

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X Index No.:

In the Matter of the Application of

DIANE HUDSON and STUART HUDSON,
holders of fifty (50%) percent of all shares of
PURE LIME USA, INC.

VERIFIED PETITION

Petitioner,

For the Dissolution of
PURE LIME USA, INC., a Domestic Corporation,

Respondent.

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To the Supreme Court of the State of New York,
County of Nassau:

The petition of DIANE HUDSON and STUART HUDSON, holders of fifty (50%) percent of all shares of PURE LIME USA, INC., by their attorney, Michael A. Markowitz, P.C., respectfully shows and alleges the following:

PARTIES, JURISDICTION AND VENUE

1. At all times hereinafter mentioned, the Petitioners were and are individuals residing at 90 Meadow Lane, Lawrence, in the County of Nassau, State of New York.
2. At all times hereinafter mentioned, PURE LIME USA, INC. ("PL-USA") was and is a corporation duly organized under the Business Corporation Law of

the State of New York, having its principal executive office at 90 Meadow Lane, Lawrence, in the County of Nassau, State of New York.

3. This court has venue pursuant to NY BCL 1112 in that at the time of the instant petition the office of PL-USA was located in the County of Nassau, State of New York.
4. Upon information and belief, and at all times hereinafter mentioned, the respondent PURE LIME APS, also known as PURE LIME A/S (hereinafter referred to as “PL-DK”) is a Danish private limited company with offices located in the country of Denmark.
5. Upon information and belief, and at all times hereinafter mentioned, the respondent CHRISTIAN FRIIS OLESEN (hereinafter referred to as “Olesen”) is an individual residing in the country of Denmark.
6. Upon information and belief, and at all times hereinafter mentioned, Olesen is an employee, owner, operator, or agent of PL-DK.
7. At all times hereinafter mentioned, Olesen is the chairman on the board of directors for PL-USA.
8. Upon information and belief, and at all times hereinafter mentioned, the respondent ALLAN BENGTSSEN (hereinafter referred to as “Bengtson”) is an individual residing in the country of Denmark.

9. Upon information and belief, and at all times hereinafter mentioned, Bengtsen is an employee, operator, or agent of PL-DK.
10. At all times hereinafter mentioned, Bengtsen is on the board of directors and is the treasurer for PL-USA.
11. The Corporation is authorized to issue 200 shares of stock with the petitioners holding 50% and PL-DK holding 50% of the outstanding shares of stock of PL-USA.
12. The Corporation is not registered as an investment company under an act of congress entitled "Investment Company Act of 1940" and no shares of the Corporation are listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national or an affiliated securities association.
13. Upon information and belief, there are no other shareholders, directors or officers of the PL-USA other than the petitioners, PL-DK, Olesen and Bengsten.

PETITION FOR DISSOLUTION

14. Petitioners repeat the allegations set forth in paragraphs 1 through 13 with the same force and effect as if set forth herein.

15. PL-DK is in the business of designing and manufacturing Scandinavian active and fitness clothing and accessories known as Pure Lime, to be worn and used by women and female children (hereinafter referred to as the “Pure Lime Designer Clothing”).
16. Upon information and belief, together with its headquarters located in Denmark, PL-DK has offices or distribution centers in the United Kingdom, Netherlands, Norway, Greenland, Finland, Germany, Sweden, Iceland, among other locations around the world.
17. Prior to the incorporation of PL-USA, Olesen (on behalf of PL-DK) and the petitioners had a series of meetings and agreed that there is a market in the United States for Pure Lime Designer Clothing.
18. To market and sell the Pure Lime Designer Clothing in the United States, Olesen and the petitioners agreed to form, own, and operate a New York State corporation located in Nassau County.
19. That among other things, the New York corporation would purchase Pure Lime Designer Clothing from PL-DK and employ the petitioners to market and sell the goods in the United States. The petitioners would receive a salary. Profit would be distributed pursuant to ownership interest in the corporation.

