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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

CANICO CAPITAL GROUP, LLC,

Plaintiff and Respondent,

v.

AVRAHAM HASSID,

Defendant and Appellant;

2079 EAST 15TH STREET, LLC,
et al.,

Movants and Appellants.

B283385

Los Angeles County
Super. Ct. No. LC086703

PURPORTED APPEAL AND APPEAL from postjudgment orders of the Superior Court of Los Angeles County, Elizabeth Lippitt, Judge. Defendant and appellant's purported appeal treated as a petition for writ of mandate and denied. Order from which movants and appellants appeal is affirmed in part and reversed in part.

Klapach & Klapach and Joseph S. Klapach; Joshua P. Friedman & Associates and Joshua P. Friedman for Defendant and Purported Appellant and Movants and Appellants.

Law Office of Mitchel T. Stanton and Mitchel T. Stanton; Greines, Martin, Stein & Richland and Marc J. Poster for Plaintiff and Respondent.

INTRODUCTION

Avraham Hassid stipulated to a \$375,000 judgment against him and in favor of Canico Capital Group, LLC (Canico). To enforce its judgment, Canico initiated judgment debtor proceedings under Code of Civil Procedure section 708.110,¹ requiring Hassid to appear at a judgment debtor examination and produce certain financial documents, including his personal and corporate tax returns. Ultimately, after Hassid failed to produce documents ordered by the court and could not answer questions in his examination about his membership interests in various companies, including 2079 East 15th Street, LLC (the 15th Street LLC), the trial court ordered Hassid to produce his personal and corporate tax returns. In a separate order, the court denied Hassid's request that the court modify its order to require production of Hassid's personal tax returns only for an in camera review. Hassid purports to appeal from these postjudgment discovery orders, contending the trial court abused its discretion in ordering him to produce his personal and corporate tax returns in violation of his right to privacy, third parties' rights to privacy, and the tax return privilege.

¹ Undesignated statutory references are to the Code of Civil Procedure.

The 15th Street LLC and one of its members, Rahel Soumekh, (collectively, movants) filed an ex parte application to intervene and object on privacy grounds to the court's order requiring Hassid to produce his tax returns. The court denied the motion and movants appealed.

We conclude Canico's interest in discovering Hassid's assets and important public policies outweigh the tax return privilege and Hassid's and his companies' (including the 15th Street LLC's) privacy rights. We also conclude, however, that Canico failed to establish a compelling need for Soumekh's personal financial information disclosed in the 15th Street LLC's tax return. It is unclear whether the postjudgment discovery orders are appealable. We therefore exercise our discretion to treat Hassid's appeal from them as a petition for writ of mandate. Accordingly, we deny Hassid's petition for writ of mandate, but affirm in part and reverse in part the court's order denying movants' ex parte application to intervene and object.

FACTS AND PROCEDURAL BACKGROUND

1. *Judgment and missed judgment debtor examinations*

In August 2012, Avraham Hassid stipulated to a \$375,000 judgment against him and in favor of Canico. Canico then obtained an order requiring Hassid's appearance and examination under section 708.110 and personally served Hassid with a subpoena duces tecum to appear for a judgment debtor examination with documents on August 9, 2016. The subpoena ordered Hassid to produce financial documents, including, among others, "[a]ll federal and state tax returns, K-1's, W-2's and 1099's . . . issued to YOU and/or YOUR spouse, Ladan Hassid, since January 1, 2013," and all documents that evidence where the proceeds were deposited or transferred from "the sale of real

property located at 517 E. Wilson Avenue, Glendale, California by Western Imperial 2000 LLC on or about July 2, 2014 for approximately \$5.6 million” (Glendale property). Hassid did not appear. The trial court issued and held a bench warrant for Hassid’s appearance on August 25, 2016.

Hassid again did not appear. The trial court issued and held another bench warrant, this time for \$60,000, until October 27, 2016.

2. *Further judgment debtor examinations and orders to produce subpoenaed documents*

Hassid appeared for his judgment debtor examination on October 27, 2016, but produced none of the subpoenaed documents. Hassid also requested a Hebrew interpreter for the first time that morning. The trial court, Judge Elizabeth Lippitt, ordered Hassid “to personally appear and produce all documents” on November 14, 2016; ordered Canico to provide an interpreter; recalled the bench warrant; and set an order to show cause why Hassid should not be sanctioned for his failure to produce documents.

Hassid sat for his judgment debtor examination on November 14, 2016. In response to Canico’s counsel’s questions about Hassid’s and his wife’s membership in various limited liability companies, whether he had transferred any of his interests in any of those companies to family members, and whether he recalled the Glendale property, Hassid responded, “I don’t know” or “I don’t remember.”

Hassid also did not produce the subpoenaed documents as ordered. He instead moved ex parte to quash portions of the subpoena. The trial court, Judge Huey Cotton, denied the motion except to exclude “personal income taxes” from two categories of

subpoenaed documents. The court ordered Hassid to produce within 30 days the following documents: “[K]-1, W-2, 1099[,] corporate Federal and State tax returns, and his trust.” The court also ordered Hassid to appear for a continued judgment debtor examination on January 13, 2017. Finally, the court admonished, “If the ordered documents are not produced, the Court will set an OSC Re: Sanctions and impose \$1000 in sanctions for each day the documents are not produced.”

Canico served Hassid with a notice of ruling, and Hassid served a counter-notice asserting Canico’s notice was inaccurate. Canico’s notice stated the court ordered Hassid to produce the following documents: (a) his family trust; (b) “all K-1’s, W-2’s and 1099’s issued” to Hassid and/or his wife from January 1, 2013 through November 14, 2016; and (c) documents relating to the sale of the Glendale property by Western Imperial 2000 LLC (Western Imperial) “on or about July 2, 2014 for approximately \$5.6 [m]illion.” Hassid’s notice stated he was to produce documents only “to the extent they are within his possession, custody or control,” and contended he was not ordered to produce documents related to his wife. He also contended he was to produce the documents by January 13, 2017, not 30 days from November 14, 2016 (December 13, 2016), as stated in Canico’s notice.

On January 13, 2017, Hassid appeared for his continued debtor examination and produced 2014 and 2015 Schedule K-1 documents issued to Hassid from various limited liability companies (LLC’s). He did not produce any of the other ordered documents. The trial court, Judge Lippitt,² conferred with

² Judge Lippitt presided over the remaining proceedings.

counsel about Hassid's failure to produce documents as ordered. She ordered counsel to meet and confer about the documents Hassid's attorney had produced that day. The court's minute order states that later, "[a]fter discussion, . . . Hassid is ordered to produce the following documents via email by 5:00 p.m. on February 13, 2017: 4-K [sic], 1099, W-2, 2014 and 2015 Federal Tax Return." The court ruled it would review the tax returns in camera at the next hearing "to confirm that the [K-1], 1099, and W-2 [documents] have all been produced." It continued the debtor examination to February 24, 2017, and set an order to show cause for the same date "as to why \$1000 in sanctions per day should not be imposed for each day the documents are not produced."

