

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

|  |   |                 |
|--|---|-----------------|
| -----                                    | X |                 |
|  | : |                 |
| MARK L. STERNLICHT REVOCABLE TRUST and   | : | Index No.:      |
| CELINA ZBOROWSKI,                        | : | Date Purchased: |
|  | : |                 |
| Plaintiffs,                              | : | <b>SUMMONS</b>  |
|  | : |                 |
| -against-                                | : |                 |
|  | : |                 |
| DANIEL Z. RAPOPORT ASSOCIATES, L.P., URY | : |                 |
| RAPOPORT, URY & ESTELLE REALTY LLC,      | : |                 |
| KALIA SHALLECK, TRUST U/W/O HENRIETTE    | : |                 |
| JACOBSON, BLIMA YOUNG, and ZEV MERZEL,   | : |                 |
|  | : |                 |
| Defendants.                              | : |                 |
|  | : |                 |
| -----                                    | X |                 |

To the above-named Defendant:

**YOU ARE HEREBY SUMMONED** and required to serve upon Plaintiff's attorney an answer to the complaint in this action within twenty (20) days after the service of this summons, exclusive of the day of service, or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The venue is designated pursuant to CPLR 503, as one of the Defendants resides in, and the wrongful acts that give rise to this lawsuit occurred, in New York County.

Plaintiff designates New York County as the place of trial of the action.

Dated: New York, New York  
August 1, 2018

MEISTER SEELIG & FEIN LLP

*S/ Stephen B. Meister*

By: \_\_\_\_\_  
Stephen B. Meister, Esq.  
Howard S. Koh, Esq.  
Christina Vernaschi, Esq.  
125 Park Avenue, 7th Floor  
New York, New York 10017  
Tel: (212) 655-3500  
*Attorneys for Plaintiffs*

TO:

Daniel Z. Rapoport Associates, L.P.  
13 Morley Court  
North Hills, NY 11576

Ury Rapoport  
803 Preston Rd.  
East Meadow, NY 11554

Ury & Estelle Realty, L.L.C.  
803 Preston Rd.  
East Meadow, NY 11554

Kalia (Rapoport) Shalleck  
219 East 81st St., #LE  
New York, NY 10028

Trust u/w/o Henriette Jacobson  
Trustee: Anthony Uzzo  
287 Bowman Ave.  
Purchase, NY 10577

Blima Young  
1741 54th St.  
Brooklyn, NY 11204

Zev Merzel  
1484 East 14th St.  
Brooklyn, NY 11230

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| MARK L. STERNLICHT REVOCABLE TRUST and   | : | Index No.:                |
| CELINA ZBOROWSKI,                        | : |                           |
|  | : |                           |
| Plaintiffs,                              | : | <b>VERIFIED COMPLAINT</b> |
|  | : |                           |
| -against-                                | : |                           |
|  | : |                           |
| DANIEL Z. RAPOPORT ASSOCIATES, L.P., URY | : |                           |
| RAPOPORT, URY & ESTELLE REALTY LLC,      | : |                           |
| KALIA SHALLECK, TRUST U/W/O HENRIETTE    | : |                           |
| JACOBSON, BLIMA YOUNG, and ZEV MERZEL,   | : |                           |
|  | : |                           |
| Defendants.                              | : |                           |
|  | : |                           |
| -----                                    | X |                           |

Plaintiffs, Mark L. Sternlicht Revocable Trust (“Sternlicht Trust”) and Celina Zborowski (collectively, “Plaintiffs”), by their counsel, Meister Seelig & Fein LLP, as their Verified Complaint against Daniel Z. Rapoport Associates, L.P., Ury Rapoport, Ury & Estelle Realty LLC, Kalia Shalleck, Trust u/w/o Henriette Jacobson, Blima Young, and Zev Merzel (collectively, “Defendants”), hereby allege as follows:

**NATURE OF THE ACTION**

1. This is an action for a declaratory judgment that, upon Asher Ben-Zvi’s death, which upon information and belief took place in 2007, 333 East 45<sup>th</sup> Street Realty LLC (the “Company”) dissolved pursuant to Section 12.1(c) of the Limited Liability Company Operating Agreement of 333 East 54<sup>th</sup> Street Realty LLC (the “Operating Agreement”). Plaintiffs and Defendants claim an interest in the Company, which owns the real property located at 333 East 54<sup>th</sup> Street, New York, New York 10022 (the “Property”). The Property is worth approximately

\$18 million. Although more than 10 years have passed since the Company dissolved, the members have not wound up the Company. Thus, the Court should appoint a receiver, pursuant to New York Limited Liability Law § 703, to wind up the Company.

