

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

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AKASA HOLDINGS, LLC,

Plaintiff,

Index No. 650111/2012

-against-

DAVID J. SWEET, AS TRUSTEE FOR THE  
55 CROSBY STREET REVOCABLE TRUST,  
JANE SACHS, GENE THOMPSON and  
PATRICIA P. THOMSON,

**ANSWER AND  
COUNTERCLAIMS**

Defendants,

-and-

55 CROSBY ASSOCIATES, INC.,

Nominal Defendant.

-----X

Nominal Defendant 55 CROSBY ASSOCIATES, INC., by Newhouse & Shey  
LLP, its attorneys, as and for its Answer to the Complaint herein and its Counterclaims  
against Plaintiff, alleges as follows:

1. Admits Plaintiff owns the sixty (60) shares of 55 Crosby Associates,  
Inc. (hereinafter referred to as the "Co-op") appurtenant to the First Floor Unit in the  
building located at 55 Crosby Street, New York, New York (the "Building") and is the tenant  
thereof under a proprietary lease with the Co-op dated as of March 31, 2011, but neither  
admits nor denies the remainder of the allegations in paragraph "1" of the Complaint.

2. Neither admits nor denies the allegations in paragraphs "2", and "3"  
of the Complaint, but respectfully refers the Court to the Co-op's governing corporate  
documents, including, but not limited to its Certificate of Incorporation; By-laws;

Shareholder's Agreement, as amended; proprietary lease; and the minutes of the Co-op's Shareholder and Board of Directors meetings (hereinafter referred to as the "Co-op's Corporate Documents").

3. Does not respond to paragraph "4" of the Complaint, as there are no allegations contained therein.

4. Denies knowledge or information sufficient to form a belief as to all of the allegations contained in paragraph "5" of the Complaint, except admits that Plaintiff is the owner of sixty (60) shares of the Co-op and is the lessee under a proprietary lease for the First Floor Unit of the Building.

5. Denies knowledge or information sufficient to form a belief as to all of the allegations contained in paragraph "6" of the Complaint, except admits that Defendant 55 Crosby Irrevocable Trust (incorrectly sued herein as "David J. Sweet, as Trustee for the 55 Crosby Street Revocable Trust") is the owner of twenty-three (23) shares of the Co-op and is the lessee under a proprietary lease for the Fourth Floor Unit of the Building.

6. Denies knowledge or information sufficient to form a belief as to all of the allegations contained in paragraph "7" of the Complaint, except admits that Defendant Jane Sachs is the owner of seventeen (17) shares of the Co-op and is the lessee under a proprietary lease for the Second Floor Unit of the Building.

7. Denies knowledge or information sufficient to form a belief as to all of the allegations contained in paragraph "8" of the Complaint, except admits that Defendants Gene Thompson and Patricia P. Thompson are the owners of eighteen (18) shares of the Co-op and are the lessees under a proprietary lease for the Third Floor Unit of the Building.

8. Denies knowledge or information sufficient to form a belief as to all of

the allegations contained in paragraphs "10", "11" and "32" of the Complaint.

9. Admits that the Co-op is located at 55 Crosby Street, New York, New York, but denies the remainder of the allegations contained in paragraph "12" of the Complaint.

10. In response to the allegations contained in paragraph "13" of the Complaint, respectfully refers the Court to the answers contained in paragraphs "4", "5", "6" and "7" herein, but denies knowledge or information sufficient to form a belief as to the remainder of the allegations contained therein.

11. Neither admits nor denies the allegations in paragraphs "14", "17", "18", "19", "20", "21", "22", "23", "24", "25", "27", "29", "36" and "40" of the Complaint, but respectfully refers the Court to the Co-op's Corporate Documents.

12. In response to the allegations contained in paragraphs "15" and "16" of the Complaint, admits that on or about March 31, 2011 Plaintiff purchased sixty (60) shares of the Co-op from Walter and Mary Chatham, entered into a proprietary lease for the First Floor Unit of the Building with the Co-op and executed various related documents including a Consent to Shareholders Agreement.

13. Denies the allegations in paragraphs "26", "30" and "32" of the Complaint

14. Neither admits nor denies the allegations in paragraphs "31", "33", "34", "37", "38", "41" and "42" as such allegations call for legal conclusions.

#### **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

15. The Complaint fails to state a cause of action against the Nominal

Defendant.

**AS AND FOR A FIRST COUNTERCLAIM AGAINST THE PLAINTIFF**

16. Defendants have demanded that the Nominal Defendant indemnify the Defendants against the reasonable expenses incurred in defending this action pursuant to Article VII of the Co-op's By-Laws.

17. In the event the Defendants should prevail in this action and in their claim for indemnification against the Nominal Defendant, it is hereby demanded that Plaintiff reimburse the Nominal Defendant for all costs and expenses paid to the Defendants by the Nominal Defendant.

**AS AND FOR A SECOND COUNTERCLAIM AGAINST THE PLAINTIFF**

18. Pursuant to the terms of paragraph 28 of the proprietary lease the Plaintiff entered into with the Co-op, the lessee thereunder shall pay the lessor the expenses incurred by the lessor in defending or asserting any counterclaim in any action or proceeding brought by the lessee.

19. As a result thereof, it is hereby demanded that Plaintiff reimburse the Nominal Defendant for all costs and expenses, including reasonable legal fees, incurred by the Nominal Defendant in defending this action.

**WHEREFORE**, the Nominal Defendant, 55 Crosby Associates, Inc., hereby demands judgment as follows:

- (i) dismissing the Plaintiff's Complaint against the Nominal Defendant;

(ii) awarding the Nominal Defendant a money judgment against the Plaintiff in the amount paid by the Nominal Defendant to the Defendants under their demand for indemnification; and

(iii) awarding the Nominal Defendant a money judgment against the Plaintiff in the amount the Nominal Defendant incurs as costs and expenses, including reasonable legal fees, in defending this action, and for such other and further relief as to the Court may seem just and proper, together with the costs and disbursements of this action.

Yours, etc.,

NEWHOUSE & SHEY LLP

  
By

John Newhouse, Esq.  
Attorneys for Nominal Defendant  
55 Crosby Associates, Inc.  
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ANSWER AND COUNTERCLAIMS

NEWHOUSE & SHEY LLP  
ATTORNEYS AT LAW  
Attorneys for Nominal Defendant

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(212) 661-1200

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: ..... Signature .....  
Print Signer's Name.....

Service of a copy of the within ..... is hereby admitted.

Dated: .....  
Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

NOTICE OF ENTRY that the within is a (certified) true copy of a  
entered in the office of the clerk of the within-named Court on 20

NOTICE OF SETTLEMENT that an Order of which the within is a true copy will be presented for settlement to the  
Hon. , one of the judges of the within-named Court,  
at  
on 20 , at M.

Dated: .....  
NEWHOUSE & SHEY LLP  
ATTORNEYS AT LAW  
Attorneys for

To: 3 WEST 35TH STREET, 9TH FLOOR  
NEW YORK, NEW YORK 10001  
(212) 661-1200

Attorney(s) for