3. *Hassid's ex parte applications "to quash" and "amend" the court's orders to produce his tax returns*

Hassid produced some additional documents responsive to the court's earlier December and January orders on February 13, 2017. He then applied ex parte on February 23, 2017, "to quash" the court's order requiring him to produce his 2014 and 2015 personal tax returns for the court's in camera review. The court denied the ex parte application the next day and again continued the debtor examination to May 23, 2017. The court ordered Hassid to produce "[a]ll court ordered documents" no later than February 27, 2017. Hassid did not file a petition for writ of mandate or an appeal from this order.

After Hassid did not produce the additional ordered documents, in April 2017 Canico moved for sanctions against him for violating the court's orders. Canico also filed an "official" opposition to Hassid's earlier filed, and denied, ex parte application to quash the court's order to produce personal tax

returns for the court's in camera review. Hassid opposed the motion for sanctions. Among other things, he contended Canico misstated the documents the court ordered him to produce, and he already had produced the ordered documents—2014 and 2015 K-1's and a copy of his trust.³

The court heard Canico's motion for sanctions on May 17, 2017, and denied it for "lack[] [of] a hearing required for due process." The court also ordered Hassid to appear on May 23, 2017, to be ordered back on August 11, 2017, for an evidentiary hearing as to whether Hassid had been "obstructing the process and obstructing justice" warranting sanctions.

The court ordered Hassid "to produce all personal and business tax returns along with items attached to this minute order to be produced by July 1, 2017." The attachment, handwritten and signed by Canico's and Hassid's counsel, described the following documents: "(1) For tax years 2014 [and] 2105, all K-1s, W-2s and 1099s for Avraham Hassid and his spouse. [¶] (2) All documents evidencing, constituting, referring or relating to where the proceeds were deposited or transferred to concerning the sale of [the Glendale property] by Western Imperial [¶] (3) All operating agreements and partnership agreements, . . . and incorporating documents related to Avraham Hassid and spouse business entities still active since 1/1/13. [¶] (4) Personal and business tax returns for tax years 2014 [and] 2015 for Avraham Hassid and his spouse." On June 6, 2017, Canico served a notice of ruling, including the court's minute order and attached handwritten list of documents, on Avraham,

³ Hassid contended he had not received any 1099's or W-2's, the other documents the court's minute order listed.

Ladan, Tal, and Alona Hassid, and on representatives, including Avraham and Tal Hassid, of 23 LLC's, the 15th Street LLC included.

On May 22, 2017, Hassid applied ex parte "to amend" the court's order requiring him to produce his personal and business tax returns to limit the production to his personal tax returns only for the court's in camera review to verify Hassid had complied with his document production requirements. Hassid argued the order violated his and third parties' rights to privacy. Hassid's counsel declared the earlier-produced K-1 documents for tax years 2014 and 2015 for Hassid demonstrated Hassid "was not the sole owner of the business in question." The trial court denied the application on May 23, 2017, and directed Hassid "to do a protective order as previously discussed." The court ordered Hassid to appear on August 3 and 11, 2017.

4. *The ex parte application to intervene and joint appeal*

On June 8, 2017, the 15th Street LLC, represented by its manager Tal Hassid, and Rahel Soumekh, one of its members, filed an ex parte application to intervene and object to the court's order requiring Hassid to produce his personal and business tax returns. Because Hassid has a business interest in the 15th Street LLC, the order included production of its tax returns. The 15th Street LLC and Soumekh argued Hassid's production of the 15th Street LLC's tax returns would disclose their private financial information. They also contended they did not receive formal notice of the court's order, only informal notice. The court denied the application on June 8, 2017 and admonished the moving parties "to get a protective order."

On June 19, 2017, Hassid, the 15th Street LLC, and Soumekh filed a joint notice of appeal from (1) the court's May 17, 2017 order directing Hassid to produce his personal and business tax records; (2) the court's May 23, 2017 order denying Hassid's application to amend the court's order for production of those tax returns for an in camera review; (3) the court's June 8, 2017 order denying the 15th Street LLC's and Soumekh's application to intervene and object; (4) "any and all intermediate rulings, proceedings, orders, or decisions relating to the orders described above; and (5) any other orders that are separately appealable."

Appellants elected to proceed by appellants' appendix; Canico also filed a respondent's appendix. The record does not include a reporter's transcript; no reporters were present at any of the relevant hearings.

DISCUSSION

1. *Appealability of orders*

Canico initially contends the discovery orders at issue are not appealable. It also contends Hassid may not now seek review by writ of the May 2017 orders compelling production of his tax returns and denying his motion to amend when he failed to seek appellate review of the November 2016, January 2017, and February 2017 orders compelling production of his tax returns. It argues Hassid's appeal is an untimely challenge to those earlier orders. Canico contends movants may not seek appellate review of the order denying their motion to intervene and object because they did not seek a protective order as directed by the court after it denied their motion.

We disagree with Canico's assertion that, because Hassid cannot appeal from the stipulated judgment, he cannot appeal

from any postjudgment orders under section 904.1, subdivision (a)(2). Canico cites *City of Gardena v. Rikuo Corp.* (2011) 192 Cal.App.4th 595, 600-601, an inverse condemnation case. There, however, the defendant appealed from postjudgment orders awarding the City certain funds to cover remediation costs—orders directly related to the underlying stipulated judgment and final order of condemnation. (*Id.* at pp. 598-599.) Not only had the parties agreed the trial court would retain jurisdiction to determine the costs of ongoing remediation, but the consent judgment expressly waived all rights of appeal. (*Id.* at pp. 599, 603-604.) Here, in contrast, the postjudgment orders at issue do not relate to the parties’ rights or obligations established by the stipulated judgment, but to the validity of postjudgment discovery.

Generally, “[t]o be appealable, a postjudgment order must satisfy two requirements: (1) the issues raised by the appeal from the order must be different from those arising out of the appeal from the judgment and (2) the order must affect, enforce, or stay execution of the judgment.” (*SCC Acquisitions, Inc. v. Superior Court* (2015) 243 Cal.App.4th 741, 748 (*SCC Acquisitions*).) Courts have deemed this second requirement satisfied if the postjudgment order made “‘a final determination of rights or obligations of [the] parties’ . . . ‘even though [it] did not necessarily add to or subtract from the judgment.’” (*Macaluso v. Superior Court* (2013) 219 Cal.App.4th 1042, 1047 (*Macaluso*) [order granting judgment creditor’s motion to compel further responses and documents from third party was a final appealable order].) An order that “‘directs the performance of an act . . . that is final and not subject to further resolution in future

[proceedings] . . . is appealable as a collateral order.’” (*Id.* at p. 1049.)

