

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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ROBERT ROSANIA,	:	
	:	
Plaintiff,	:	Index No. 655331/2017
	:	
- against -	:	
	:	
LAURENCE GLUCK,	:	
	:	
Defendant,	:	
	:	
- and -	:	
	:	
STELLAR SUTTON LLC, STELLAR BRUCKNER LLC, STELLAR 117 GARTH, LLC, STELLAR 750 TUCKAHOE, LLC, STELLAR 330 EAST 54, LLC, STELLAR WEST 110 LLC, STELLAR MORRISON LLC, STELLAR KVI LLC, STELLAR STRONG ISLAND MEMBER LLC, STELLAR WEST 28 LLC, STELLAR PWV LLC, STELLAR JANEL MEMBER LLC, STELLAR ARIES INVESTOR LLC, BOULEVARD STORY LLC, STELLAR COURT PLAZA LLC, STELLAR UNDERCLIFF LLC, STELLAR 2020 LLC, and "JOHN DOES" 1-3,	:	
	:	
Nominal Defendants.	:	
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**AMENDED VERIFIED COMPLAINT**

Plaintiff Robert Rosania ("Rosania" or "Plaintiff"), for himself and derivatively on behalf of nominal defendants Stellar Sutton LLC, Stellar Bruckner LLC, Stellar 117 Garth, LLC, Stellar 750 Tuckahoe, LLC, Stellar 330 East 54, LLC, Stellar West 110 LLC, Stellar Morrison LLC, Stellar KVI LLC, Stellar Strong Island Member LLC, Stellar West 28 LLC, Stellar PWV LLC, Stellar Janel Member LLC, Stellar Aries Investor LLC, Boulevard Story LLC, Stellar Court Plaza LLC, Stellar Undercliff LLC, Stellar 2020 LLC, and John Does 1-3 (collectively, the "Nominal Defendants"), by and through his undersigned counsel, as and for his Amended

Verified Complaint against defendant Laurence Gluck (“Gluck”), alleges as follows:

**INTRODUCTION**

1. Rosania brings this action to finally put an end to a long history of fraudulent conduct, breaches of fiduciary duty, and corruption by Gluck in connection with various properties in which Gluck and Rosania both hold interests, and which Gluck dominates and controls.

2. For many years, Rosania and Gluck worked collaboratively in connection with these properties. However, in 2013, due to Gluck’s jealousy over Rosania’s personal success, Gluck ousted Rosania from his role at Gluck’s company Stellar Management -- abruptly terminating Rosania’s employment, kicking Rosania out of his office, and cancelling Rosania’s company-based medical insurance.

3. Since that time, Gluck has used his unfettered control over the Nominal Defendants (through which Gluck and Rosania hold their interests in the properties) to pursue a personal vendetta against Rosania, by, among other things, withholding substantial distributions contractually owed to Rosania and forcing Rosania to pay taxes on income he never received.

4. Further, Gluck’s unfettered domination and control over the Nominal Defendants has also permitted him to engage in a pattern and practice of unchecked fraudulent activities including, among other things, keeping two sets of books and records with respect to numerous properties to conceal his improper conduct, falsely inflating construction costs and submitting fraudulent paperwork to the Division of Housing and Community Renewal to overcharge rent-controlled tenants, and harassing those tenants so that they will move out of the properties.

5. Given the foregoing, Gluck's conduct has spurned a multiplicity of lawsuits, and there is no sign that the need for Court intervention is abating or that Rosania and Gluck will be able to resolve their disputes.

6. Accordingly, Rosania requests that this Court exercise its inherent equitable authority to order (i) a buy/sell of Gluck and Rosania's interests in the Nominal Defendants for fair and reasonable consideration or, (ii) that the properties owned by the Nominal Defendants be sold and the proceeds be distributed to the members of the Nominal Defendants in proportion to their interests in the Nominal Defendants. *See Tosi v. Pastene & Co.*, 34 A.D.2d 520, 520 (1st Dep't 1970); *In re Superior Vending, LLC*, 21 A.D.3d 1153 (2d Dep't 2010); *Sokol v. Ventures Educ. Sys. Corp.*, 10 Misc. 3d 1055(A) (Sup. Ct. N.Y. Cty. 2005).

#### **JURISDICTION & VENUE**

7. Jurisdiction is proper pursuant to CPLR §§ 301 and 302(a) because all defendants are domiciliaries of New York, all defendants conduct business in New York, and all defendants directly or indirectly own, use or possess real property situated within New York.

8. Venue is proper pursuant to CPLR § 503 in that all defendants either reside in New York County or have their principal place of business within New York County.

#### **PARTIES**

9. Plaintiff Robert Rosania is a natural person who resides in New York, New York.

10. Defendant Laurence Gluck is a natural person who resides in New York, New York.

11. Nominal Defendant Stellar Sutton, LLC ("Stellar Sutton") is a Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

12. Nominal Defendant Stellar Bruckner LLC (“Stellar Bruckner”) is a Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

13. Nominal Defendant Stellar 117 Garth, LLC (“Stellar Garth”) is Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

14. Nominal Defendant Stellar 750 Tuckahoe, LLC (“Stellar Tuckahoe”) is a Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

15. Nominal Defendant Stellar 330 East 54, LLC (“Stellar East 54”) is a Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

16. Nominal Defendant Stellar West 110 LLC (“Stellar West 110”) is a Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

17. Nominal Defendant Stellar Morrison LLC (“Stellar Morrison”) is a Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

18. Nominal Defendant Stellar KVI LLC (“Stellar KVI”) is a Delaware limited liability company with its principal place of business at 156 William Street, New York, New York.

19. Nominal Defendant Stellar Strong Island Member LLC (“Stellar Strong Island”) is a Delaware limited liability company with its principal place of business at 156 William Street, New York, New York.

20. Nominal Defendant Stellar West 28 LLC (“Stellar West 28”) is a Delaware limited liability company with its principal place of business at 156 William Street, New York, New York.

21. Nominal Defendant Stellar PWV LLC (“Stellar PWV”) is a Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

22. Nominal Defendant Stellar Janel Member LLC (“Stellar Janel”) is a Delaware limited liability company that is registered to do business in New York and has its principal place of business at 156 William Street, New York, New York.

23. Nominal Defendant Stellar Aries Investor LLC (“Stellar Aries”) is a Delaware limited liability company that is registered to do business in New York with its principal place of business at 156 William Street, New York, New York, 10038.

24. Nominal Defendant Boulevard Story LLC (“Boulevard Story”) is a Delaware limited liability company that is registered to do business in New York with its principal place of business at 156 William Street, New York, New York, 10038.