2. Defendant Daniel Z. Rapoport Associates, L.P. (“Rapoport”) purports to be the managing member of the Company. Plaintiffs are minority members. In order to wrongly perpetuate their own lucrative management fees and other self-dealing, Defendants have failed and refused to wind up the Company despite its dissolution and will not sell the Property despite multiple pleas from Plaintiffs and a written offer from a well-established New York City real estate company to purchase the Property for \$17.5 million. Defendants also declined an offer from the Plaintiffs to sell their interest in the Company at an \$18 million valuation. Instead, wielding its control as a weapon and threatening to never sell the property, Rapoport offered to purchase Plaintiff’s interest in the Company at a steep discount, far below its value, which Plaintiffs have refused.

3. In the alternative, if the Court does not conclude that the Company dissolved upon Asher Ben-Zvi’s death, Plaintiffs seek a declaratory judgment declaring that upon the inevitable death of the next member of the Company who is a natural person, the Company shall dissolve unless it is continued with the consent of all the remaining members within 180 days of the member’s death.

### **THE PARTIES**

4. Plaintiff Mark L. Sternlicht Revocable Trust is a trust with an address care of Harriet Sternlicht, 39 Stone Fence Lane, Stamford, Connecticut 06903.

5. Plaintiff Celina Zborowski is an individual with an address care of Mark Zborowski, 14 Cortlandt Street, Mount Vernon, New York 10550.

6. Upon information and belief, defendant Daniel Z. Rapoport Associates, L.P. is a

New York limited partnership with an office located at 13 Morley Court, North Hills, New York 11576. Daniel Z. Rapoport Associates, L.P. principal is Daniel Z. Rapoport.

7. Upon information and belief, defendant Kalia Shalleck is an individual residing at 219 East 81<sup>st</sup> Street, Apt. LE, New York, New York 10028. She is Daniel Z. Rapoport's sister.

8. Upon information and belief, defendant Ury Rapoport is an individual with an address of 803 Preston Road, East Meadow, New York 11554. He is Daniel Z. Rapoport's brother.

9. Upon information and belief, defendant Trust u/w/o Henriette Jacobson is a trust with an address of 287 Bowman Avenue, Purchase, New York 10577. The trustee of the Trust u/w/o Herriette Jacobson is Anthony Uzzo.

10. Upon information and belief, defendant Blima Young is an individual with an address of 1741 54<sup>th</sup> Street, Brooklyn, New York 11204.

11. Upon information and belief, defendant Ury & Estelle Realty LLC is a limited liability company organized under the laws of the State of New York with an office located at 803 Preston Road, East Meadow, New York 11554.

12. Upon information and belief, defendant Zev Merzel is an individual residing at 1484 East 14<sup>th</sup> Street, Brooklyn, New York 11230.

#### **JURISDICTION AND VENUE**

13. This Court has jurisdiction over the Defendants pursuant to CPLR 301 because each of the Defendants have a principal place of business, or reside, in New York and pursuant to CPLR 302(a)(1) because, at all relevant times, each of the Defendants transacted business in New York and the claims herein arise from those transactions.

14. Pursuant to CPLR 3001, this Court has subject matter jurisdiction to enter declaratory relief, as requested below.

15. Venue is proper pursuant to CPLR 503 because a substantial portion of the transactions and wrongs complained of herein occurred in New York County and the Property is located in New York County.

### **FACTS**

16. The Company, which is organized under New York law and created by the sovereign power of New York acting through its Secretary of State was formed pursuant to the Operating Agreement in 2004, owns the real Property located at 333 East 54<sup>th</sup> Street, New York, New York 10022. A copy of the Operating Agreement is attached hereto as Exhibit 1.

17. Pursuant to Schedule A of the Operating Agreement, the original members and their initial respective membership interests in the Company are as follows: Daniel Z. Rapoport 9.7233%; Ury Rapoport 9.7233%; Kalia Shalleck 9.7234%; Trust u/w/o Henriette Jacobson 12.5%; Trust B u/w/o Joseph Jacobson 16.67%; Mark Sternlicht 7%; Celina Zborowski 7%; Asher Ben-Zvi 15.16%; Boris Lurie 12-1/2%.

18. Plaintiffs requested an updated list of the current members of the Company and their respective ownership interests from Rapoport, the managing member. Rapoport provided Plaintiffs with the current member names but refused to provide contact information and updated membership interests to Plaintiffs, even though pursuant to Section 4.1 of the Operating Agreement, such records are required to be maintained at the Principal Office of the Company, which is under the care of Rapoport as managing member.