Nevertheless, whether postjudgment discovery orders are appealable is unsettled. Recently, courts of appeal have decided the issue both in favor of and against direct appealability. (Compare *Macaluso, supra*, 219 Cal.App.4th at p. 1049 [order compelling judgment debtor’s attorney to produce documents at examination appealable] with *Fox Johns Lazar Pekin & Wexler, APC v. Superior Court* (2013) 219 Cal.App.4th 1210, 1215-1216 (*Fox*) [order compelling judgment debtor’s attorney to appear for examination and produce documents not appealable but treating appeal as petition for writ of mandate]; see also *SCC Acquisitions, supra*, 243 Cal.App.4th at pp. 748-750 [treating appeal from order granting judgment creditor’s motion to compel judgment debtor to produce documents as petition for writ of mandate after determining appellate authorities are “inconclusive” as to whether the order was appealable]; *Yolanda’s, Inc. v. Kahl & Goveia Commercial Real Estate* (2017) 11 Cal.App.5th 509, 511 (*Yolanda’s*) [order granting judgment creditor permission to ask third party certain questions in judgment debtor examination not appealable, but treating as petition for writ of mandate].)⁴

⁴ Very recently, the Fourth District again addressed this issue, examining its earlier decisions in *Fox* and *Macaluso*. The panel concluded a postjudgment third party discovery order in a judgment debtor proceeding was appealable. (*Finance Holding Co., LLC v. The American Institute of Certified Tax Coaches, Inc.* (Nov. 29, 2018, D072910) __ Cal.App.5th __ [2018 WL 6257480, at *1, 6-7, 9-10].)

Like the appellate court in *SCC Acquisitions*, we find the above authorities “inconclusive” as to whether the court’s orders are a final determination of Hassid’s rights with respect to the production of his tax returns, rendering them directly appealable. On the one hand, the trial court directed Hassid to seek a protective order, which he did not do. Presumably, a future motion for protective order would subject the issue of the production of the tax returns “ ‘to further resolution.’ ” (*Macaluso, supra*, 219 Cal.App.4th at p. 1049.) On the other hand, no future discovery order regarding the tax returns may have issued leaving the May 2017 orders the final determination on the matter. We opt to follow the lead of our colleagues in Division Six who explained that “[b]ecause it is rarely certain whether the trial court will be issuing further discovery orders, the better approach in general is to treat such orders as not appealable. Allowing an appeal of each discovery order will invite unnecessary delay and facilitate the concealment of assets.” (*Yolanda’s, supra*, 11 Cal.App.5th at p. 513.) We find this reasoning sound and therefore treat Hassid’s appeal as a petition for a writ of mandate.⁵

Moreover, “[a]n order denying a motion to intervene is appealable when it finally and adversely determines the right of

⁵ As Canico notes, Hassid did not seek review of the trial court’s November 2016, January 2017, or February 2017 orders compelling production of his tax returns. Those orders, therefore, are not subject to our review. We must look to those orders, however, in determining whether the court abused its discretion in issuing the later orders compelling production of Hassid’s tax returns and denying his motion for an in camera review of his personal tax records.

the moving party to proceed in the action.” (*Noya v. A.W. Coulter Trucking* (2006) 143 Cal.App.4th 838, 841.) “[D]enial of an ex parte application for leave to intervene is appealable when the party opposing the intervention filed a response ‘and the trial court ruled on the merits.’” (*Marken v. Santa Monica-Malibu Unified School Dist.* (2012) 202 Cal.App.4th 1250, 1277.) Here, the 15th Street LLC and Soumekh applied ex parte to intervene and to object to the court’s order for Hassid to produce his personal and business tax returns. The court denied the application the same day “[a]fter considering the paperwork,” thus apparently denying it on the merits. (Compare *ibid.* [order denying application to intervene solely because it was filed on ex parte basis not appealable].) Canico does not appear to have filed a written response, however.⁶ No reporter was present so we do not know if the court simply denied the application to intervene or if it heard movants’ objections, overruled them, and then denied the application to intervene.

We presume the court heard the application to intervene on the merits, making the order directly appealable. And, our treatment of Hassid’s purported appeal from the court’s orders requiring him to produce his tax returns as a petition for writ of mandate is further supported by the fact our resolution of movants’ appeal is directly related to our review of those orders.

Canico also contends Hassid waived his right to appeal the court’s May 2017 orders (1) ordering him to produce his personal

⁶ Canico did file an “official” response to Hassid’s ex parte application to quash the court’s order to produce his personal tax returns for an in camera review months after the court had ruled on it.

and corporate tax returns, and (2) denying his application to amend that order to provide for the production of his personal tax returns only for an in camera review because they are a continuation of the earlier orders to produce his tax returns.

It is unclear whether the court's January 13, 2017 order that it would conduct an in camera review of "the 2014 and 2015 Federal tax [r]eturn[s]" was directed to both Hassid's personal and corporate tax returns or only to his personal tax returns. According to Hassid's ex parte application to quash the in camera review, the order was directed to his personal tax returns. As of January 2017, Hassid had not produced his corporate tax returns although ordered by the court on November 14, 2016, to do so.⁷ He did not seek review of that order and his ex parte application to quash directed at the January 13, 2017 order objected to production of his personal tax returns only, based on his right to privacy, for an in camera review. Hassid, therefore, has forfeited his right to seek review of the court's May 2017 order compelling him to produce financial information through his corporate tax returns, which we conclude was a continuation of the original November 2016 order to do so.⁸ Nevertheless, the orders compelling Hassid to produce his financial information through his corporate and personal tax returns were not an abuse of discretion for the same reasons, as we discuss below.

⁷ The November 14, 2016 minute order orders Hassid to produce within 30 days (i.e., by December 13, 2016), among other documents, "corporate Federal and State tax returns." That order did not require him to produce his personal tax returns.

⁸ Any forfeiture by Hassid does not affect movants' appeal from the order denying their application to intervene, which we discuss separately.

2. *Standard of review*

We review discovery orders for abuse of discretion. (*Manela v. Superior Court* (2009) 177 Cal.App.4th 1139, 1145.) “The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.’” (*Bank of America, N.A. v. Superior Court* (2013) 212 Cal.App.4th 1076, 1089.) Thus, we will set aside a trial court’s order granting or denying discovery only when the appellant has demonstrated no legal justification for it. (*Seahaus La Jolla Owners Assn. v. Superior Court* (2014) 224 Cal.App.4th 754, 766.) We also review an order denying leave to intervene for abuse of discretion. (*Reliance Ins. Co. v. Superior Court* (2000) 84 Cal.App.4th 383, 386.)

In conducting our review, we apply the well-known appellate principle that “[a] judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown.’” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Thus, we presume the trial court followed the law. (*Wilson v. Sunshine Meat & Liquor Co.* (1983) 34 Cal.3d 554, 563.) That principle particularly resonates here where without a reporter’s transcript we have no record of what happened during the relevant hearings other than the court’s minute orders.