25. Nominal Defendant Stellar Court Plaza LLC (“Stellar Court Plaza”) is a Delaware limited liability company that is registered to do business in New York with its principal place of business at 156 William Street, New York, New York, 10038.

26. Nominal Defendant Stellar Undercliff LLC (“Stellar Undercliff”) is a Delaware limited liability company that is registered to do business in New York with its principal place of business at 156 William Street, New York, New York, 10038.

27. Nominal Defendant Stellar 2020 LLC (“Stellar 2020”) is a Delaware limited liability company that is registered to do business in New York with its principal place of business at 156 William Street, New York, New York, 10038.

28. Nominal Defendants “John Does” 1 through 3 (collectively, the “John Doe Defendants”) are the limited liability companies through which Rosania and Gluck directly or indirectly own an interest in the following properties:

- a. 45 Tudor City Place, New York, New York, commonly known as Prospect Towers,
- b. 134 East 74th Street, New York, New York, and
- c. 1889 Sedgewick Avenue, Bronx, New York.

Gluck has refused to provide Rosania with the limited liability company agreements evidencing Rosania’s interest in these properties. As such, Rosania is unaware of the true name of the John Doe Defendants and therefore names the John Doe Defendants by such fictitious names. Rosania will amend this pleading to set forth the true names and capacities of the John Doe Defendants when the same are ascertained.

### **FACTUAL BACKGROUND**

#### **I. THE RELATIONSHIP BETWEEN ROSANIA AND GLUCK**

29. Rosania’s relationship with Gluck spans almost fifteen years.

30. In 1999, Rosania began working for Gluck at Stellar Management<sup>1</sup> -- a company

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<sup>1</sup> Over the years, numerous legal entities have done business as Stellar Management. The current entity doing business as Stellar Management is Mason Management Services Corporation.

that owns and operates residential and commercial real estate in the New York area and elsewhere.

31. Rosania became Gluck's protégé and Gluck took a sense of pride in Rosania's accomplishments. Eventually, Rosania rose to the position of Chief Executive Officer at Stellar Management.

32. As Rosania was given greater responsibility and proved himself to Gluck, as a reward, Gluck began giving Rosania an ownership interest in the various real estate deals in which Stellar Management and its affiliates were involved.

33. These real estate interests are held through a complex structure of special purpose entities created exclusively for the operation, ownership and management of such interests. Gluck dominates and controls all of the special purpose entities at each and every level of the ownership structure, and uses this domination and control to perpetrate fraudulent acts and steal from his partners.

34. In all, together Rosania and Gluck invested in well over 20 properties in New York and elsewhere. Over time, certain of these properties have been sold. The remaining properties in which Rosania and Gluck hold interests -- and the special purpose entities implicated in this action -- are set forth below.

35. **Stellar Sutton**: On or about May 17, 2005, Rosania and Gluck entered into the limited liability company agreement for Stellar Sutton ("Stellar Sutton Agreement").

- a. The purpose of Stellar Sutton is to own and manage the property located at 320 East 52nd Street, New York, New York. Stellar Sutton Agreement at 2, §§ 1.13, 2.4. Gluck owns 53.2% of Stellar Sutton while Rosania owns 19%. *Id.* at Exhibit A.

- b. Stellar Sutton is organized under the laws of Delaware and the Stellar Sutton Agreement is governed by Delaware law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Stellar Sutton and, as such, is responsible for the day-to-day operations of Stellar Sutton. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar Sutton.
- d. The Stellar Sutton Agreement requires that true and correct copies of books of account of Stellar Sutton be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar Sutton has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar Sutton. *Id.*

36. **Stellar Bruckner**: On or about March 15, 2006, Rosania and Gluck entered into the limited liability company agreement for Stellar Bruckner ("Stellar Bruckner Agreement").

- a. The purpose of Stellar Bruckner is to own and manage the property located at 950 Underhill Avenue, Bronx, New York. Stellar Bruckner Agreement at 2, §§ 1.26, 2.4. Gluck owns 55.7185% of Stellar Bruckner while and Rosania owns 14.0467%. *Id.* at Exhibit B.
- b. Stellar Bruckner is organized under the laws of Delaware and the Stellar Bruckner Agreement is governed by New York law. *Id.* §§ 1.17, 10.11.
- c. Gluck is the manager of Stellar Bruckner and, as such, is responsible for the day-to-day operations of Stellar Bruckner. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar Bruckner.
- d. The Stellar Bruckner Agreement requires that true and correct copies of books of account of Stellar Bruckner be kept at its principal place of



business. *Id.* § 6.1. Any member of Stellar Bruckner has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar Bruckner. *Id.*

37. **Stellar Garth**: On or about May 17, 2005, Rosania and Gluck entered into the limited liability company agreement for Stellar Garth ("Stellar Garth Agreement").

- a. The purpose of Stellar Garth is to own and manage the property located at 117 Garth Road, Scarsdale, New York. Stellar Garth Agreement at 2, §§ 1.13, 2.4. Gluck owns 53.2% of Stellar Garth while Rosania owns 19%. *Id.* at Exhibit A.
- b. Stellar Garth is organized under the laws of Delaware and the Stellar Garth Agreement is governed by Delaware law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Stellar Garth and, as such, is responsible for the day-to-day operations of Stellar Garth. *Id.* §§ 1.18, § 3.1. Through his position as manager, Gluck dominates and controls Stellar Garth.
- d. The Stellar Garth Agreement requires that true and correct copies of books of account of Stellar Garth be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar Garth has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar Garth. *Id.*

38. **Stellar Tuckahoe**: On or about May 17, 2005, Rosania and Gluck entered into the limited liability company agreement for Stellar Tuckahoe ("Stellar Tuckahoe Agreement").

- a. The purpose of Stellar Tuckahoe is to own and manage the property located at 750 Tuckahoe Road, Yonkers, New York. Stellar Tuckahoe

Agreement at 2, §§ 1.13, 2.4. Gluck owns 53.2% of Stellar Tuckahoe while Rosania owns 19%. *Id.* at Exhibit A.

- b. Stellar Tuckahoe is organized under the laws of Delaware and the Stellar Tuckahoe Agreement is governed by Delaware law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Stellar Tuckahoe and, as such, is responsible for the day-to-day operations of Stellar Tuckahoe. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar Tuckahoe.
- d. The Stellar Tuckahoe Agreement requires that true and correct copies of books of account of Stellar Tuckahoe be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar Tuckahoe has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar Tuckahoe. *Id.*

39. **Stellar East 54**: On or about May 17, 2005, Rosania and Gluck entered into the limited liability company agreement for Stellar East 54 (“Stellar East 54 Agreement”).

