

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

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 ESTATE OF PHILIP MANDELBAUM, :
 :
 Petitioner, :
 :
 v. :
 :
 FIVE IVY CORP., :
 :
 Respondent. :
 ----- X

NOTICE OF PETITION

Index No.

Purchased: **08601050**

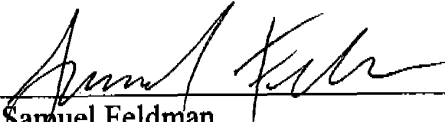
PLEASE TAKE NOTICE that upon the annexed Verified Petition, verified April 9, 2008, petitioner will apply to the Supreme Court of the State of New York, County of New York, Room 130, 60 Centre Street, New York, New York on the 9th day of May 2008 at 9:30 a.m., for a judgment that petitioner is entitled to have a determination made as to the fair value of the 13.97 shares of Five Ivy Corp. owed by petitioner and thereupon determining the value of said shares and for such other relief as may be appropriate.

PLEASE TAKE FURTHER NOTICE, that respondent's answer and affidavits in opposition, if any, shall be served on petitioner at the address below seven (7) days prior to the return date pursuant to CPLR 403(b):

Dated: April 9, 2008

FILED
APR 10 2008
COUNTY CLERK'S OFFICE
NEW YORK

Ted Poretz
 Ted Poretz
 BINGHAM McCUTCHEN LLP
 399 Park Avenue, 24th Floor
 New York, New York 10022
 212.705.7000



Samuel Feldman
ORLOFF, LOWENBACH, STIFELMAN
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101 Eisenhower Parkway
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973.622.6200

Attorneys for Petitioner

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

ESTATE OF PHILIP MANDELBAUM, :

Petitioner, :

v. :

FIVE IVY CORP., :

Respondent. :

VERIFIED PETITION

Index No.

Petitioner, by its attorneys Orloff, Lowenbach, Stifelman & Siegel, P.A., and Bingham & McCutcheon, LLP complaining of the respondent, alleges:

1. Respondent Five Ivy Corp., f/k/a Five Ivy Owners, Inc., (“New Five Ivy”) is a foreign corporation incorporated on December 3, 2007 under and by virtue of the laws of the State of Delaware. New Five Ivy has its principal place of business at 17th Street, in the County of New York, State of New York. New Five Ivy was originally incorporated under the name “Five Ivy Owners, Inc.”.

2. Five Ivy Corp. (“Old Five Ivy”), was a New York corporation incorporated on December 14, 1959. On or about December 28, 2007, just prior to the action to which petitioner has elected to dissent as hereinafter more fully set forth, Old Five Ivy was authorized to issue 400 shares of a class of common stock designated as Class A Common Stock, no par value (“Class A Stock”), 334.2 of which were issued and

outstanding and 400 shares of a class of common stock described as Class B Common Stock no par value.

3. Petitioner is an estate that came into being on June 30, 2004 with David Mandelbaum appointed as a co-executor thereof by Letters Testamentary issued by the Surrogate of Essex County, New Jersey on July 16, 2004.

4. Just prior to the taking of the action to which petitioner has elected to dissent as hereinafter more fully set forth, petitioner was the holder and owner of 13.97 shares of the Class A Stock of Old Five Ivy.

5. The boards of directors of New Five Ivy and Old Five Ivy passed resolutions adopting a plan for the exchange of stock pursuant to Section 913 of the Business Corporation Law with the Class A Stock being cancelled (except for such stock already owned by New Five Ivy) and converted automatically into the right to receive cash (the "Plan of Exchange"). Thereafter, on December 31, 2007, a notice of the Plan of Exchange was received by petitioner through the mails. A copy of the Plan of Exchange is hereto annexed as Exhibit "A".

6. On January 10, 2008, petitioner duly caused a notice to be filed with Old Five Ivy, objecting to the action proposed to be taken as aforesaid and demanding payment of the fair value of its shares. A copy of this Notice of Election to Dissent is annexed hereto as

Exhibit "B". Simultaneously with the filing of said Notice, petitioner submitted its certificate for 13.97 shares of Class A Stock to Old Five Ivy for noting of its election to dissent and its certificates were duly and conspicuously so noted.