3. *The court did not abuse its discretion when it ordered Hassid to produce his personal and corporate tax returns*

Hassid contends the trial court erred when it (1) ordered him to produce his personal and corporate tax returns, protected by California’s tax return privilege and constitutional right of privacy, and (2) denied his ex parte application to produce his personal tax returns for an in camera review.⁹ The 15th Street LLC and Soumekh contend the court also erred when it denied their ex parte application to intervene and to object to the court’s order that Hassid produce his corporate tax returns to prevent disclosure of their private tax information. We address their contentions separately.

a. *Applicable law*

“ ‘Judgment debtor examinations serve an important function in our judicial system.’ ” (*Li v. Yan* (2016) 247 Cal.App.4th 56, 66 (*Li*).) Their purpose is “to leave no stone unturned in the search for assets which might be used to satisfy the judgment.” (*Troy v. Superior Court* (1986) 186 Cal.App.3d 1006, 1014.) The examination is “ ‘to compel the judgment debtor to give information concerning his property; and such judgment-

⁹ In his opening brief, Hassid asserts he “filed an application offering to make his personal tax returns and those of the third-party businesses available for an in camera review.” Hassid’s ex parte application to amend the court’s order, however, referred to producing only his personal tax returns for an in camera review. Moreover, Hassid made that “offer” after his ex parte application to quash an in camera review of his tax records was denied, and the court ordered him to produce the records to Canico after failing to comply with the court’s earlier orders.

debtor examination is intended to be summary and factual, according the widest scope of inquiry concerning the property and business affairs of the judgment debtor. [Citations.] The purpose of such supplementary proceedings is to discover and reach assets of a judgment debtor so as to apply them to the satisfaction of the judgment. [Citations.]’ ” (*Li*, at p. 66.) Nevertheless, a “judgment debtor generally is entitled to assert the same privileges that a trial witness may assert as a basis for refusing to answer questions or respond to requests for information put to him.” (*Hooser v. Superior Court* (2000) 84 Cal.App.4th 997, 1002, disapproved of on other grounds by *Williams v. Superior Court* (2017) 3 Cal.5th 531, 557 & fn. 8 (*Hooser*).)

California recognizes a “tax return privilege” that precludes the compelled disclosure of tax return information.¹⁰ (See *Schnabel, supra*, 5 Cal.4th at p. 720 [recognizing the “privilege against forced disclosure of tax returns has been reaffirmed in a variety of situations by both this court and the courts of appeal”].) That privilege, however, is not absolute. (*Id.* at p. 721.) The privilege gives way when “(1) the circumstances indicate an intentional waiver of the privilege; (2) the gravamen of the

¹⁰ The privilege is statutory, arising under California’s Revenue and Taxation Code. (*Weingarten v. Superior Court* (2002) 102 Cal.App.4th 268, 274 (*Weingarten*); *Schnabel v. Superior Court* (1993) 5 Cal.4th 704, 719 (*Schnabel*).) However, the privilege also is applied to disclosure of federal tax returns “[b]ecause of the overlap of information contained in federal and state tax returns . . . ‘forcing disclosure of the information in the federal tax return would be equivalent to forcing disclosure of the state returns and would operate to defeat the purposes of the state statute.’ ” (*Schnabel*, at p. 719.)

lawsuit is inconsistent with the privilege; or (3) a public policy greater than that of the confidentiality of tax returns is involved. (*Schnabel* [] at p. 721.) This latter exception is narrow and applies only ‘when warranted by a legislatively declared public policy.’ (*Ibid.*) A trial court has broad discretion in determining the applicability of a statutory privilege.” (*Weingarten, supra*, 102 Cal.App.4th at p. 274.)

Disclosure of an *individual’s* private financial information also is protected by California’s constitutional right to privacy. (*Valley Bank of Nevada v. Superior Court* (1975) 15 Cal.3d 652, 656 (*Valley Bank*).) That right also “does not provide absolute protection against disclosure of personal information; rather it must be balanced against the countervailing public interests in disclosure.” (*Hooser, supra*, 84 Cal.App.4th at p. 1004.) The trial court, therefore, “ ‘must “indulge in a careful balancing” before ordering disclosure’ ” of the private financial information of nonparties. (*Schnabel, supra*, 5 Cal.4th at p. 713.) Where possible, however, the court “ ‘should impose partial limitations rather than outright denial of discovery.’ ” (*Valley Bank*, at p. 658.)

Thus, courts have found the tax return privilege must yield to the legislative policies behind, for example, discovery allowed to support punitive damages (*Weingarten, supra*, 102 Cal.App.4th at p. 276), discovery permitted in judgment debtor examinations, (*Li, supra*, 247 Cal.App.4th at p. 66), and preventing fraud against creditors and the court (*id.* at p. 68).

Courts also have acknowledged that the constitutional right to privacy may be outweighed by the “general public interest in ‘ “ ‘facilitating the ascertainment of truth in connection with legal proceedings’ ” ’ [citation] and in obtaining

just results in litigation [citation]. The public also has an interest in facilitating the enforcement of judgments, thus ‘ensuring that those injured by the actionable conduct of others receive full redress of those injuries.’ [Citation.]” (*Hooser, supra*, 84 Cal.App.4th at p. 1004; see also *SCC Acquisitions, supra*, 243 Cal.App.4th at p. 755 [“Obtaining information to collect on a judgment is ‘a valid significant interest.’ ”].) By enacting section 708.110 et seq. the Legislature has recognized that strong public policy.

Courts of appeal have found these policies to surpass the tax return privilege, and related constitutional right to privacy, when the party asserting the privilege has failed to comply with other less intrusive requests to obtain necessary financial information or attempted to hide assets. For example, in *Weingarten*, the Fourth District Court of Appeal concluded the trial court did not abuse its discretion when it compelled defendant to produce her tax returns in response to plaintiffs’ financial discovery after the court found defendant liable for punitive damages. The defendant, who had sole control of her financial records, had repeatedly refused to produce relevant financial information. (*Weingarten, supra*, 102 Cal.App.4th at pp. 275-276.) There, defendant’s obstreperous conduct “not only interfered with plaintiffs’ ability to prove their case, but . . . also undermined the discovery process and the judicial system’s ability to ensure an ordered process designed to uncover the truth.” (*Id.* at p. 276.) The court concluded, “[t]hese policies, when considered together with the importance of obtaining financial condition evidence to establish a proper punitive damages amount, outweighed [her] right to claim the tax return

privilege as a basis to refuse to produce highly relevant evidence of her financial condition.” (*Ibid.*)

In so concluding, however, the Court of Appeal cautioned “against compelled disclosure of personal tax returns except in those rare instances,” as existed there, “where the public policy underlying the tax privilege is outweighed by other compelling public policies or where waiver principles apply.” (*Weingarten, supra*, 102 Cal.App.4th at p. 276.) The court clarified, “[t]he fact that financial records are difficult to obtain or that a tax return would be helpful, enlightening or the most efficient way to establish financial worth is not enough.” (*Ibid.*) The appellate court concluded, “the trial court did not abuse its discretion in finding the privilege was inapplicable . . . because the record showed Weingarten engaged in conduct precluding plaintiffs from obtaining relevant nonprivileged financial information necessary to support plaintiffs’ punitive damages claim, and there was no less intrusive alternative for plaintiffs to obtain the information.” (*Id.* at p. 271.)