- a. The purpose of Stellar East 54 is to own and manage the property located at 330 East 54th Street, New York, New York. Stellar East 54 Agreement at 2, §§ 1.13, 2.4. Gluck owns 53.2% of Stellar East 54 while Rosania owns 19%. *Id.* at Exhibit A.
- b. Stellar East 54 is organized under the laws of Delaware and the Stellar East 54 Agreement is governed by Delaware law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Stellar East 54 and, as such, is responsible for the day-to-day operations of Stellar East 54. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar East 54.

- d. The Stellar East 54 Agreement requires that true and correct copies of books of account of Stellar East 54 be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar East 54 has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar East 54. *Id.*

40. **Stellar West 110:** On or about November 1, 2007, Rosania and Stellar 85 LLC -- an entity owned and controlled by Gluck -- entered into the limited liability company agreement for Stellar West 110 ("Stellar West 110 Agreement").

- a. The purpose of Stellar West 110 is to own and manage the property located at 501 West 110th Street, New York, New York. Stellar West 110 Agreement at 2, §§ 1.15, 2.4. Stellar 85 LLC owns 66.2180% of Stellar West 110 while Rosania owns 28.3790%.
- b. Stellar West 110 is organized under the laws of Delaware and the Stellar West 110 Agreement is governed by New York law. *Id.* §§ 1.11, 10.11.
- c. The Stellar West 110 Agreement provides that the managers of Stellar West 110 are Gluck and Rosania. *Id.* §§ 1.19, 3.1. However, Rosania does not currently have any actual managerial control or responsibilities with respect to Stellar West 110. Through his position as manager, Gluck is responsible for the day-to-day operations of Stellar West 110 and dominates and controls Stellar West 110.
- d. The Stellar West 110 Agreement requires that true and correct copies of books of account of Stellar West 110 be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar West 110 has the right to

inspect such books of account as well as other information reasonably related to such member's interest in Stellar West 110. *Id.*

41. **Stellar Morrison**: On or about November 1, 2007, Rosania and Stellar 85 LLC -- an entity that Gluck controls -- entered into the limited liability company agreement for Stellar Morrison ("Stellar Morrison Agreement").

- a. The purpose of Stellar Morrison is to own and manage the property located at 1240 Morrison Avenue, Bronx, New York. Stellar Morrison Agreement at 2, §§ 1.15, 2.4. Stellar 85 LLC owns 66.5% of Stellar Morrison while Rosania owns 28.5% of Stellar Morrison. *Id.* at Exhibit A.
- b. Stellar Morrison is organized under the laws of Delaware and the Stellar Morrison Agreement is governed by New York law. *Id.* §§ 1.11, 10.11.
- c. The Stellar Morrison Agreement provides that the managers of Stellar Morrison are Gluck and Rosania. *Id.* §§ 1.19, 3.1. However, Rosania does not currently have any actual managerial control or responsibilities with respect to Stellar Morrison. Through his position as manager, Gluck is responsible for the day-to-day operations of Stellar Morrison and dominates and controls Stellar Morrison.
- d. The Stellar Morrison Agreement requires that true and correct copies of books of account of Stellar Morrison be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar Morrison has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar Morrison. *Id.*

42. **Stellar KVI**: On or about September 28, 2007, Rosania and Gluck entered into the limited liability company agreement for Stellar KVI (“Stellar KVI Agreement”).
- a. Through several special purpose limited liability companies, Stellar KVI owns an interest in the property located at 10-40 Monroe Street, New York, New York and commonly known as Knickerbocker Village. Gluck owns 46.6% of Stellar KVI while Rosania owns 21.4%. *Id.* at Exhibit C.
  - b. Stellar KVI is organized under the laws of Delaware and the Stellar KVI Agreement is governed by New York law. *Id.* §§ 1.10, 10.11.
  - c. Gluck is the manager of Stellar KVI and, as such, is responsible for the day-to-day operations of Stellar KVI. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar KVI.
  - d. The Stellar KVI Agreement requires that true and correct copies of books of account of Stellar KVI be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar KVI has the right to inspect such books of account as well as other information reasonably related to such member’s interest in Stellar KVI. *Id.*
43. **Stellar Strong Island**: In or about October 2006, Rosania and Gluck entered into the limited liability company agreement for Stellar Strong Island (“Stellar Strong Island Agreement”).
- a. Through several special purpose limited liability companies, Stellar Strong Island indirectly owns an interest in the property located at 301 East 47th Street, New York, New York and commonly known as Embassy House.

Gluck owns 54.28% of Stellar Strong Island while Rosania owns 33.23%.

*Id.* at Exhibit A-2.

- b. Stellar Strong Island is organized under the laws of Delaware and the Stellar Strong Island Agreement is governed by Delaware law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Stellar Strong Island and, as such, is responsible for the day-to-day operations of Stellar Strong Island. *Id.* § 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar Strong Island.
- d. The Stellar Strong Island Agreement requires that true and correct copies of books of account of Stellar Strong Island be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar Strong Island has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar Strong Island. *Id.*

44. **Stellar PWV**: On or about February 28, 2000, Rosania and Gluck entered into the limited liability company agreement for Stellar PWV ("Stellar PWV Agreement").

- a. Through several special purpose limited liability companies, Stellar PWV indirectly owns 35% of 795 Columbus LLC, which owns the property located at 795 Columbus Avenue, New York, New York.
- b. Through several special purpose limited liability companies, Stellar PWV indirectly owns 35% of 805 Columbus LLC, which owns the property located at 805 Columbus Avenue, New York, New York.

- c. Through several special purpose limited liability companies, Stellar PWV indirectly owns 35% of 801 Amsterdam LLC, which owns the property located at 801 Amsterdam Avenue, New York, New York.
- d. Through several special purpose limited liability companies, Stellar PWV indirectly owns an interest in the property located at 808 Columbus Avenue, New York, New York.
- e. Gluck owns 82.80% of Stellar PWV while Rosania owns 8% of Stellar PWV. *Id.* at Exhibit A.
- f. Stellar PWV is organized under the laws of Delaware and the Stellar PWV Agreement is governed by Delaware law. *Id.* §§ 2.1, 11.9.
- g. Gluck is the manager of Stellar PWV and, as such, is responsible for the day-to-day operations of Stellar PWV. *Id.* §§ 1.1(j), 4.1. Through his position as manager, Gluck dominates and controls Stellar PWV.
- h. The Stellar PWV Agreement requires that true and correct copies of books of account of Stellar PWV be kept at its principal place of business. *Id.* §§ 3.3, 3.4. Any member of Stellar PWV has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar PWV. *Id.* § 3.4.

45. **Stellar Janel:** On or about December 28, 2005, Rosania and Gluck entered into the limited liability company agreement for Stellar Janel (“Stellar Janel Agreement”).

