

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

<p>TAI LI HUANG and LING LIAN HUANG,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">-against-</p> <p>NORTHERN STAR MANAGEMENT LLC and GOLD EAGLE REAL ESTATE LLC,</p> <p style="text-align: center;">Defendants.</p>

Index No.

VERIFIED COMPLAINT

Plaintiffs, TAI LI HUANG and LING LIAN HUANG (“Plaintiffs”), by and through their counsel, Klein & Solomon, LLP, as and for their Verified Complaint against NORTHERN STAR MANAGEMENT LLC (“NSM”) and GOLD EAGLE REAL ESTATE LLC (“GERE” and collectively with NSM, “Defendants”), upon their own knowledge and upon information and belief, allege as follows:

NATURE OF ACTION

1. Plaintiffs are two of the members of Defendant NSM, each holding a membership interest in NSM equal to thirteen and 75/100 (13.75%) percent of the total outstanding ownership interest in NSM. Together, Plaintiffs hold a total of twenty-seven and 50/100 (27.50%) percent of the outstanding membership interests of NSM, cumulatively.

2. Upon information and belief, NSM is a single purpose entity owning and managing a property located in the City of New York, County of Queens, and State of New York.

3. Through certain ultra vires acts perpetrated by Defendants, Defendants are seeking, in bad faith and for ill motives, to force a buy-out of Plaintiffs’ minority membership and

management interests in NSM, in violation of the Operating Agreement of NSM (the “NSM Operating Agreement”), and without due consideration.

4. This is an action for breach of contract, and injunctive and declaratory relief. Plaintiffs seek declaratory relief that certain actions taken by Defendants, including but not limited to: (i) transferring membership interests by certain members of NSM to GERE without the consent of a majority of the disinterested members of NSM was in violation of Section 9.3 of the NSM Operating Agreement; (ii) that absent the consent of the majority of disinterested members of NSM to the transfer of such interests by other members of NSM to GERE, GERE, as transferee, is only entitled to receive the shares of profits, losses and Cash Flow (as defined the NSM Operating Agreement) or other compensation by way of income and the return of contributions to which the transferors otherwise would be entitled, or to contribute amounts to which the transferors otherwise would be obligated, but that GERE has no right to participate in the management of the business and affairs of NSM; (iii) that the issuance of a certain Notice of Action in Lieu of Meeting, Notice of Merger and Notice of Dissenters’ Rights, dated April 15, 2016 (collectively, the “NSM Notices of Merger”), was without proper authority, and that therefore NSM Notices of Merger are void and unenforceable; (iv) that the issuance of the NSM Notices of Merger by NSM were in violation of the Operating Agreement and applicable law; (v) that the alleged merger of NSM and GERE is a breach of the NSM Operating Agreement; (vi) that the alleged merger of NSM and GERE is void; that (vii) the NSM Notices of Merger issued by NSM to Plaintiffs were ultra vires and of no legal force or effect; (viii) that Plaintiffs are not required by the NSM Notices of Merger issued by NSM or otherwise under the New York State Limited Liability Company Law (“LLCL”) to accept a cash payment, without interest, in an amount equal to \$88,757.58 for each one (1%) percent of NSM’s membership interest held by

them, or to dissent to the aforesaid merger pursuant to LLCL Section 1002(e); and that (ix) GERE has no voting rights as a member or manager of NSM.

5. Plaintiffs also seek injunctive relief against the Defendants, including but not limited to, (i) prohibiting Defendants from proceeding with the alleged merger of NSM and GERE; (ii) prohibiting Defendants from enforcing the actions described in the alleged NSM Notices of Merger; (iii) compelling Defendants to take such further action and to file such documents with the New York State Secretary of State, Division of Corporations, as may be required in order to rescind and/or otherwise undo the alleged merger of NSM and GERE, and to return NSM and GERE to their individual capacities as separate and independent limited liability companies, as they existed before the alleged merger; (iv) enjoining NSM from seeking to enforce the alleged NSM Notices of Merger.

6. Plaintiffs are also seeking damages against Defendants for breach of the NSM Operating Agreement and the covenants of good faith and fair dealing appurtenant thereto.

PARTIES, JURISDICTION AND VENUE

7. Plaintiff, TAI LI HUANG, is an individual residing in the City of New York, County of Queens, and State of New York.

8. Plaintiff LING LIAN HUANG, is an individual residing in the Village of Lattintown, Town of Oyster Bay, County of Nassau, and State of New York.