The First District Court of Appeal similarly concluded the tax return privilege was outweighed by the strong public policy of uncovering assets in a judgment debtor examination¹¹ combined with the policy “to prevent fraud against creditors[,] . . . against lenders[,] [a]nd perhaps against the court.” (*Li, supra*, 247 Cal.App.4th at p. 68.) There, the plaintiff contended the

¹¹ The court explained “‘[t]he object’ ” of a judgment debtor examination is “‘to compel the judgment debtor to give information concerning his property . . . to reach assets of a judgment debtor so as to apply them to the satisfaction of the judgment.’ ” (*Li, supra*, 247 Cal.App.4th at p. 66.)

judgment debtor's claimed transfer of real property to relatives was fraudulent and his tax returns " 'would shed light on whether such transfer actually happened.' " (*Id.* at p. 67.) Moreover, the judgment debtor had produced no documents in response to the plaintiff's subpoena duces tecum and had caused the judgment debtor examination to be rescheduled repeatedly. (*Id.* at pp. 62-64, 69.) Acknowledging the "broad discretion" a trial court has "in determining the applicability of a statutory privilege," the appellate court concluded the trial judge had not abused its discretion in ordering the judgment debtor to produce his tax returns. (*Id.* at p. 70.)

- b. *Canico's interest in discovering Hassid's assets and compelling public policy outweigh the tax return privilege and the privacy rights of Hassid and the LLC's*

Hassid contends *Li*, on which the trial court apparently relied,¹² is distinguishable from the facts here. Hassid attempts to distinguish *Li*, arguing Canico presented no evidence the belatedly produced K-1's were inaccurate or that Hassid made any transfers to the 15th Street LLC or other entities for which Hassid was ordered to produce tax returns. Below, he also argued he produced requested documents, whereas the defendant in *Li* did not, and "never presented differing or altering versions" of the facts concerning his finances as did the defendant in *Li*.

¹² Hassid's ex parte application to amend the court's order for Hassid to produce his personal tax returns for in camera review asserts, "At the time the Court made its order of production on 5-17-17, the Court informed counsel that the order was appropriate pursuant to" *Li*, and then argues *Li* is distinguishable.

While the defendant's conduct in *Li* may have been more egregious, Hassid's repeated failures to comply with court orders and evasive answers to questions about his finances are sufficiently similar to the situations in *Li* and *Weingarten* to support the court's decision to compel Hassid to produce his tax returns.

Canico attempted to discover Hassid's financial information through the judgment debtor examination process, but Hassid willfully violated the subpoena and the court's orders. He did not appear at two judgment debtor examinations. At the third scheduled exam, he appeared, but did not produce any of the subpoenaed documents. He waited until that morning to request an interpreter, requiring the exam to be rescheduled again. Although he was ordered to appear and produce all subpoenaed documents on November 14, 2016, he produced only a few documents. And, as did the defendant in *Li*, Hassid gave less than forthcoming answers at the examination itself, responding, "I don't know" or "I don't remember" to Canico's counsel's questions about his and his wife's interests in various LLC's.¹³

For example, when asked if he had ever been a member of the 15th Street LLC, Hassid responded, "I don't remember." He testified he did not know who the members were. When asked if his wife was a member, he testified, "I don't know." Canico's counsel explained to Hassid that his 2006 tax returns listed "a number of limited liability companies that [he was] a member of," and asked Hassid if he currently was "a member of any limited

¹³ Hassid's counsel objected to questions about Hassid's "membership" in various LLC's primarily on the ground they called for a legal conclusion.

liability company as of today.” Hassid responded, “I don’t remember.” Counsel asked Hassid, “Sir, have you transferred any of your interests in any limited liability company to any of your family members?” Hassid responded, “I don’t remember.” Counsel asked Hassid if he transferred any of his interest in the 15th Street LLC to any of his family members after 2006, one of the companies listed on Hassid’s 2006 personal tax return, and Hassid again responded, “I don’t remember.” Hassid could not provide any information about his interests or transfer of those interests in the 15th Street LLC (or other LLC’s), yet he was listed as a member-manager on the 2014 and 2015 K-1’s from the 15th Street LLC that he produced three months later.

Canico’s counsel also questioned Hassid about the sale of the Glendale property by Western Imperial, a company co-owned at the time by Hassid and his wife. Hassid testified, however, that he “d[id]n’t know” if he was currently a member of Western Imperial and didn’t know if he remembered the Glendale property owned by Western Imperial. Yet, Western Imperial’s statement of information filed with the California Secretary of State in October 2013 lists Hassid as the Chief Executive Officer and Hassid and his wife as the only members of the company. The 2015 statement of information indicates no change; Hassid signed it as a “member.” Hassid’s 2014 and 2015 K-1’s from Western Imperial also identify him as a member-manager and domestic partner with a 50 percent interest in the company. Western Imperial sold the Glendale property for approximately \$5.6 million on July 3, 2014, while Hassid was its member-manager, but Hassid did not produce any documents relating to where the proceeds from the sale were deposited.

True, Hassid eventually produced some of the requested K-1 documents after that examination while the defendant in *Li* produced none of the subpoenaed documents. But, as Canico notes, Hassid “never stated under oath that he had disclosed all of his subpoenaed records other than his tax returns.” Hassid may not have changed his version of the facts as the defendant in *Li* did, but the court certainly could find his responses were “less than forthcoming” (*Li, supra*, 247 Cal.App.4th at p. 69) and designed intentionally to prevent Canico from uncovering Hassid’s assets that might be used to satisfy its judgment, information Canico was entitled to discover. (*Ibid.*) Given Hassid’s evasive testimony, and his delay or refusal to produce court-ordered documents, the court could infer Hassid was trying to thwart Canico’s ability to discover his assets, necessitating the disclosure of both his personal and corporate tax returns. (See *Weingarten, supra*, 102 Cal.App.4th at 275 [affirming order requiring disclosure of defendant’s tax returns where she “intentionally interfered with plaintiffs’ ability to obtain relevant information through legitimate means and then sought to hide behind the tax return privilege to ensure no relevant information would be revealed to plaintiffs”].)

We therefore disagree with Hassid’s contention that neither Canico nor the court demonstrated a compelling state interest or strong public policy to require disclosure of Hassid’s personal and corporate tax returns, including those of the 15th Street LLC. (See *Weingarten, supra*, 102 Cal.App.4th at p. 276 [defendant’s refusal to comply with legitimate discovery requests “interfered with plaintiffs’ ability to prove their case” and “undermined the discovery process and the judicial system’s ability to ensure an ordered process designed to uncover the truth”; “[t]hese policies,

when considered together with the importance of obtaining financial condition evidence to establish a proper punitive damages amount, outweighed [defendant's] right to claim the tax return privilege"].)