20. On April 28, 2009, Olesen and the petitioners caused to be formed PL-USA, a New York State corporation operating in Nassau County, New York. That a copy of the Certificate of Incorporation is attached hereto as Exhibit “1”.
21. On or about November 29, 2009, the petitioners and PL-DK entered into a shareholders agreement wherein and whereby, among other things, PL-DK received 50 shares of common stock, Stuart Hudson received 25 shares of commons stock, and Diane Hudson received 25 shares of common stock of PL-USA (hereinafter referred to as the “Shareholders Agreement”). That a copy of the Shareholders Agreement is attached as Exhibit “2”.
22. Pursuant to the Shareholders Agreement, the PL-USA shareholders elected four (4) individuals for the Board of Directors – Olesen, petitioners Stuart Hudson and Diane Hudson, and an individual known as Steven Billington – who was replaced by Bengtsen on January 6, 2014.
23. Pursuant to paragraph 2.1 in the shareholder agreement, the petitioners elected Olesen as chairman of PL-USA’ board of directors.
24. Pursuant to paragraph 2.2, “[t]he full Board of Directors shall constitute a quorum for the transaction of business. In case of a tie vote, the Chairman shall cast the deciding vote.”

25. Pursuant to the shareholders agreement, PL-USA agreed to pay petitioners compensation in salary and benefits for the work provided to PL-USA.
26. PL-DK would be paid for its cost to manufacture and distribute Pure Lime Designer Clothing to PL-USA to be sold in the United States. Profits by way of dividends would be paid pursuant to ownership interest. However, pursuant to paragraph 2.6, the “Board of Directors may not declare a dividend greater than thirty (30%) of profit for any period for which the dividend is declared.”
27. That commencing in 2009, PL-USA began to purchase merchandise from PL-DK, entered into an employment agreement and paid petitioners a salary, and began to market and sell Pure Lime Designer Clothing in the United States.
28. To purchase merchandise, PL-USA would issue a purchase order (“PO”) to PL-DK for Pure Lime Designer Clothing to be sold in the United States.
29. That among other things, each PO listed the item number, size, and quantity of Pure Lime Designer Clothing. No PO had the unit cost for the ordered Pure Lime Designer Clothing – instead having the wholesale cost.
30. Upon shipment, PL-DK would issue an invoice to PL-USA for, among other things, the cost for Pure Lime Designer Clothing transported pursuant to the PO (hereinafter referred to as the “Shipment Invoice”).

31. In or about delivery of shipment, PL-DK would issue a second invoice to PL-USA for, among other things, the cost for Pure Lime Designer Clothing delivered pursuant to the PO (hereinafter referred to as the “Delivery Invoice”).
32. Although there was no change or modification to the PO or the Pure Lime Designer Clothing, the Delivery Invoice delivered to PL-USA was generally 40 percent higher than the Shipment Invoice.
33. Since PL-DK generated and demanded a 40% increase for the cost of Pure Lime Designer Clothing, PL-USA never issued a dividend to its shareholders.
34. That from 2009 through 2014, PL-DK diverted and received profits of approximately \$1,349,949.00 from PL-USA – avoiding distribution to the shareholders.
35. Despite repeated demands, Olesen, Bengtsen, and PL-DK failed to provide a complete accounting to the petitioners for all years concerning the total for Shipment Invoice, Delivery Invoice, and all credits and moneys received by PL-DK on behalf of PL-USA.
36. In 2011, PL-USA received hundreds of complaints from vendors who had an issue with color bleeding when washing the Pure Lime Designer Clothing.

37. As a result of the defective Pure Lime Designer Clothing, PL-USA agreed to return of merchandise for a full credit – totaling approximately \$142,500.
38. That Olesen and Bengtsen, on behalf of PL-DK, agreed to credit PL-USA for the defective merchandise (hereinafter referred to as the “Return Credit”).
39. Despite agreeing to the Return Credit, Olesen, Bengtsen, and PL-DK failed to pay, credit, or account to PL-USA for the defective Pure Lime Designer Clothing.
40. Twice a year – from 2009 through 2012 – Olesen, on behalf of PL-DK, directed PL-USA to ship the Pure Lime Designer Clothing on behalf of PL-DK to merchants to Canada, and to pay all fees (including taxes) on behalf of PL-DK (hereinafter referred to as the “Export Disbursement”).
41. As of January 2015, Export Disbursements paid by PL-USA on behalf of PL-DK totaled approximately \$121,620.
42. On January 6, 2014, PL-USA conducted a corporate meeting at Peter L. Hessellund-Jensen’s law office in Manhattan.
43. At the January 6, 2014 meeting, PL-DK elected Bengtsen to PL-USA’s board of directors and treasurer for PL-USA.