- a. Through Janel Towers LLC, Stellar Janel owns an interest in the property located at 801 Neill Avenue, Bronx, New York. Gluck owns 45.4691% of Stellar Janel while Rosania owns 27.8382%. *Id.* at Exhibit B.

- b. Stellar Janel is organized under the laws of Delaware and the Stellar Janel Agreement is governed by New York law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Stellar Janel and, as such, is responsible for the day-to-day operations of Stellar Janel. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar Janel.
- d. The Stellar Janel Agreement requires that true and correct copies of books of account of Stellar Janel be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar Janel has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar Janel. *Id.*

46. **Stellar West 28**: On or about June 8, 2007, Rosania and Gluck entered into the limited liability company agreement for Stellar West 28 (“Stellar West 28 Agreement”).

- a. Stellar West 28 owns 100% of 44 W. 28 Penn Plaza Properties, LLC, which owns the property located at 44 West 28th Street, New York, New York. Gluck owns 55.84% of Stellar West 28 while Rosania owns 24.31%. *Id.* at Exhibit B-2.
- b. Stellar West 28 is organized under the laws of Delaware and the Stellar West 28 Agreement is governed by New York law. *Id.* §§ 1.11, 10.11.
- c. Gluck is the manager of Stellar West 28 and, as such, is responsible for the day-to-day operations of Stellar West 28. *Id.* §§ 1.20, 3.1. Through his position as manager, Gluck dominates and controls Stellar West 28.
- d. The Stellar West 28 Agreement requires that true and correct copies of books of account of Stellar West 28 be kept at its principal place of



business. *Id.* § 6.1. Any member of Stellar West 28 has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar West 28. *Id.*

47. **Boulevard Story**: On or about May 31 2005, Rosania and Gluck entered into the limited liability company agreement for Boulevard Story ("Boulevard Story Agreement").

- a. The purpose of Boulevard Story is to own and manage the property located at 2001-2045 Story Avenue, Bronx, New York, and commonly known as Boulevard Story. Boulevard Story Agreement at 1. Gluck owns 56.525% of Boulevard Story and Rosania owns 14.25%. *Id.* at Exhibit A.
- b. Boulevard Story is organized under the laws of Delaware and the Boulevard Story Agreement is governed by Delaware law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Boulevard Story and, as such, is responsible for the day-to-day operations of Boulevard Story. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Boulevard Story.
- d. The Boulevard Story Agreement requires that true and correct copies of books of account of Boulevard Story be kept at its principal place of business. *Id.* § 6.1. Any member of Boulevard Story has the right to inspect such books of account as well as other information reasonably related to such member's interest in Boulevard Story. *Id.*

48. **Stellar Aries**: On or about June 26, 2006, Rosania and Gluck entered into the limited liability company agreement for Stellar Aries (the "Stellar Aries Agreement").

- a. Through Columbus Manor LLC and Westwood House LLC, Stellar Aries owns an interest in the properties located at 50 West 93rd Street and 70 West 93rd Street, New York, New York, 10025. Gluck owns 53.2% of Stellar Aries while Rosania owns 19%. *Id.* at Exhibit B.
- b. Stellar Aries is organized under the laws of Delaware and the Stellar Aries Agreement is governed by New York law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Stellar Aries and, as such, is responsible for the day-to-day operations of Stellar Aries. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar Aries.
- d. The Stellar Aries Agreement requires that true and correct copies of books of account of Aries Investor be kept at its principal place of business. *Id.* § 6.1. Members of Stellar Aries have the right to inspect such books of account as well as other information reasonably related to the Member's interest in Stellar Aries. *Id.* § 6.1.

49. **Stellar Court Plaza:** On or about December 7, 2007, Rosania and Gluck entered into the limited liability company agreement for Stellar Court Plaza (the "Stellar Court Plaza Agreement").

- a. Through several special purpose limited liability companies, Stellar Court Plaza owns an interest in the property located at 123-83 83rd Avenue, Queens, New York 11415. Gluck owns 65.45% of Stellar Court Plaza while Rosania owns 28.05%. *Id.* at Exhibit B.
- b. Stellar Court Plaza is organized under the laws of Delaware and the Stellar Court Plaza Agreement is governed by New York law. *Id.* §§ 1.9, 10.11.

- c. Gluck is the manager of Stellar Court Plaza and, as such, is responsible for the day-to-day operations of Stellar Court Plaza. *Id.* §§ 1.16, 3.1.

Through his position as manager, Gluck dominates and controls Stellar Court Plaza.

- d. The Stellar Court Plaza Agreement requires that true and correct copies of books of account of Stellar Court Plaza be kept at its principal place of business. *Id.* § 6.1. Members of Stellar Court Plaza have the right to inspect such books of account as well as other information reasonably related to the Member's interest in Stellar Court Plaza. *Id.* § 6.1.

50. **Stellar Undercliff**: On or about December 8, 2006, Rosania and Gluck entered into the limited liability company agreement for Stellar Undercliff ("Stellar Undercliff Agreement").

- a. The purpose of Stellar Undercliff is to own and manage the property located at 1655 Undercliff Avenue, Bronx, New York. Gluck owns 64.75% of Stellar Undercliff while Rosania owns 27.75%. *Id.* at Exhibit A.
- b. Stellar Undercliff is organized under the laws of Delaware and the Stellar West 28 Agreement is governed by Delaware law. *Id.* §§ 2.1, 13.11.
- c. Gluck is the manager of Stellar Undercliff and, as such, is responsible for the day-to-day operations of Stellar Undercliff. *Id.* §§ 6.1, 6.3. Through his position as manager, Gluck dominates and controls Stellar Undercliff.
- d. The Stellar Undercliff Agreement requires that true and correct copies of books of account of Stellar Undercliff be kept at its principal place of

business. *Id.* § 8.1. Any member of Stellar West 28 has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar Undercliff. *Id.* § 8.3.

51. **Stellar 2020**: On or about March, 2006, Rosania and Gluck entered into the limited liability company agreement for Stellar 2020 ("Stellar 2020 Agreement").