7. On January 29, 2008, a Certificate of Exchange of Shares (the "Certificate of Exchange") was filed by respondent with the New York Department of State to formally effect the Plan of Exchange. A copy of said Certificate of Exchange is annexed hereto as Exhibit "C".

8. On January 29, 2008, immediately after the Certificate of Exchange was filed by respondent with the New York Department of State, respondent also filed a Certificate of Ownership with the Delaware Secretary of State and a Certificate of Merger with the New York Department of State, thereby merging Old Five Ivy into New Five Ivy (the "Merger"). In connection with the Merger, New Five Ivy changed its name to that of the respondent.

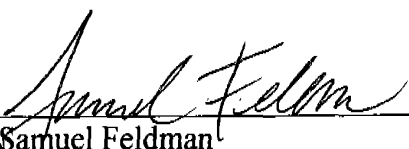
9. On February 12, 2008, New Five Ivy in purported compliance with Subdivision (b) of Section 623 of the Business Corporation Law, served upon petitioner by overnight and certified mail a written offer to pay for its shares the sum of \$32,465.59 per share (representing \$453,544.29 for all of petitioner's shares). Such offer was accompanied by a check for \$362,865.40, representing approximately 80 percent of the total offer amount. A copy of said offer is annexed hereto as Exhibit "D".

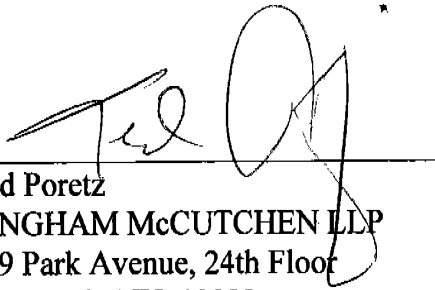
10. In a letter written and mailed to New Five Ivy on February 21, 2008, petitioner advised that it could not agree to accept such offer on the grounds that there was insufficient information provided to evaluate the offer. A copy of said letter is hereto annexed as Exhibit "E".

11. New Five Ivy has failed to institute a special proceeding to determine the rights of dissenting shareholders and to fix the fair value of their shares, although more than twenty days has elapsed since the expiration of the periods specified in Subdivision (h)(1) of Section 623 of the Business Corporation Law.

WHEREFORE, petitioner prays for the judgment of this Court that petitioner is entitled to have a determination made of the fair value of its shares and thereupon determining the value thereof, awarding petitioner interest, costs and attorneys' fees as authorized Business Corporation Law §623(h) and for such other and further relief as to the Court may seem proper.

Dated: April 8, 2008


Samuel Feldman
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& SIEGEL, P.A.
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973.622.6200

A handwritten signature in black ink, appearing to read "Ted Poretz", is written over a horizontal line. The signature is stylized and cursive.

Ted Poretz
BINGHAM McCUTCHEN LLP
399 Park Avenue, 24th Floor
New York, NY 10022
212.705.7000

Attorneys for Petitioner

VERIFICATION

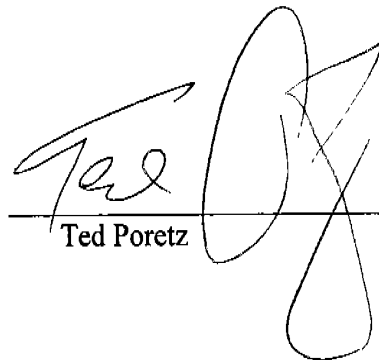
TED PORETZ, an attorney duly admitted to practice before the Courts of the State of New York, affirms under penalty of perjury as follows:

1. I am a member of the law firm of Bingham McCutchen LLP, attorneys for petitioner Estate of Philip Mandelbaum.(the "Estate") in the instant proceeding.

2. I have read the foregoing Petition, know the contents thereof and, upon information and belief, believe the matters stated therein to be true. The source of my information and the grounds for my belief are communications with representatives of the Estate and materials in the files of Bingham McCutchen LLP.

3. This verification is made by affirmant because the Estate is not in the county where its attorneys have their offices.

Dated: New York, New York
April 9, 2008



Ted Poretz

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

09010989

ESTATE OF PHILIP MANDELBAUM,

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Respondent.

NOTICE OF PETITION
AND VERIFIED PETITION

COUNTY CLERK'S OFFICE
NEW YORK

FILED

BINGHAM McCUTCHEN LLP

Attorneys for: Petitioner

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