19. Upon information and belief, Asher Ben-Zvi, the Trust u/w/o Joseph Jacobson, and Boris Lurie are no longer members of the Company.

20. Upon information and belief, Asher Ben-Zvi died in 2007 and his economic interest in the Company purportedly transferred to his niece and nephew, defendants Blima Young and

Zev Merzel. While, defendants Blima Young and Zev Merzel are transferees of Asher Ben-Zvi's economic interest in the Company, they never became members of the Company.

21. Upon information and belief, Boris Lurie's economic interest in the Company was acquired pro rata by the other members of the Company when Boris Lurie died. Upon information and belief, Daniel Z. Rapoport served as the executor of Boris Lurie's estate and Frank Marino acted as the attorney for Boris Lurie's estate.

22. On July 28, 2011, Mark Sternlicht transferred his entire membership interest in the Company to the Sternlicht Trust. The Sternlicht Trust is a minority member of the Company and currently owns an 8% membership interest.

23. Five of the nine members are individuals, and upon information and belief, all five individual members are elderly.

#### **The Company Dissolved in 2007 Upon the Death of Asher Ben-Zvi**

24. Upon the death of Asher Ben-Zvi, which upon information and belief took place in 2007, the Company dissolved pursuant to Sections 11.1(c) and 12.1(c) of the Operating Agreement.

25. Under Section 11.1(c) of the Operating Agreement, a member who dies ceases to be a Member of the Company and is dissociated. Section 11.1 of the Operating Agreement provides,

**Dissociation.** A Person shall cease to be a Member upon the happening of any of the following events: . . . ; (c) in the case of a Member who is a natural person, the death of the Member or the entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage the Member's personal estate. . .

26. Hence, upon Asher Ben-Zvi's death in 2007, Asher Ben-Zvi ceased to be a member and was dissociated from the Company.

27. Pursuant to Article XII, Section 12.1 of the Operating Agreement,

The Company shall be dissolved and its affairs wound up, upon the first to occur of any of the following events (each of which shall constitute a Dissolution Event): (c) the Dissociation of any Member, unless at the time of such Dissociation there are at least two remaining Members and the Company is continued with the consent of all of the remaining Members within 180 days after such Dissociation. . . .

28. Thus, under Section 12.1(c) of the Operating Agreement, upon the death and dissociation of a member, the Company is dissolved unless the remaining members consent to continue the Company within 180 days after the dissociation.

29. After Asher Ben-Zvi's death in 2007, the remaining members did not consent to continue the Company within 180 days of Asher Ben-Zvi's death and dissociation.

30. Therefore, after Asher Ben-Zvi's death in 2007, the Company dissolved.

31. Upon information and belief, when Asher Ben-Zvi died, his economic interest in the Company transferred to defendants Blima Young and Zev Merzel.

32. Upon the death of Asher Ben-Zvi and the resulting dissolution of the Company, the remaining members were required to wind up the Company's affairs pursuant to Section 12.1(c) of the Operating Agreement, but they did not.

33. Section 703 of the New York Limited Liability Company Law provides that,

(a) in the event of a dissolution of a limited liability company, except for a dissolution pursuant to section seven hundred two of this article, unless otherwise provided in the operating agreement, the members may wind up the limited liability company's affairs. Upon cause shown, the supreme court in the judicial district in which the office of the limited liability company is located may wind up the limited liability company's affairs upon application of any member, or his or her legal representative or assignee, and in connection therewith may appoint a receiver or liquidating trustee. NY Limit. Liab. Co. § 703 (McKinney).

34. In light of the members' failure to wind up the Company, Plaintiffs seek a declaratory judgment that the Company dissolved in 2007 upon the death of Asher Ben-Zvi. Plaintiffs also seek the appointment of a receiver pursuant to New York Limited Liability Company Law § 703 to wind up the Company.



**In the Alternative, the Company Will Dissolve Upon the Inevitable Death of the Next Member**

35. Alternatively, if the Court concludes the Company continued after Asher Ben-Zvi's death and did not dissolve, the Company will dissolve upon the inevitable death of the next member who is a natural person, pursuant to Sections 11.1(c) and 12.1(c) of the Operating Agreement.

36. As stated above, a natural person who is a member is dissociated upon his or her death pursuant to Section 11.1(c) of the Operating Agreement.

