

Special Term of the Supreme Court held in and for the County of Tompkins at the Tompkins County Courthouse in the City of Ithaca, New York on the 10th day of November, 2014.

PRESENT: HON. ROBERT C. MULVEY, J.S.C.

STATE OF NEW YORK
SUPREME COURT COUNTY OF TOMPKINS

DANIEL F. BONAMIE,

Plaintiff,

ORDER AND JUDGMENT

-v-

Index No.: 2014-0567

ONGWEOWEH CORPORATION,

Defendant.

RJI No. 2014-0276-M

Respondent, Ongweoweh Corporation, having moved this Court for an Order pursuant to Rule 3212 of the Civil Practice Law and Rules granting it summary judgment (a) dismissing the Petitioner's petition for dissolution, and (b) granting its counterclaim for judgment declaring that the Shareholder's Agreement by and among the Petitioner and Respondent and its other remaining shareholders provides the buy-out procedure for the parties to follow in order to calculate the fair market value of the stock owned by a terminated shareholder; and upon reading the Petitioner's Verified Petition for dissolution sworn to June 19, 2014, the Petitioner's Order to Show Cause issued July 8, 2014, the Verified Answer to Petition for dissolution by the Respondent sworn to August 14, 2014, the Affidavit of Edward C. Hooks sworn to August 20, 2014 together with exhibits annexed thereto in support of the Respondent's motion made by Order to Show Cause (dated by this Court on October 8, 2014), the Affirmation of James S. Gleason sworn to August 25, 2014 with exhibits annexed thereto in opposition to the motion, Petitioner's Verified Reply to Respondent's Counterclaims sworn to September 2, 2014, the Affidavit of Petitioner sworn to October 7, 2014 submitted in opposition to Respondent's motion for summary judgment, the Affirmation of James S. Gleason sworn to October 22, 2014 also submitted in opposition to said motion and after hearing

Harris Beach PLLC (Edward C. Hooks, Esq. of counsel) in support of the motion and Hinman Howard & Kattell, LLP (James S. Gleason, Esq. of counsel) in opposition thereto, and the Court upon consideration of the foregoing having issued its Decision and Order dated November 12, 2014,

NOW, upon motion of Harris Beach PLLC (Edward C. Hooks, of counsel), it hereby is,

ORDERED AND ADJUDGED that the Respondent's motion for summary judgment is granted in all respects and the Petition for dissolution be and hereby is dismissed; and it is further

ORDERED AND ADJUDGED that the parties be and hereby are directed to follow and abide by the procedure set forth in paragraphs 3.2, 5.2(b) and 5.3 of the Shareholders' Agreement in order to determine the fair market value of Petitioner's stock in the Respondent; and it is further

ORDERED AND ADJUDGED that in the event the parties are unable to agree on the value of the stock, they shall jointly retain a third-party appraiser whose determination shall be final and binding, *as provided in Section 5.3 of the Shareholders' Agreement.*

Dated: November 21, 2014


HON. ROBERT C. MULVEY, J.S.C.

ENTER.