

STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION

Declaratory Ruling 2019-1

IN THE MATTER OF:

Francisco P. Ochoa, Petitioner
37 Lowe Street
Norwalk, CT

Hartford, CT
August 23, 2019

DECLARATORY RULING

By petition dated July 2, 2019, Attorney Frank B. Velardi, Jr., on behalf of his client, Francisco P. Ochoa ("Petitioner"), requested that the Department of Consumer Protection ("DCP"), issue a declaratory ruling pursuant to Connecticut General Statutes Section 4-175 and the Regulations of Connecticut State Agencies Section 21a-1-10. Specifically, Petitioner has requested a ruling as to the application of C.G.S. Sections 12-569 and 52-380a as to:

1. Whether the Connecticut Lottery Corporation ("CLC") had the authority to place a real property lien on the property of a delinquent lottery sales agent;
2. Whether such lien has expired by operation of law pursuant to C.G.S. Section 52-380a;
3. Whether the Connecticut Lottery Corporation ("CLC") has the authority to collect a delinquency via a real property lien against a person who was not privy to a contract with the CLC; and
4. Whether monthly compound interest may be assessed against the delinquency owed.

For the reasons outlined below, the DCP is in agreement with the Petitioner that the lien placed over twenty years ago on the property of Petitioner has expired by operation of law. The DCP also finds that: the DCP has the authority to place a lien on the real property of a delinquent lottery sales agent after an administrative hearing; that the CLC may collect on a lien placed on property that has been transferred to an individual who is not in privity of contract with CLC; and that compounding interest may be assessed on a monthly basis. The DCP hereby addresses Petitioner's claims as follows:

1. Whether the filing of the real property lien was an authorized or permissible act of enforcement by CLC on May 24, 1999.

On May 24, 1999, the CLC did not place a "Real Property Lien" against a delinquent lottery sales agent. The lien in question was signed by the commissioner of DCP for the benefit of the CLC. C.G.S. Section 52-380a grants authority for a creditor who has a money judgment to place a lien on certain real property to secure the unpaid amount of the debt. In this case, the State of Connecticut, through the Department of Special Revenue, properly recorded a lien on the real property of the

delinquent retailer after a final decision was rendered in an administrative hearing, which decision was not appealed to Superior Court.

2. Whether the lien has expired and should be released by reason of C.G.S. Section 52-380a.

The DCP agrees that the lien placed for the benefit of the CLC by the DCP constitutes a judgement lien as described in Connecticut General Statutes Section 52-380a. This statute states, in part, that the “lien shall expire twenty years after the judgment was rendered...unless the party claiming the lien commences an action to foreclose it within that period of time and records a notice of lis pendens...”. As such has not occurred, the lien DCP filed on the land records as of May 24, 1999 has expired by law and therefore is no longer an enforceable instrument securing debt.


3. Whether the CLC has authority to collect lottery delinquencies owed from persons not in privity of contract with CLC.

In accordance with C.G.S. Section 12-569 and R.C.S.A. Section 12-568a-9(1), lottery sales agents have a fiduciary relationship with the CLC and are personally liable for lottery ticket proceeds. When a DCP licensed lottery sales agent is adjudged delinquent after an administrative hearing, any property owned by the agent may be subject to a lien. Such lien is placed by the commissioner of DCP for the benefit of the CLC so that proceeds from any sale of the property are utilized to pay the money owed to the CLC. Therefore, the issue at hand is an encumbrance on the real property, which travels with the title, not the person. This case highlights the importance of thorough and accurate property title searches performed for the benefit of a purchaser such as Petitioner.

4. Whether on May 24, 1999 to date, Section 12-569 permits or otherwise authorizes the assessment of monthly compound interest by the CLC on a delinquency assessment issued by the CLC against a former lottery sales agent.

The issue of compounding interest was addressed in a prior Declaratory Ruling dated May 5, 2010 by the Division of Special Revenue, a predecessor agency of the DCP. The ruling found that state statutes and regulations allowed for the assessment of compounding interest against lottery delinquencies. See the attached copy of the 2010 ruling.

Dated at Hartford, Connecticut this 23rd day of August, 2019.


Michelle H. Seagull
Commissioner