44. At the conclusion of the January 6, 2014 board of directors meeting, Olesen and Bengtsen agreed to account and issue payment or credit to PL-USA for the Return Credit.
45. At the conclusion of the January 6, 2014 board of directors meeting, Olesen and Bengtsen agreed to account and issue payment or credit to PL-USA for the Export Disbursement.
46. At the conclusion of the January 6, 2014 board of directors meeting, Olesen and Bengtsen agreed that PL-DK would reduce or eliminate its mark-up issued to PL-USA on the Delivery Invoice.
47. Despite agreements and representations made at the January 6, 2014 board meeting, Olesen and Bengtsen failed to account and issue payment or credit to PL-USA for the Return Credit and Export Disbursement.
48. Despite agreements and representations made at the January 6, 2014 board meeting, Olesen and Bengtsen failed to have PL-DK reduce or eliminate its mark-up issued to PL-USA on the Delivery Invoice.
49. That after the January 6, 2014 board meeting, Olesen and Bengsten caused PL-USA to compensate them in the sum of approximately \$18,000 without unanimous consent of the Board of Directors without any accounting and without appropriate consideration for said amount.

50. In April 2015, Olesen and Bengtsen hired an individual known as Peter Midtgaard (“Midtgaard”) as the director of business development and/or Chief Operating Officer of PL-USA without unanimous consent of the directors at a duly called meeting.
51. In or about the same time as when Olesen and Bengsten hired Midtgaard, PL-USA ceased paying petitioners compensation in salary and benefits for the work provided to PL-USA.
52. In September 2015, Olesen and Bengtsen contacted and directed PL-USA’s factor, Hilldun Corporation (“Hilldun”), to make payments directly to PL-DK instead of PL-USA
53. On October 1, 2015, PL-USA conducted a corporate meeting at Peter L. Hessellund-Jensen’s law office in Manhattan.
54. At the conclusion of the meeting, the board of directors unanimously agreed that PL-DK would pay PL-USA for outstanding salaries due and owing to the petitioners, and, that upon payment, PL-USA would be dissolved pursuant to New York law.
55. Despite agreements and representations made at the October 1, 2015 board meeting, Olesen and Bengtsen refused to have PL-DK pay money for outstanding salaries and refused to have PL-DK pay PL-USA’s creditors.

56. That immediately after the conclusion of the October 1, 2015 corporate meeting (the same day), Olesen and Bengtsen caused Chase Bank to freeze PL-USA's corporate bank accounts and lock-out petitioner's ability to conduct business on behalf of PL-USA.
57. That on or about December 1, 2015, and as a result of the aforesaid actions by Olesen and Bengsten, Chase Bank closed PL-USA's corporate bank account. That a copy of the letter from Chase Bank concerning closing the corporate account is attached as Exhibit "3".
58. On December 23, 2015, petitioners by their attorney offered to enter into an agreement concerning the creation of a corporate bank account and money being paid from Hilledun directly to PL-DK. That a copy of the offer is attached as Exhibit "4".
59. That despite the aforesaid offer, as of the date of this petition PL-USA's shareholders, officers and directors are unable to enter into agreements concerning the creation of a new corporate bank account and money being paid by Hilledun directly to PL-DK.
60. That as a result of the aforesaid actions, PL-DK, Olesen, Bengsten operate PL-USA from Denmark while ignoring management decisions by the

petitioners. There is such irreconcilable differences concerning the management of the PL-USA that pursuant to NY BCL 1104:

- a. The directors are so divided respecting the management of the corporation's affairs that the votes required for action by the board cannot be obtained;
 - b. The board of directors ceased to function and has become inoperative and sterile; and,
 - c. That there is such internal dissension and two or more factions of shareholders are so divided that dissolution would be beneficial to the shareholders.
61. That by reason of the premises, petitioners respectfully requests an order dissolving PL-USA pursuant NY BCL 1104.

REQUEST FOR INJUNCTIVE RELIEF

62. The petitioners repeat the allegations set forth in paragraphs 1 through 61 with the same force and effect as if set forth herein.
63. On or about May 5, 2010, PL-USA and PL-DK entered into an agreement with PL-USA's factor, Hilldun (hereinafter referred to as the "Tri-Party Agreement").