Hassid argues Canico's only reason to compel disclosure of the tax returns was to verify the financial information Hassid had provided. The court's January 13, 2017 minute order does state it "will conduct an in-camera review of the 2014 and 2015 Federal tax Return at the next hearing to confirm that the [K-]1, 1099, and W-2 have all been produced." Hassid did not seek review of that order. Canico had not filed a written opposition to Hassid's ex parte application to quash the in camera review at the time the application was denied. (Compare *Schnabel, supra*, 5 Cal.4th at pp. 710, 723 [party opposing corporation's motion to quash attached accountant's declaration explaining need for corporate tax records].) Its opposition filed after the fact on April 26, 2017, argues "the chronological facts" demonstrate "Hassid is attempting to conceal his assets and to perpetrate a fraud on Plaintiff and this Court. Thus, the tax return privilege is inapplicable based upon the facts of this case and Judgment Debtor Avraham Hassid should be required to produce his 2014 and 2015 tax returns to this court for *in camera review* to confirm compliance of the production of his W-2, 1099's and K-1's for 2014 and 2015 tax years." Canico, therefore, did not seek production of Hassid's tax returns simply to verify provided information as the plaintiff did with respect to nonparty, individual payroll tax information in *Schnabel*, cited by Hassid.

In *Schnabel*, the appellate court concluded a wife in a dissolution proceeding could compel a third party corporation in which her husband held a 30 percent interest to produce its

corporate tax records because they were relevant to her discovery of the true value of the marital property. (*Schnabel, supra*, 5 Cal.4th at pp. 722-723.) The court held, however, that the corporation need not produce payroll tax information of individuals other than the husband where the only stated need for that information was to confirm compensation paid to officers, including the husband. (*Id.* at p. 723.)

Canico's need to verify Hassid's financial information, on the other hand, arose because Hassid (as did the defendants in *Weingarten* and *Li*) appears to have been attempting to conceal his assets. Both Hassid's personal and corporate tax returns will shed light on the true nature of his income and assets. (Cf. *Li, supra*, 247 Cal.App.4th at pp. 67-68 [plaintiff argued judgment debtor's tax returns " 'would shed light on' " whether he had transferred real property to his relatives as he claimed, because any interest or expense deductions appearing on returns could evidence the property still belonged to judgment debtor].) The information Hassid has provided to Canico is insufficient to "leave no stone unturned" in search of his assets. The K-1's Hassid did produce do not reveal if he transferred any of his interests in his various companies to others to evade Canico's judgment, if his wife had a membership interest in any companies that could be used to satisfy Canico's judgment, or if the LLCs otherwise held or transferred Hassid's assets or income to shield them from Canico's discovery. They do not reveal where the proceeds from \$5.6 million Glendale property sale went. Canico tried to discover that information through Hassid's judgment debtor examination, but he essentially refused to answer those questions, frustrating the exam's purpose. Much like the defendants in *Weingarten* and *Li*, Hassid has—in Canico's

words—“stonewalled” Canico’s attempts to uncover Hassid’s assets through “less intrusive” means, making the production of his personal and corporate tax returns necessary.

We do not know what was said or presented to the trial court with respect to Canico’s need to discover Hassid’s personal and corporate tax returns at the various hearings. The wife in *Schnabel* and the plaintiff in *Li* were able to submit declarations and exhibits in support of their need for the tax returns, but as we have said, Canico responded at a hearing to an ex parte application. We must presume the court engaged in the required balancing test. Although verification of financial information alone may not justify overriding the tax return privilege or outweighing the right to privacy, we conclude substantial evidence in the record supports a finding by the trial court that Canico’s need for the information, combined with the strong public policies of ensuring litigants’ abilities to enforce judgments, preventing fraud against creditors, and ascertaining the truth in legal proceedings, are greater than the confidentiality of the personal and corporate tax returns at issue. The court, therefore, did not abuse its discretion when it ordered Hassid to produce his personal and corporate tax returns.

4. *The court did not abuse its discretion when it denied Hassid’s application “to amend” its order for an in camera review of his personal tax returns*

Hassid contends the trial court abused its discretion in compelling disclosure of his tax returns without first conducting an in camera review or exploring another less intrusive alternative. The record reflects the court indeed considered a less intrusive alternative—it ordered Hassid to produce his tax returns for an in camera review. The court made that order *after*

counsel had met and conferred, and counsel and the court had engaged in “discussion.” Hassid objected to that procedure over a month later through his February 23, 2017 ex parte application to quash that order. The court heard that application the next day, denied it, and ordered Hassid to produce “[a]ll court ordered documents” by February 27, 2017. Hassid did not seek review of that order. He never provided his tax returns for an in camera review after his application was denied, nor did he produce any additional documents. Now to argue the court never conducted an in camera review of his personal tax returns is disingenuous.

At that point, Hassid had failed to give straight answers at his judgment debtor examination, failed to produce subpoenaed documents—including documents about the proceeds from the sale of a \$5.6 million property—and refused to produce his tax returns for even an in camera review. We can infer the court concluded enough is enough, leading to its May 2017 order requiring Hassid to produce “all personal and business tax returns.” (*Li, supra*, 247 Cal.App.4th at p. 69.) In an attachment to the order signed by Hassid’s and Canico’s counsel, the court described the categories of documents Hassid was to produce, including “[p]ersonal and business tax returns for tax years 2014 [and] 2015 for Avraham Hassid and his spouse.”¹⁴ The court also

¹⁴ At oral argument, Hassid’s counsel represented counsel signed the attachment to acknowledge those were the specific documents the court had ordered Hassid to produce, not as an agreement to their production. Hassid does not contend the court abused its discretion in ordering the production of the rest of the documents listed on that attachment, however, including: (1) all K-1’s, W-2’s, and 1099’s for Hassid and his spouse for tax years 2014 and 2015; (2) documents relating to the location of the proceeds from the sale of the Glendale property by Western

appears to have discussed Hassid's ability to seek a protective order at this time.

Hassid did not request a protective order, however, but again moved *ex parte*, this time to amend the court's order for a new order to produce his personal tax returns for the court's in camera review—the original procedure the court had ordered and to which Hassid had objected. The court denied the application, but again invited Hassid to seek a protective order “as previously discussed.” Hassid could have asked the court to implement through a protective order any number of the less intrusive alternatives he identifies in his opening brief, but he did not.

Enough certainly is enough. Based on this record, we cannot find the court's denial of Hassid's application for an in camera review of his personal tax returns “‘exceeded the bounds of reason’” or fell outside “‘the permissible range of options set by the legal criteria.’” (*Bank of America, N.A. v. Superior Court*, *supra*, 212 Cal.App.4th at p. 1089.) The court acted within its discretion.¹⁵

Imperial; and (3) operating and partnership agreements and incorporation documents relating to Hassid's and his spouse's still active business entities since 2013.