- a. The purpose of Stellar 2020 is to own and manage the property located at 2010-2040 Bruckner Boulevard, Bronx, New York, and commonly known as Boulevard 1. Stellar 2020 Agreement at 1. Gluck owns 55.6549% of Stellar 2020 while Rosania owns 14.0306%. *Id.* at Exhibit B.
- b. Stellar 2020 is organized under the laws of Delaware and the Stellar 2020 Agreement is governed by New York law. *Id.* §§ 1.10, 10.11.
- c. Gluck is the manager of Stellar 2020 and, as such, is responsible for the day-to-day operations of Stellar 2020. *Id.* §§ 1.18, 3.1. Through his position as manager, Gluck dominates and controls Stellar 2020.
- d. The Stellar 2020 Agreement requires that true and correct copies of books of account of Stellar 2020 be kept at its principal place of business. *Id.* § 6.1. Any member of Stellar 2020 has the right to inspect such books of account as well as other information reasonably related to such member's interest in Stellar 2020. *Id.*

52. **The John Doe Defendants**: Rosania and Gluck are members of limited liability companies that directly or indirectly own interests in the following properties:

- a. 45 Tudor City Place, New York, New York, commonly known as Prospect Towers;

- b. 134 East 74th Street, New York, New York; and
- c. 1889 Sedgewick Avenue, Bronx, New York.
- d. The name of each limited liability company is unknown to Rosania, as Rosania has requested the limited liability company agreements for the John Doe Defendants, but Gluck has refused to provide such agreements.
- e. Rosania and Gluck are members of the John Doe Defendants.
- f. Through his position as manager, Gluck is responsible for the day-to-day operations of the John Doe Defendants. Through his position as manager, Gluck dominates and controls each of the John Doe Defendants.
- g. Upon information and belief, the agreements governing the John Doe Defendants require that true and correct copies of books of account of the John Doe Defendants be kept at its principal place of business.

## **II. THE DISPUTES BETWEEN ROSANIA AND GLUCK SPURN A MULTIPLICITY OF LAWSUITS**

53. In or about 2013, the relationship between Gluck and Rosania broke down as a result of Gluck's jealousy over Rosania's success. Gluck lashed out, excluding Rosania from the management of the properties in which Rosania and Gluck held interests. Further, with no prior notice to Rosania, Gluck ousted Rosania from Stellar Management's offices, terminated Rosania's employment with Stellar Management, and cancelled Rosania's company-based health insurance.

54. Additionally, following Rosania's termination from Stellar Management, based on Gluck's personal animosity and jealousy towards Rosania, Gluck instituted a pattern and practice of abusing his position of domination and control by, among other things, withholding

distributions contractually owed to Rosania and denying Rosania access to the books and records of the Nominal Defendants.

55. The falling out between Rosania and Gluck has spurred a series of lawsuits between the parties which have proved unresolvable.

56. On November 6, 2013, Rosania commenced an action via summons with notice captioned *Rosania v. Gluck, et. al*, Index No. 160289/2013 (the “Aries Action”). After commencement, Rosania and Gluck attempted to privately resolve the action and the parties entered into several stipulations extending the date by which Rosania was required to file and serve a complaint. Ultimately, settlement discussions failed, and on January 15, 2015, Rosania filed the complaint in the Aries Action seeking damages arising out of egregious actions that Gluck has taken as the manager of the two Stellar Aries apartment buildings in which Rosania and Gluck own interests. Gluck did not move to dismiss the Aries Action. On July 20, 2017, Rosania sought leave to amend the complaint in the Aries Action to provide further specificity regarding Gluck’s fraudulent scheme at those properties. On December 6, 2017, the Court denied Rosania’s motion without prejudice to Rosania moving to confirm the pleadings to the proof at the time of trial.

57. Additionally, also on January 15, 2015, Rosania filed a second suit against Gluck captioned *Rosania v. Gluck, et. al*, Index No. 150476/2015 (the “Bruckner Action”). In the Bruckner Action, Rosania seeks relief for Gluck’s breaches of fiduciary duty, breaches of contract, and an accounting relating to these numerous real estate ventures in which Rosania and Gluck are invested. Many of the Nominal Defendants herein are also named as nominal defendants in the Bruckner Action. Gluck did not move to dismiss the Bruckner Action, but interposed counterclaims against Rosania in which he alleges that Rosania breached certain

agreements between Rosania and Gluck relating to properties located in California. On April 10, 2015, Rosania moved to dismiss the Bruckner Counterclaims. The Court denied Rosania's motion.

58. Thereafter, on July 23, 2015, Rosania and Gluck participated in a mediation of the Aries Action and the Bruckner Action before the Honorable Justice Stephen Crane (Ret.). The mediation was unsuccessful, largely due to Gluck's refusal to provide valuations of the properties in which Gluck and Rosania are jointly invested.

59. Following the unsuccessful mediation, Gluck moved for partial summary judgment on the Bruckner Counterclaims on February 18, 2016. On August 8, 2016, the Court denied the motion and ordered that the parties again attempt to mediate their disputes to reach a global resolution concerning a buyout of the jointly held properties.

60. However, Gluck and his counsel took various actions that were antithetical to resolving the disputes. First, on September 23, 2016, Gluck filed a meritless (and sanctionable) action against Rosania captioned *Gluck v. Rosania et al.*, Index No. 655183/2016 (the "Parkmerced Action"). The Parkmerced Action seeks rescission of a contract entered into by Rosania and Gluck in 2010 related to a property in California, Parkmerced, despite the fact that Gluck is simultaneously suing for breach of the same agreement through the Bruckner Counterclaims.

61. Second, Gluck's employee Matthew Lembo ("Lembo") commenced a separate action against Rosania via summons with notice captioned *Lembo v. Rosania*, Index No. 655076/2016 (the "Lembo Action"). Lembo is represented in the Lembo Action by the same law firm that represents Gluck in the Aries and Bruckner Actions. The Lembo Action asserts causes

of action for breach of contract and a declaratory judgment based upon a purported unwritten agreement between Lembo and Rosania concerning Rosania's interest in Parkmerced.

62. To date, all settlement procedures attempted between Rosania and Gluck have failed. Moreover, given Gluck's conduct (as set forth herein) it is inevitable that unless the parties disputes are resolved, additional suits will be filed in the future.

### **III. GLUCK FRAUDULENTLY MAINTAINS BOOKS AND RECORDS**

63. As set forth more specifically above, each of the agreements governing the Nominal Defendants expressly provides that accurate books and records must be maintained by the managing member of each entity. Gluck, as managing member of the Nominal Defendants, is responsible for the maintenance of the books and records, financial statements and bank accounts of the Nominal Defendants.

64. However, Gluck has been engaging in a pattern and practice of failing to maintain accurate books and records for the Nominal Defendants. In fact, upon information and belief, Gluck fraudulently maintains two sets of books and records with respect to numerous properties in order to conceal his crooked and improper conduct (which is made possible by his unfettered domination and control over the Nominal Defendants).

65. One example of such a cover up has occurred at Stellar Aries.

66. Specifically, at the buildings owned by Stellar Aries (the "Aries Buildings"), under Gluck's supervision and at his direction, as tenants moved out, numerous apartments were renovated. The purpose of these renovations was to remove the apartments from the rent regulation program.

