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, Sportello, Barbara Lynch Collective, Inc. and Barbara Lynch Inc. to avoid payment of a judgment in City of Boston's favor in this action.

In Massachusetts, a preliminary injunction may enter to secure an eventual judgment even when the damages are calculable in monetary terms. *Unisys v. Dataware*,<sup>2</sup> 848 F.2d 311, 314 (1st Cir. 1988) (plaintiff would suffer irreparable harm absent relief "necessary to assure the presence of an adequate legal remedy"); *Teradyne, Inc. v. Mostek Corp.*,<sup>2</sup> 797 F.2d 43, 53 (1st Cir. 1986) ("[T]he

possible hardship to Teradyne of having a \$3-4 million judgment prove worthless, outweighed the inchoate hardship to Mostek of having \$4 million of its assets tied up in an interest bearing account pending judgment.”); *Itek Corp. v. First Nat. Bank of Boston*, 566 F. Supp. 1210, 1216 (1983) (“The fact that its damages may be reasonably calculable will provide [plaintiff] with little consolation in the event those damages ultimately prove uncollectible.”), *aff’d* 730 F.2d 19 (1984) (internal citations omitted).

As commentators have noted, “the most compelling reason” in favor of entering an injunction is “the need to prevent the judicial process from being rendered futile by [the] defendant’s action or refusal to act.” Wright and Miller, *Purpose and Scope of Preliminary Injunctions*, 11A Fed. Prac. & Proc. Civ. (3d ed.). “A preliminary injunction, designed to freeze the status quo and protect the damages remedy[,] is an appropriate form of relief when it is shown that the defendant is likely to be insolvent at the time of the judgment.” *Teradyne*, 797 F.2d at 52 (citing *Deckert v. Independence Shares Corp.*, 311 U.S. 282, 285 (1940)). Thus, an injunction is necessary to protect a damages remedy where defendant uses assets to pay off other creditors’ claims or otherwise fails to “provide adequate assurances to alleviate” plaintiff’s concerns that defendant could make herself judgment proof at any time. *Teradyne*, 797 F.2d at 52.

In this case, as in *Teradyne*, there have been “no assurances given” that Ms. Lynch will be able to pay a judgment in favor of City of Boston. Ver. Compl. ¶ 48. Moreover, there is no liability insurance available that would be available to satisfy a judgment against Ms. Lynch in this action. *Id.* ¶ 49. It is likely here that a judgment against Ms. Lynch will be futile unless there is security for it. Except for her interests in No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552

Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, Sportello, Barbara Lynch Collective, Inc. and BarbaraLynch Inc., Ms. Lynch is not known to personally own any other assets in Massachusetts, and she is known to operate completely within her group of entities. Ver. Compl. ¶¶ 27-38. Thus, when any the above listed entities are sold, Ms. Lynch does not take the sales proceeds directly, but she funnels them through the entities and ultimately at least in part to herself individually. *Id.* For these reasons, City of Boston knows of no other way to secure its eventual monetary judgment against Ms. Lynch and prevent irreparable harm to itself other than through the issuance of the injunction it now seeks.

**3. The Balance of Harms Weighs in City of Boston’s Favor Due to Its Likelihood of Success on The Merits and Its Likely Immediate Irreparable Harm.**

There is very little, if any, potential harm to Ms. Lynch here because the requested relief will only serve to sequester and preserve assets and all appurtenant rights thereto in order to secure for judgment against Ms. Lynch an amount which Ms. Lynch is already under an obligation to pay City of Boston. *Supra* at p. 5. Even if the Court identifies and weighs Ms. Lynch’s potential harm, it must do so in light of City of Boston’s likelihood of success on the merits of its underlying claims and the risk of City of Boston’s immediate and irreparable harm. *Hull Municipal Lighting Plant v. Massachusetts Municipal Wholesale Electric Co.*, 399 Mass. 640, 644 (1987) (“What matters as to each party is not the raw amount of irreparable harm the party might conceivably suffer, but rather the risk of such harm in light of the party’s chance of success on the merits.”) (internal citations omitted). In this action, the comparative harm to Ms. Lynch is very low in light of City of Boston’s likelihood of success on the merits and City of Boston’s serious risk of immediate and irreparable harm. Any possible



inconvenience to Ms. Lynch that might result from the issuance of a temporary restraining order and preliminary injunction is minor compared to the ongoing harm inflicted on City of Boston and the prospect of an uncollectible judgment.

**II. AN EQUITABLE ATTACHMENT IN THE FORM OF A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION SHOULD ENTER AGAINST MS. LYNCH AND HER ENTITIES PROHIBITING THEM FROM DISTRIBUTING OR TRANSFERRING MS. LYNCH'S INTERESTS AND ORDERING THEM TO HOLD HER INTERESTS AND ALL RELATED ALLOCATIONS AND DISRIBUTIONS FOR THE BENEFIT OF CITY OF BOSTON.**