¹⁵ On remand, the court is to consider Hassid's motion for a protective order, if timely made, to limit the disclosure of his personal and corporate tax returns—for example, to Canico's attorneys and consultants only. If Hassid does not make such a request, the court on its own motion should “fashion[] an appropriate order that will, so far as possible, accommodate considerations of both disclosure and confidentiality” before the production of any third party corporate tax returns to Canico. (*Valley Bank, supra*, 15 Cal.3d at p. 658; see also § 708.200.)

5. *The trial court did not abuse its discretion in denying movants' application to intervene, but it should have sustained Soumekh's objections*

We first note that the only third parties to have objected to the production of Hassid's corporate tax returns are the 15th Street LLC and Soumekh, one of its members. They both are represented by Hassid's counsel and appealed jointly with Hassid. They contend the court erred (1) by denying their motion to intervene, (2) by failing to provide them with notice and an opportunity to object before ordering the production of the 15th Street LLC's tax returns, (3) by failing to identify a compelling state interest that outweighed their right and privilege to keep their tax information private, and (4) by failing to "consider and apply less intrusive alternatives," such as an in camera review.

a. *Application to intervene*

We conclude the trial court did not abuse its discretion in denying movants' ex parte application to intervene as parties in this proceeding. Neither movant claimed "an interest relating to the property or transaction that is the subject of the action" as required by section 387. Movants sought to intervene for the sole purpose of preventing disclosure of the 15th Street LLC's tax returns. As Canico points out, although a trial court may permit third parties to intervene for such a purpose (*M.B. v. Superior Court* (2002) 103 Cal.App.4th 1384, 1392), intervention is not necessary to give a third party standing to object to its privileged or private information (e.g., *Mylan Laboratories Inc. v. Soon-Shiong* (1999) 76 Cal.App.4th 71, 80 [third party holder of attorney-client privilege has standing to assert privilege without intervening]; *Weingarten, supra*, 102 Cal.App.4th at p. 278 [ordering third party husband be permitted to object to disclosure

of defendant wife's tax returns without mentioning need for intervention]). Movants were able to object to the disclosure and seek a protective order without intervening as parties to the action.

b. *Application to object to disclosure*

i. Notice

Movants contend the trial court erred because it did not provide the 15th Street LLC and Soumekh with advance notice and an opportunity to object before ordering Hassid to produce his corporate tax returns, “under Code of Civil Procedure sections 1985.3, 1985.6, and 2020”¹⁶ and under case law. The statutes appellants cite—requiring statutory notice to affected consumers before certain personal records or employment records are disclosed—are inapplicable here. (§ 1985.3 [records held by medical providers, financial institutions, or schools], § 1985.6 [employment records].) Canico's subpoena sought Hassid's and his wife's corporate tax returns in Hassid's possession or control; it did not seek personal or employment records of a consumer from a third party holding those records on the consumer's behalf.¹⁷ (Compare *Valley Bank*, *supra*, 15 Cal.3d at p. 658

¹⁶ Section 2020 no longer exists. As Canico notes, Hassid likely intended to refer to section 2020.510. Section 2020.510 requires deposition subpoenas to include the statutory notice required by sections 1985.3 and 1985.6 when the subpoena seeks the documents described by those sections.

¹⁷ Nor would Canico have been able to supply any advance notice to members of the LLC's, not knowing the identity of the members other than Hassid. It could not know in what entities Hassid and his spouse held legal interests until Hassid produced the documents. Canico did not receive the 2014 and 2015 K-1's

[holding plaintiff bank ordered to produce documents including private customer information must notify customers to enable them to object before disclosing their information]; *Life Technologies Corp. v. Superior Court* (2011) 197 Cal.App.4th 640, 647-648, 655-656, disapproved on other grounds in *Williams v. Superior Court, supra*, 3 Cal.5th at p. 557 & fn. 8 [nonparty employees entitled to notice and opportunity to object where plaintiff sought their private information from defendant corporation, their employer, through interrogatories, because they would have been entitled to statutory notice had plaintiff sought the information through a subpoena duces tecum].)

As Canico sought “only documents in the possession or control of [Hassid], any privacy rights of third party entities already have been compromised if not altogether waived.” (*SCC Acquisitions, supra*, 243 Cal.App.4th at p. 756 [order requiring judgment debtor to produce third party corporate records not an abuse of discretion where judgment debtor’s records reflected payments to third parties not in its bank statements].) Nevertheless, we agree that, as nonparties, the 15th Street LLC and Soumekh were entitled to some type of notice and an opportunity to object to the disclosure of the 15th Street LLC tax returns or to “assert[] possible alternative ways to protect [their] privacy rights” to the information in those tax returns. (*Weingarten, supra*, 102 Cal.App.4th at p. 278.) While the individuals whose private information was at issue in the cases

for the 15th Street LLC until after the court’s January 13, 2017 order, before the February 24, 2017 continued debtor examination. Those documents do not identify Soumekh as a member.

above had not participated at all in the underlying proceedings, here, movants had.

Canico gave the 15th Street LLC (and other LLC's in which Hassid was a suspected member) formal notice of the court's May 17, 2017 order for Hassid to produce his corporate tax returns. Canico served the company by mail on June 6, 2017, at its address and to Hassid's attention as its manager, based on the discovery Hassid had produced.¹⁸ That order required Hassid to produce the tax returns (and other documents) by July 1, 2017. As we have said, Hassid's counsel signed the attachment to the May 17 order listing the corporate tax returns among the documents Hassid was to produce.

Appellants make much of the fact the court did not notify movants before entering its order. Movants apparently received sufficient notice of the court's order, however, as Hassid's counsel filed their ex parte application to intervene and to object two days after the notice of ruling was served, on June 8, 2017—weeks before Hassid was required to produce the documents. Accordingly, movants received notice of the proceedings *before* the production date for the objectionable tax returns. Hassid or the 15th Street LLC should then have provided notice to Soumekh as only they—not Canico—knew that the requested corporate tax returns would disclose Soumekh's financial information. (See, e.g., *Valley Bank, supra*, 15 Cal.3d at p. 658 [requiring bank to notify its customers before disclosing their confidential information in the course of discovery].)

¹⁸ Although Hassid was listed as the manager on the 15th Street LLC's 2015 K-1, Hassid's son, Tal Hassid, was in fact the manager of the company at the time.

ii. Movants' objections

Before considering whether the trial court abused its discretion in overruling movants' objections to disclosure of the 15th Street LLC's tax returns, we must keep in mind that unlike Soumekh—an individual—the 15th Street LLC does not enjoy a constitutionally protected right to privacy. (*SCC Acquisitions, supra*, 243 Cal.App.4th at p. 755.) As our sister court has explained, “[w]hile corporations do have a right to privacy, it is not a constitutional right. The corporate right to privacy is a lesser right than that held by human beings and is not considered a fundamental right.” (*Id.* at p. 756.)