64. Although not explicitly set forth, it was understood that pursuant to the Tri-Party Agreement, upon notice received, Hilldun would forward all funds to PL-DK instead of PL-USA. That a copy of the Tri-Party Agreement is attached as Exhibit “5”.
65. The purpose of the Tri-Party Agreement was to protect PL-DK, but not to allow PL-DK to bypass the shareholders agreement and avoid payment of PL-USA’s tax obligations, operation expenses, creditors, and salary to the petitioners.
66. Upon information and belief, in September 2015, PL-DK contacted Hilldun to make all payments directly to PL-DK instead of PL-USA.
67. That on September 24, 2015, over five (5) years after the Tri-Party Agreement, Hilldun – not PL-DK – informed the petitioners by email that all future payments would be made directly to PL-DK in Denmark instead of PL-USA. That a copy of the email is attached as Exhibit “6”.
68. That from September 24, 2015 through December 1, 2015, Hilldun delivered and paid approximately \$61,000 to PL-DK in Denmark while no money was delivered to PL-USA.
69. As a result of Hilldun delivering all money to Denmark, and Olesen and Bengsten closing the bank account at Chase Bank as aforesaid, PL-USA is

unable to pay its tax obligations, operation expenses, creditors, and salary to the petitioners.

70. Upon information and belief, PL-DK has no bank accounts or assets in the United States other than its fifty (50%) percent shares of stock with PL-USA.
71. That as of the date of this petition, Hilledun continues to bypass PL-USA and transfer all money out of the United States directly to PL-DK in Denmark.
72. That by reason of the premises, the petitioners request an immediate restraining order and preliminary injunction pursuant to BCL 1115 to preserve the status quo, to stop all money from being removed from the United States, and to allow PL-USA to pay its tax obligations, operation expenses, creditors, and salary while winding down the affairs of the corporation.

REQUEST FOR CONSOLIDATION

73. The petitioners repeat the allegations set forth in paragraphs 1 through 72 with the same force and effect as if set forth herein.
74. On September 28, 2015, petitioners commenced an action against PL-DK, Olesen, Bengtsen, filed in the New York Supreme Court, Nassau County, under index number 606262/2015, seeking, among other things, money damages for breach of contract, fiduciary duty and an accounting (hereinafter

referred to as the “2015 Action”). That a copy of the summons and amended complaint is attached as Exhibit “7”.

75. That the 2015 Action involves the same parties, and involves common questions of law and fact as the instant petition.
76. That by reason of the premises, petitioners request an order pursuant to CPLR 602 consolidating the 2015 Action with the instant petition..
77. That no prior application for the relief requested herein has been made in this or any other Court or jurisdiction.

WHEREFORE, Petitioner respectfully requests the following:

- a. An order pursuant to BCL 1104 to dissolve and liquidate PURE LIME USA, INC.; and,
- b. An order pursuant to NY BCL 1115 enjoining and restraining the respondents PURE LIME APS also known as PURE LIME A/S, CHRISTIAN FRIIS OLESEN, ALLAN BENGTSSEN, their agents, servants, contractors, employees, and attorneys, from collecting or receiving any debt or other property of PURE LIME USA, INC., and from paying out or otherwise transferring or delivering any property of the PURE LIME USA, INC., and transacting any unauthorized business

servants, contractors and employees, from bypassing corporate powers, limitations, and duties, and to frustrate PURE LIME USA, INC.'s ability to collect assets and wind down corporate affairs; and,

- c. An order pursuant to CPLR 602 consolidating the action by Diane Hudson, Stuart Hudson, individually and derivatively as a shareholder of Pure Lime USA, Inc. against Pure Lime APS also known as Pure Lime A/S, Christian Friis Olesen, Allan Bengtsen, filed in the Nassau County Supreme Court under Index Number 606262/2015 with the within action; and,
- d. An order for such other and further relief this Court deems just and equitable.

Dated: Nassau, NY
January 7, 2016


MICHAEL A. MARKOWITZ, P.C.
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Hewlett, NY 11557
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VERIFICATION

State of New York)
County of Nassau) ss.:

DIANE HUDSON and STUART HUDSON, being duly sworn, deposes and says:

We are the petitioners in the instant action. We have read the Verified Petition, and we know the contents thereof; and the same is true to our own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters we believe it to be true.



STUART HUDSON



DIANE HUDSON

Severally sworn to before me this
7 day of January, 2016


Notary Public

MICHAEL A. MARKOWITZ
Notary Public, State of New York
No. 02MA4962019
Qualified in Nassau County
Commission Expires 02/12/ 2018