67. The actual cost of the renovations to each apartment was between \$35,000 and \$40,000. However, based on a secret arrangement that Gluck had with the contractors doing the renovations, Stellar Aries was charged almost twice that.



68. Specifically, unbeknownst to Rosania at the time, Gluck agreed with the contractors doing the renovations that: (i) for each apartment that was renovated, the owners of the Aries Buildings would pay the inflated cost of \$75,000 to \$80,000; and (ii) the difference between the actual cost and the inflated cost (approximately \$40,000) would be credited to Gluck to be used, at his discretion, to pay for the contractors' services at other properties in which Gluck owned an interest, including his personal residence.

69. To cover up this fraudulent activity, Gluck has caused Stellar Aries to keep two sets of books and records: one set of books and records which reflects the fraudulently inflated prices that the owners of the Aries Buildings have paid for renovations, and another set of books and records which tracks the difference between the amount that the owners of the Aries Buildings paid for renovations and the actual value of the renovations, and how this difference was ultimately allocated to other properties in which Gluck owns an interest.

#### **IV. GLUCK'S IMPROPER CONDUCT TOWARDS RENT-CONTROLLED TENANTS**

70. Further, it appears that Gluck has been engaging in a pattern and practice of improper and illegal conduct directed at rent-controlled tenants, including at several of the properties owned by the Nominal Defendants. Gluck's actions have exposed the Nominal Defendants to ongoing and future potential liability, including, *inter alia*, civil and criminal penalties, judgments, treble damages, the appointment of an independent auditor to undertake an accounting, disgorgement of profits, and civil and criminal liability.

71. Indeed, on April 18, 2017, a group of nearly 60 plaintiffs filed a class action complaint against Gluck and Stellar Management. The same class filed an amended complaint on July 20, 2017, alleging "illegal and fraudulent practices employed . . . over the course of their ownership and operation of over 80 apartment buildings in the City and State of New York." *See*

*Mayra Mahmood, et al. v. Mason Management Services Corp. d/b/a Stellar Management, et al.*, Index No. 153574/2017, Docket No. 14 (the “Class Action Complaint,” attached hereto as Exhibit 1); *see also* Julia Marsh, *Landlord hit with class-action lawsuit filed by nearly 60 tenants*, New York Post, April 18, 2017 (attached hereto as Exhibit 2); Will Parker, *59 Tenants sue Gluck’s Stellar management claiming rent overcharges*, The Real Deal, April 18, 2017 (attached hereto as Exhibit 3); Nathan Tempey, *Dozens of Tenants Sue Big-Time Landlord Over Alleged Illegal Rent Increases*, The Gothamist, April 19, 2017 (attached hereto as Exhibit 4).

72. The Class Action Complaint alleges that the purpose of this scheme is to “inflate rents over and above the amounts” which Gluck and Stellar Management are “legally permitted to charge.” Class Action Complaint ¶ 2. The plaintiffs therein allege that Gluck and Stellar Management “misrepresented and obfuscated, and/or continue to misrepresent and obfuscate, the costs of Individual Apartment Improvements (‘IAIs’) performed on Plaintiffs’ apartments and those of similarly situated tenants.” Class Action Complaint ¶ 4.

73. The Class Action Complaint sets forth numerous occasions where there is no evidence that the claimed costs of Individual Apartment Improvements actually occurred. Despite this fact, however, plaintiffs allege that Gluck and Stellar Management have been falsely reporting these costs to the Division of Housing and Community Renewal in order to circumvent New York City’s rent regulation laws, and charge artificially inflated rents.

74. In addition to allegations regarding fraudulent renovations, rent-stabilized tenants have also accused Gluck and Stellar Management of using illegal and harassing tactics in an effort to drive out rent-stabilized tenants, including by barring rent-stabilized tenants from the using building facilities (including patios, pools, children’s playrooms, and gyms). *See Yunda v. Birdie 141 Broadway Associates, LLC et al.*, Index No. 451615/2017 (attached hereto as Exhibit

5); Jan Ransom, *The 'lease' of their worries Rip landlord for harassing tactics*, New York Daily News, August 14, 2014 (attached hereto as Exhibit 6).

**V. GLUCK REPEATEDLY WITHHOLDS DISTRIBUTIONS FROM ROSANIA**

75. Since 2013, when Gluck terminated Rosania's employment and ousted Rosania from Stellar Management's offices, every time there has been a capital event at a property in which Gluck and Rosania jointly own interests, Gluck has improperly seized funds belonging to Rosania without any advance notice, and in many instances, without any notice at all. Specifically, as properties have been sold or refinanced, Gluck has seized funds and not paid required distributions to Rosania. Further, Rosania has been forced to pay substantial taxes on these distributions even though they were withheld by Gluck and Rosania never actually received them.

76. Gluck has taken these action in contravention of the applicable operating agreements of the Nominal Defendants, each of which provide that distributions must be paid to members in accordance with their interest in the entity.

77. In total, Gluck has withheld nearly \$25 million in distributions owed to Rosania. Moreover, given that this has occurred with respect to every capital event, there is no sign that Gluck's conduct is abating. Given Gluck's continued improper conduct, the need for Court intervention will continue.

**A. Rosania Is Excluded From A 1031 Exchange In Connection With The Sale Of Hempstead Plaza**

78. In 2013, Hempstead Stellar, an entity in which Rosania and Gluck held interests, sold its sole assets -- the properties it owned located at 251 Jackson Street and 150 West Columbia Street in Hempstead, New York.

79. After the sale, Rosania learned that Gluck had used the proceeds of the sale to effectuate a 1031 exchange<sup>2</sup> for a new property -- in which Rosania does not have an interest -- without Rosania's knowledge or consent.

80. Rosania was not notified that Gluck would be effectuating this 1031 exchange, or even that there were any profits from the sale of Hempstead Stellar.

81. Pursuant to the Hempstead Stellar, Rosania was entitled to receive 19.125% of these profits. *See* Hempstead Stellar Agreement § 5.1.

82. Gluck never informed Rosania of any profits from the sale of Hempstead Stellar and, instead, withheld the funds from Rosania.

83. Nevertheless, Rosania paid income taxes on this distribution that he never received.

**B. Gluck Refinances The Stellar PWV Mortgages And Withholds Distributions To Which Rosania Is Entitled**

84. In 2007, Rosania, Gluck, and other investors acquired five mixed-use condominium buildings spanning two blocks on the Upper West Side of Manhattan -- 775, 795, 805, and 808 Columbus Avenue, and 801 Amsterdam Avenue (the "PWV Properties") -- through Stellar PWV (one of the Nominal Defendants).