Appellants contend the 15th Street LLC nevertheless has a right to privacy and, quoting section 1799.1a of the Civil Code, argue “the statutory tax return privilege broadly applies to any ‘person, including an individual, firm, corporation, association, partnership, or joint venture, or any employee or agent thereof.’ ” Appellants’ quotation is incomplete. That section states that none of those listed individuals or entities “shall disclose information obtained from a federal or state income tax return . . . submitted . . . by *a consumer* in connection with a financial or other business-related transaction” absent various exceptions, including a court order. (Civ. Code, § 1799.1a, subd. (a), italics added.) “Consumer,” in turn, is defined as “an *individual* who requests or obtains financial or other business-related services.” (*Id.*, subd. (c)(1)(B), italics added.) Civil Code section 1799.1a thus does not confer any rights on the 15th Street LLC.

But, as we have said, both the 15th Street LLC and Soumekh were entitled to object to the production of the 15th Street LLC's tax returns and to seek a protective order. Without a reporter's transcript, we do not know if the trial court actually

afforded movants an opportunity to be heard, but then overruled their objections after considering them, or if it simply denied the application to intervene without determining the merits of the objections. The court admonished movants to obtain a protective order, thus implying it had considered and rejected the objections, but was open to implement measures to protect movants' privacy rights. Without a record of the proceedings, as long as the possibility exists that the court heard movants' objections but overruled them after balancing their interests with those of Canico and the public policies discussed above, appellants have not met their burden to demonstrate error. (*Gee v. American Realty & Construction, Inc.* (2002) 99 Cal.App.4th 1412, 1416 ["So long as such possible grounds may exist for the trial court to have denied defendants' motion in the exercise of its discretion, defendants have not sustained their burden as appellants to demonstrate error, thus overcoming the presumption of correctness attending the order denying their motion."].)

As we already have concluded, the record supports that possibility with respect to the production of Hassid's corporate tax returns, including the 15th Street LLC's tax return. The tax returns of LLC's in which Hassid was a member directly bear on Canico's interest in determining Hassid's assets and income. As we have said, the K-1's Hassid produced do not reveal the complete picture of Hassid's assets. As to the 15th Street LLC specifically, Hassid testified he did not know whether he or his wife had an interest in the company or whether he had transferred any interest in that company to others. The record we described above supports a finding that Canico's need to discover Hassid's financial information, and the public policies

discussed that would be furthered, were sufficiently compelling to outweigh the tax return privilege and any right to privacy to that financial information that the 15th Street LLC may have.

We cannot conclude that possibility exists with respect to Soumekh's individual tax and financial information revealed in the 15th Street LLC's tax returns, however. While the 15th Street LLC's tax returns are related to Canico's interest in discovering the company's value and assets that may be reached by Canico's judgment against Hassid, nothing in the record supports Canico's need for Soumekh's personal financial information, unless it is to confirm that she did not receive a fraudulent transfer of Hassid's interest in the 15th Street LLC. (See *Schnabel, supra*, 5 Cal.4th at p. 723 [trial court in dissolution proceeding acted within its discretion in compelling third party corporation partially owned by husband to produce its tax returns, but not payroll tax information identifying third persons].)

Canico has not contended Soumekh is Hassid's relative. Thus, Soumekh's personal financial information would not answer Canico's unanswered question to Hassid in his judgment debtor exam about whether he had transferred assets or his interest in the 15th Street LLC to relatives. Nor has Canico explained how Soumekh's personal financial information will further Canico's interests in discovering Hassid's assets or the public policies behind enforcing judgments or preventing fraud against creditors or the court. Based on the record, the "only apparent effect of the production of [Soumekh's financial] information would be to invade [her] privacy." (*Schnabel, supra*, 5 Cal.4th at p. 723.) As to Soumekh's personal financial information, therefore, we agree with the court in *Schnabel* that

“[a]bsent a specific showing of relevance or need . . . the general privilege against coerced disclosure of tax returns applies to that information.” (*Ibid.*) The trial court thus did not act within its discretion to the extent its order required the disclosure of Soumekh’s personal tax and financial information.

On remand the court is to conduct an in camera review of the 15th Street LLC tax returns to ensure Soumekh’s personal financial information has been redacted before the tax returns are produced. Our conclusion does not preclude Canico from making a specific showing of relevance or need of Soumekh’s information contained in the 15th Street LLC tax returns by way of a properly noticed motion to compel, however.

iii. Less intrusive alternatives

Movants contend that even if a compelling reason existed to warrant disclosure of the 15th Street LLC’s tax returns, the court erred by “failing to adopt less intrusive alternatives that would have eliminated the need for disclosure of third party tax information.” We cannot fault the court for failing to apply measures less intrusive on movants’ privacy when the court repeatedly invited the interested parties to seek a protective order, but they did not.

Nevertheless, because the 15th Street LLC is a third party, on remand, if it requests, the court should review the 15th Street LLC’s tax returns in camera before production to assess their value to Canico in discovering Hassid’s potential income and assets, including those that may have been transferred to others. (See *Schnabel, supra*, 5 Cal.4th at p. 714.) The court also should consider appropriate protective orders on the 15th Street LLC’s motion to limit disclosure of its tax returns. (*Ibid.*)

DISPOSITION

We treat Hassid's appeal from (1) the court's May 17, 2017 order compelling him to produce his personal and corporate tax returns and (2) the court's May 23, 2017 order denying Hassid's ex parte application to amend its order for Hassid to produce his personal tax returns only for the court's in camera review as a petition for writ of mandate and deny it, except to direct the court to modify the May 17, 2017 order as described below.

We affirm in part and reverse in part the court's June 8, 2017 order denying the 15th Street LLC's and Soumekh's ex parte application to intervene and object to the court's order for Hassid to produce his personal and business tax returns. We affirm the order to the extent it denied the application to intervene and overruled the 15th Street LLC's objections to Hassid's production of its tax returns. On remand, if the 15th Street LLC requests, the court should review its tax returns in camera before production to assess their value to Canico in these judgment debtor proceedings. We reverse the order to the extent it overruled Soumekh's objections. The court is directed to modify its May 17, 2017 order to order the 15th Street LLC's corporate tax returns first be produced to the court for its review in camera to confirm Soumekh's personal financial information has been redacted. The matter is remanded for further proceedings consistent with this opinion and is without prejudice to the court making protective orders it finds justice requires to prevent unnecessary disclosure of private information on its own motion under section 708.200.

Canico is to recover its costs from Hassid incurred in this proceeding. Soumekh is to recover her costs from Canico on appeal. The 15th Street LLC is to bear its own costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EGERTON, J.

We concur:

EDMON, P. J.

DHANIDINA, J.