37. Upon such a death, the remaining members must consent to continue the Company within 180 days of the dissociation of the member pursuant to Section 12.1(c) of the Operating Agreement. If the remaining members do not unanimously consent to continue the Company within 180 days after the death of a member, the Company will dissolve pursuant to Section 12.1(c) of the Operating Agreement.

38. Rapoport and, upon information and belief, the other Defendants contend that the Company will not dissolve upon the inevitable death of a member that is a natural person.

39. In light of this dispute, if the Company is not already dissolved, Plaintiffs seek a declaratory judgment that upon the inevitable death of the next member who is a natural person, the Company will dissolve without the consent of the remaining members to continue the Company within 180 days of the member's death.

**FIRST CAUSE OF ACTION****(By Plaintiffs for Declaratory Judgment against Defendants)**

40. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 39 above, as if fully set forth herein.

41. A ripe and justiciable controversy exists between the parties as to the interpretation of Sections 11.1(c) and 12.1(c) of the Operating Agreement, specifically, whether the Company dissolved upon the death of Asher Ben-Zvi, and if not, whether upon the inevitable death of the next member who is a natural person, the Company will dissolve without the consent of all the remaining members.

42. Plaintiffs have no adequate remedy at law.

43. Plaintiffs are entitled to a declaratory judgment under CPLR 3001 declaring that upon Asher Ben-Zvi's death, the Company dissolved pursuant to Section 12.1(c) of the Operating Agreement. As an adjunct to such a declaration plaintiffs are entitled to an Order appointing a receiver, pursuant to New York Limited Liability Company Law §,703 to wind up the Company by selling the Property and distributing the proceeds to the parties pro rata. Alternatively, if the Company did not dissolve upon Asher Ben-Zvi's death because the Court finds it was continued with the consent of the remaining members, the Plaintiffs are entitled to a declaratory judgment under CPLR 3001, that the Company will dissolve upon the inevitable death of the next member of the Company who is a natural person, without the unanimous consent of the remaining members to continue the Company.

**DEMAND FOR RELIEF**

WHEREFORE, Plaintiffs respectfully demand the entry of judgment in their favor against Defendants as follows:

- a. declaring that upon Asher Ben-Zvi's death, the Company dissolved pursuant to Section 12.1(c) of the Operating Agreement, and
- b. appointing a receiver pursuant to New York Limited Liability Company Law § 703 to wind up the Company by selling the Property and distributing the proceeds to the parties pro rata;
- c. alternatively, if the Company did not dissolve upon Asher Ben-Zvi's death, declaring that upon the inevitable death of the next member of the Company that is a natural person, the Company will dissolve unless the remaining members of the Company unanimously consent in writing to continue the Company within 180 days;
- d. awarding Plaintiffs all costs and distributions, including reasonable attorney's fees;
- e. awarding Plaintiffs such other and further relief as the Court deems just and proper.

Dated: New York, New York  
August 1, 2018

MEISTER SEELIG & FEIN LLP

*S/ Stephen B. Meister*

By: \_\_\_\_\_

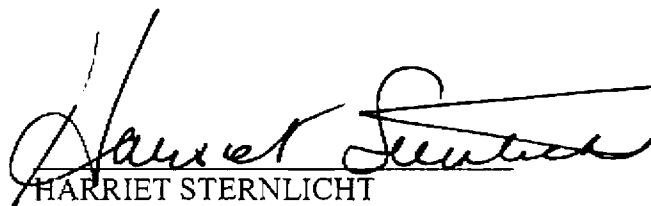
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*Attorneys for Plaintiffs*

VERIFICATION

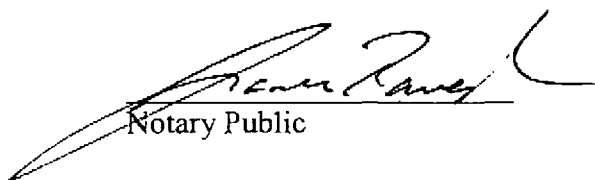
STATE OF NEW YORK                    )  
  )ss:  
COUNTY OF NEW YORK                )

HARRIET STERNLICHT, being duly sworn, deposes and states as follows:

1. I am a trustee of the Mark L. Sternlicht Revocable Trust. I have read the foregoing Verified Complaint and know the contents thereof; and the same are true to my own knowledge, information and belief and/or review of the above-referenced limited liability company's files, except as to the matters therein alleged upon information and belief, and as to those matters I believe them to be true.

  
HARRIET STERNLICHT

Sworn to before me this  
1st day of August 2018

  
Notary Public

JAMES RAVED  
Notary Public, State of New York  
No. 028A5056821  
Qualified in New York County  
Commission Expires March 11, 2022