85. Through Stellar PWV, Rosania owns a 3.28% interest in the PWV Properties.

86. In September 2014, Rosania discovered -- for the first time -- that, on August 8, 2014, Gluck closed a refinancing of the mortgage on the PWV Properties.

87. Gluck did not inform Rosania of the refinancing of the PWV Properties in advance -- or even following -- the closing. Rather, Rosania discovered that the PWV Properties had been refinanced through documents that a bank made available publically.

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<sup>2</sup> A 1031 exchange is a procedure by which the Internal Revenue Service allows an investor to sell a property, reinvest the proceeds in a new property, and to defer all capital gain taxes.

88. According to the same public documents, this refinancing resulted in an over \$120 million return of equity to the owners of the PWV Properties.

89. Pursuant to the Stellar PWV Agreement, Rosania was entitled to 3.28% of these excess proceeds, totaling approximately \$4 million. *See* Stellar PWV Agreement § 7.1.

90. Gluck withheld this substantial distribution from Rosania.

91. Also, in or about September 2014, Rosania discovered -- for the first time -- that Gluck had previously refinanced another mortgage on the PWV Properties, replacing a \$103 million mortgage loan with a loan for \$180 million.

92. Gluck did not inform Rosania of this refinancing in advance of -- or even following -- the closing.

93. This refinancing resulted in an approximately \$80 million return of equity to the owners of the PWV Properties. Pursuant to the Stellar PWV Agreement, Rosania was entitled to 3.28% of these excess proceeds, totaling approximately \$3 million. *See* Stellar PWV Agreement § 7.1.

94. Gluck withheld this substantial distribution from Rosania.

95. Nevertheless, Rosania paid income taxes on these distributions that he never received.

**C. Gluck Withholds Rosania's Distributions From Stellar West 28**

96. In October 2014, Rosania received a Schedule K-1 form for one of the Nominal Defendants Stellar West 28 for the 2013 fiscal year from representatives of Gluck (the "Stellar West 28 K-1").

97. According to the Stellar West 28 K-1, in 2013, Rosania received a distribution of nearly \$500,000. However, Rosania never actually received these funds.

98. Gluck did not inform Rosania of this distribution and, instead, withheld the funds from Rosania.

99. Nevertheless, Rosania paid income taxes on this distribution that he never received.

**D. Gluck Sells Portofino At Biscayne And Withholds Distributions To Which Rosania Is Entitled**

100. In August 2016, Stellar Biscayne II LLC and Stellar Biscayne Promote LLC, entities in which Rosania and Gluck held interests, sold its sole assets -- the property they owned located at 1400 Biscayne Boulevard, Florida and commonly known as Portofino at Biscayne.

101. Gluck did not inform Rosania of this sale in advance of the closing. Rather, Rosania discovered on his own that Portofino at Biscayne has been sold.

102. On August 19, 2016, Rosania received a Schedule K-1 form for Stellar Biscayne II LLC and Stellar Biscayne Promote LLC for the 2014 fiscal year from representatives of Gluck (the "Stellar Biscayne K-1s").

103. According to the Stellar Biscayne K-1s, in 2014, Rosania received a distribution of nearly over \$4,797,313. However, Rosania never actually received these funds.

104. Rather, Gluck withheld these distributions from Rosania.

105. Nevertheless, Rosania paid income taxes on these distributions that he never received.

**E. Gluck Refinances The Aries Buildings And Withholds Distributions To Which Rosania Is Entitled**

106. In September 2016, Rosania discovered -- for the first time -- that Gluck had closed a refinancing of the mortgage Aries Buildings owned by Stellar Aries, one of the Nominal Defendants.

107. Gluck did not inform Rosania of this refinancing in advance of the closing.

Rather, Rosania discovered on his own that on the buildings owned by Stellar Aries had been refinanced.

108. This refinancing resulted in a return of equity to the members of Stellar Aries, a portion of which should have been turned over to Rosania.

109. However, Gluck withheld this distribution from Rosania.

110. Nevertheless, Rosania paid income taxes on this distribution that he never received.

**F. Rosania Is Taxed For A Distribution From Stellar Strong Island That He Did Not Receive**

111. In 2016, Rosania received a Schedule K-1 form for his interest in Embassy House for the 2015 fiscal year from representatives of Gluck (the “Embassy House K-1”).

112. According to the Embassy House K-1, in 2015, Rosania received a distribution of \$433,478. However, Rosania never actually received these funds.

113. Gluck did not inform Rosania of this distribution and, instead, withheld the funds from Rosania.

114. Nevertheless, Rosania paid income taxes on this distribution that he never received.

**G. Rosania Is Taxed For A Distribution From Stellar Metro DC That He Did Not Receive**

115. In or about December 2009, an entity jointly held by Rosania and Gluck, Stellar Metro DC LLC (“Stellar Metro DC”), entered into an agreement to manage a property located in Washington, D.C.

116. In connection with its property management services, Stellar Metro DC was contractually entitled to receive an incentive fee or “promote,” including on the sale of the

property. Through another entity, Stellar Metro Incentive LLC, the incentive fees earned by Stellar Metro DC were supposed to be distributed to Rosania, among others.

117. In or about late 2015, the property being managed by Stellar Metro DC was sold. Based on the sale price, Rosania was entitled to \$10,780,923. However, Rosania never actually received these funds.

118. Rather, Gluck withheld this \$10,780,923 from Rosania.

119. Nevertheless, Rosania paid income taxes on these distributions that he never received.

## **VI. GLUCK HAS ENGAGED IN SIMILAR CONDUCT IN THE PAST**

120. Gluck's recent actions directed towards Rosania are not the first time that Gluck has lashed out at a former protégé. Indeed, Gluck engaged in conduct similar to that alleged herein when Ofer Shaul ("Shaul"), the former Chief Operating Officer of Stellar Management, departed the company.

121. Indeed, on October 24, 2008, Shaul filed a lawsuit alleging, among other things, that after he resigned from Stellar Management, Gluck began withholding monies owed to Shaul under the operating agreements governing their joint investments. Moreover, Shaul alleged that he learned from outside sources that certain mortgages at these joint investments had been refinanced, but that Gluck withheld the distributions that should have been paid to Shaul as a result of these transactions. *See Shaul v. Gluck*, Index. No. 603075/2008 (attached hereto as Exhibit 7).

122. Upon information and belief, after Shaul filed his complaint, Gluck and Shaul mediated their dispute. Accordingly, as a result of Shaul's allegations, Gluck and Shaul entered into a settlement agreement whereby Gluck purchased Shaul's interests in the properties in which he and Shaul both held interests.



**VII. DEMAND FUTILITY**

123. Gluck (directly and/or through entities under his control) is the manager of each of the Nominal Defendants, and no other person exercises control over or has the authority to take action on behalf of any of the Nominal Defendants.