A temporary restraining order and preliminary injunction should also enter against No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, Sportello, Barbara Lynch Collective, Inc., and BarbaraLynch Inc. The TRO and injunctions should restrain and enjoin those entities from distributing Ms. Lynch's interests to Ms. Lynch directly or to Ms. Lynch indirectly through any entity in which Ms. Lynch owns an interest and ultimately receives distributions or allocations.<sup>4</sup> The TRO and injunction should order the entities to hold Ms. Lynch's interests and all such allocations and distributions for the benefit of City of Boston as Ms. Lynch's creditors discussed above at pp. 3-4. The Court should apply the attachment standard of Rule 4.1, but even if it applies the injunction standard of Rule 65, the injunctive relief requested should be granted to secure the reach and apply Orders sought by City of Boston in its Verified Complaint. Ver. Compl. ¶¶ 77-84; *see Salvucci v. Sheehan*, 349 Mass. 659, 662 (Mass. 1965) (“[R]each and apply is essentially a proceeding at law supplemented by an equitable attachment. Where such an attachment is sought pending the determination of the

---

<sup>4</sup> See discussion p. 2-3 above. City of Boston's specific request for relief is set forth in its Proposed Order, filed herewith.

substantive issues it is the practice to issue a temporary injunction whereby the property is taken into the control of the court and is charged with an equity for the security of the plaintiff.”) (internal citations omitted).

In Counts VIII and IX, City of Boston has commenced reach and apply actions against Barbara Lynch Collective, Inc. and BarbaraLynch Inc. pursuant to Mass. Gen. Laws c. 214, § 3(6) to satisfy judgment for City of Boston against Ms. Lynch. Ver. Compl. ¶¶ 77-84. Mass. Gen. Laws c. 214 § 3(6) provides for:

Actions by creditors to reach and apply, in payment of a debt, any property, right, title or interest, legal or equitable, of a debtor, within or without the commonwealth, which cannot be reached to be attached or taken on execution although the property sought to be reached and applied is in the possession or control of the debtor independently of any other person or cannot be reached and applied until a future time or is of uncertain value, if the value can be ascertained by sale, appraisal or by any means within the ordinary procedure of the court....

The “property, right, title [and] interest” of Ms. Lynch which City of Boston seeks to secure and ultimately reach and apply to satisfy a judgment in its favor are Ms. Lynch’s interests the taxes owed by No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, and Sportello. As set forth at pp. 2-3 above, Ms. Lynch owns interests in No. 9 Park, LLC, Barbara Lynch Gruppo, Inc., 550 Tremont LLC, 552 Tremont LLC, 354 Congress LLC, Bar 348 Congress LLC, 552 Tremont LLC, Stir, and Sportello by virtue of her direct ownership interest in Barbara Lynch Collective, Inc. and BarbaraLynch Inc. Each of these interests, including but not limited to any rights to assets, allocations or distributions, whether direct or indirect, should be attached and secured now so they are available to satisfy City of Boston’s likely judgment against Ms. Lynch.

City of Boston is entitled to an equitable attachment in the form of a temporary restraining order and preliminary injunction against the Reach-and-Apply Defendants because it has a likelihood of success on its underlying claims against Ms. Lynch and it has a likelihood of success on the merits of its reach and apply claims against Ms. Lynch. Moreover, City of Boston has demonstrated a strong risk of irreparable harm and the balance of the risk of harms in this action weighs heavily in his favor. *See* discussion at pp. 5-7 above.

City of Boston has a likelihood of success on its reach and apply claims because it is able to satisfy the statutory requirements of c. 214 § 3(6), namely that it seeks payment of a “debt” , i.e., the \$1.6 million in taxes Ms. Lynch owes City of Boston, and the value of the interests it seeks to reach and apply, i.e., Ms. Lynch’s interests in each of her entities, is susceptible of being ascertained “by sale, appraisal, or any means within the ordinary procedure of the court.” Mass. Gen. Laws c. 214 § 3(6).

First, City of Boston is clearly a creditor seeking payment of a “debt” from Ms. Lynch. M.G.L. c. 59 & 60 set forth Ms. Lynch’s obligation to pay City of Boston a sum certain. Thus, for the purpose of reach and apply, Ms. Lynch owes a “debt” to City of Boston which City of Boston can seek to satisfy by reaching and applying Ms. Lynch’s interests in Barbara Lynch Collective, Inc and BarbaraLynch Inc.

Second, the interests sought to be reached and applied are capable of valuation as evidenced by the notice letters City of Boston sent to Ms. Lynch which placed a specific value on Ms. Lynch’s unpaid taxes. Ver. Compl. ¶ 45. The letter required Ms. Lynch to pay the unpaid taxes. *Id.*

As reasons for this Motion, City of Boston states that: (1) Ms. Lynch, through her various corporate entities, owed the City of Boston approximately \$1.6 million plus interest thereon in unpaid personal property taxes, (2) City of Boston knows of no other assets of Ms. Lynch or her various corporate entities that may be available to satisfy a judgment in the City of Boston's favor, and (3) as shown in Plaintiff's Memorandum of Law and Verified Complaint, filed herewith, City of Boston will suffer immediate, irreparable harm if the Court does not grant the requested relief.

WHEREFORE, City of Boston respectfully requests allowance of this Motion and requests this Court to enter an Order in conformity with the Proposed Temporary Restraining Order/Preliminary Injunction filed herewith.

Respectfully submitted,  
City of Boston Office of the Collector-  
Treasurer  
By Its Attorneys,

Dated: November 12, 2024

/s/Andrea L. Martin  
Andrea L. Martin  
BBO #666117  
andrea.martin@lockelord.com  
111 Huntington Avenue 9<sup>th</sup> Floor  
Boston, MA 02199-7613  
Tel: 617-239-0100  
Fax: 617-227-4420

139311283v.2