124. Because Gluck (directly and/or through entities under his sole control) dominates and controls each and all of the Nominal Defendants, any demand to prosecute this action would be futile.

125. Gluck could not disinterestedly and independently consider a demand to prosecute a suit against himself. Similarly, Gluck could not disinterestedly and independently consider a demand to prosecute a suit where he is alleged to have perpetrated the wrongdoing as manager of the Nominal Defendants.

126. Indeed, this action is fundamentally at odds with Gluck's personal interests. Given this conflict of interest, Gluck is incapable of independently evaluating whether to pursue the claims brought derivatively in this action.

127. Thus, demand is futile with respect to all of the derivative claims asserted herein.

**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**  
**BREACH OF FIDUCIARY DUTY**  
**(Against Gluck)**

128. Rosania repeats and realleges paragraphs 1 through 127 as if fully set forth herein.

129. As Manager of the Nominal Defendants, Gluck owes fiduciary duties to the members of the Nominal Defendants, including Rosania.

130. Additionally, Gluck owes fiduciary duties to Rosania based on their long-standing relationship, and the trust and confidence reposed in Gluck by Rosania.

131. These fiduciary duties include the highest obligations of loyalty, entire fairness, candor and due care.

132. Gluck breached these fiduciary duties by the acts set forth herein.

133. Despite a series of lawsuits between Rosania and Gluck, Gluck has continued his pattern and practice of fraudulent behavior and abusing his position of domination and control, and the disputes between the parties have been unresolvable.

134. Accordingly, and in light of the egregiousness of Gluck's pattern of conduct, equitable relief from this Court is appropriate and the Court should exercise its inherent authority to order (i) a buy/sell of Gluck and Rosania's interests in the Nominal Defendants for fair and reasonable consideration or, (ii) that the properties owned by the Nominal Defendants be sold and the proceeds distributed to the members of the Nominal Defendants in proportion to their interests in the Nominal Defendants. *See Tosi v. Pastene & Co.*, 34 A.D.2d 520, 520 (1st Dep't 1970); *In re Superior Vending, LLC*, 21 A.D.3d 1153 (2d Dep't 2010); *Sokol v. Ventures Educ. Sys. Corp.*, 10 Misc. 3d 1055(A) (Sup. Ct. N.Y. Cty. 2005).

**SECOND CAUSE OF ACTION**  
**EQUITABLE CLAIM FOR FORCED SALE OF ASSETS**

135. Rosania repeats and realleges paragraphs 1 through 134 as if fully set forth herein.

136. Despite a series of lawsuits between Rosania and Gluck, Gluck has continued his pattern and practice of fraudulent behavior and abusing his position of domination and control, and the disputes between the parties have been unresolvable.

137. By virtue of Gluck's egregious actions, the Nominal Defendants are dysfunctional and Rosania's interests have been impaired.

138. Moreover, because of Gluck's continued acts against the interests of Rosania and the Nominal Defendants, it is no longer reasonably practicable to carry on the business of the Nominal Defendants.

139. Accordingly, equitable relief from this Court is appropriate and the Court should exercise its inherent authority to order that the properties owned by the Nominal Defendants be sold and the proceeds be distributed to the members of the Nominal Defendants in accordance with their respective interests in the Nominal Defendants. *See Tosi v. Pastene & Co.*, 34 A.D.2d 520, 520 (1st Dep't 1970); *In re Superior Vending, LLC*, 21 A.D.3d 1153 (2d Dep't 2010); *Sokol v. Ventures Educ. Sys. Corp.*, 10 Misc. 3d 1055(A) (Sup. Ct. N.Y. Cty. 2005).

**THIRD CAUSE OF ACTION**  
**EQUITABLE CLAIM FOR FORCED BUY/SELL**

140. Rosania repeats and realleges paragraphs 1 through 139 as if fully set forth herein.

141. Despite a series of lawsuits between Rosania and Gluck, Gluck has continued his pattern and practice of fraudulent behavior and abusing his position of domination and control, and the disputes between the parties have been unresolvable.

142. By virtue of Gluck's egregious actions, the Nominal Defendants are dysfunctional and Rosania's interests have been impaired.

143. Moreover, because of Gluck's continued acts against the interests of Rosania and the Nominal Defendants, it is no longer reasonably practicable to carry on the business of the Nominal Defendants.

144. Accordingly, equitable relief from this Court is appropriate and the Court should exercise its inherent authority to order Gluck a buy/sell with respect to Gluck and Rosania's respective interests in the Nominal Defendants for fair and reasonable consideration. *See Tosi v. Pastene & Co.*, 34 A.D.2d 520, 520 (1st Dep't 1970); *In re Superior Vending, LLC*, 21 A.D.3d

1153 (2d Dep't 2010); *Sokol v. Ventures Educ. Sys. Corp.*, 10 Misc. 3d 1055(A) (Sup. Ct. N.Y. Cty. 2005).

**PRAYER FOR RELIEF**

WHEREFORE, Rosania respectfully requests that the Court enter judgment in his favor against Gluck and the Nominal Defendants as follows:

- (a) exercising its inherent authority to order that the properties owned by the Nominal Defendants be sold and the proceeds be distributed to the members of the Nominal Defendants in accordance with their respective interests in the Nominal Defendants;
- (b) exercise its inherent authority to order a buy/sell of Gluck and Rosania's respective interests in the Nominal Defendants for fair and reasonable consideration;
- (c) awarding Rosania punitive damages in an amount to be determined at trial;
- (d) awarding Rosania his attorney's fees and costs incurred in bringing this action;  
and,
- (e) awarding such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
December 22, 2017

Respectfully,

KASOWITZ BENSON TORRES LLP

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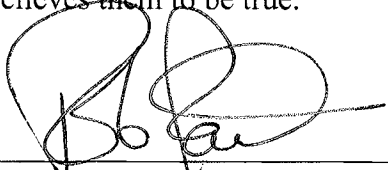
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*Attorneys for Plaintiff Robert Rosania*

**VERIFICATION**

STATE OF New York            )  
  ) ss.:  
COUNTY OF New York        )

ROBERT ROSANIA, being duly sworn, deposes and says, that he is the plaintiff herein, that he has read the foregoing amended complaint and knows the contents thereof, and the same is true to his own knowledge, except as to those matters therein stated upon information and belief and, as to those matters, he believes them to be true.

  
\_\_\_\_\_  
ROBERT ROSANIA

Sworn to before me on this  
21<sup>st</sup> day of December 2017

  
\_\_\_\_\_  
NOTARY PUBLIC

MARY A. O'CONNELL  
Notary Public, State of New York  
No. 01OC6023427  
Qualified in Queens County  
Commission Expires April 19, 20 19