9. Upon information and belief, Defendant NORTHERN STAR MANAGEMENT LLC is a Limited Liability Company formed in the State of New York, maintaining its principal place of business at 120 Walker Street, 2nd Floor, New York, New York 10013.

10. Upon information and belief, Defendant GOLD EAGLE REAL ESTATE LLC is a Limited Liability Company formed in the State of New York, maintaining its principal place of business at 120 Walker Street, 2nd Floor, New York, New York 10013.

11. Venue is proper pursuant to CPLR Section 503(c).

12. The Court has jurisdiction over the Defendants pursuant to CPLR Section 301, and because Defendants are Limited Liability Companies formed under the laws of the State of New York, and which have and do transact business in the State of New York.

BACKGROUND

13. NSM was formed in or about January 2007, for the purposes, *inter alia*, of investing in real property for profit.

14. Upon information and belief, NSM is the owner in fee of the real property and improvements located at 36-53, 36-55, 35-57, 36-59, 36-61 and 36-63 Main Street, Flushing, New York (the “NSM Property”).

15. Upon information and belief, NSM is a single purpose entity in regard to the ownership and management of the NSM Property.

16. Plaintiffs are each original members of NSM, and each have maintained an ownership interest in NSM in the sum of 13.75% of the total membership ownership of NSM from the inception of NSM to the present date and throughout all times relevant to this action.

17. Plaintiffs, individually and cumulatively, are minority owners of NSM.

18. The rights and obligations of the members and managers of NSM are controlled by the NSM Operating Agreement and by applicable law, including the LLCL.

19. Pursuant to the NSM Operating Agreement, each of the members of NSM is also an operating manager of NSM, subject to election by the other members of NSM.

20. In the original NSM Operating Agreement, Plaintiff Tai Li Huang was appointed as one of three Operating Managers of NSM.

21. Plaintiff Tai Li Huang has not received notice that she is no longer an Operating Manager of NSM.

22. Plaintiffs have made repeated demands for documents and information pertaining to NSM over the past several years; however, all such demands have continuously been ignored.

23. Notwithstanding their rights under the NSM Operating Agreement and the LLCL, Plaintiffs have frozen-out by other members of NSM, such that Plaintiffs have received no financial statements, financial documents, transfer notices or any other documents or information pertaining to the management and operations of NSM, other than annual K-1 tax reporting documents.

24. Upon information and belief, certain members of NSM have conspired against Plaintiffs to unlawfully deprive Plaintiffs of their rights and entitlements under the NSM Operating Agreement and the LLCL, and have acted in bad faith and without authority in an attempt to force an unwanted buy-out of Plaintiffs' membership interests in NSM.

25. Upon information and belief, certain members of NSM have transferred their membership interests in NSM to Defendant GERE in violation of the NSM Operating Agreement.

26. Pursuant to Section 9.3 of the NSM Operating Agreement, members of NSM may not transfer their membership interests of NSM to an entity, such as GERE, without the consent

of a majority of the disinterested members of NSM in writing or at a meeting called for such purpose.

27. Pursuant to Section 9.3 of the NSM Operating Agreement, absent the duly obtained consent of the majority of disinterested members of NSM to the transfer of such membership interests by members of NSM to another entity, such as GERE, such entity, as transferor, is not authorize to participate in the management of the business and affairs of NSM, but that such other entity is only entitled to receive the shares of profits, losses and Cash Flow (as defined the NSM Operating Agreement) or other compensation by way of income and the return of contributions to which the transferors otherwise would be entitled, or to contribute amounts to which the transferors otherwise would be obligated to contribute.

28. Upon information and belief, certain members of NSM conspired to unlawfully transfer their membership interests in NSM to GERE without the prior consent of a majority of the disinterested members of NSM, and therefore, in violation of Section 9.3 of the NSM Operating Agreement.

29. By reason of the foregoing, the purported transfer of certain membership interests by certain members of NSM to GERE did not confer upon GERE the right or authority to participate in the management of the business and affairs of NSM.

30. Upon information and belief, certain members of NSM and GERE conspired to unlawfully cause a merger of NSM and GERE, such that NSM is the surviving entity with the purported authority to force the buy-out of Plaintiffs' ownership interests in NSM.

31. On or about April 19, 2016, Plaintiffs received in the mail the NSM Notices of Merger, which provide, in part, that Plaintiffs are required to surrender their membership interests in NSM in return for a cash payment of \$1,292,000.14, based upon a per percentage

point cash buy-out rate of \$88,757.58 per one (1%) percent. The NSM Notices of Merger further provide that if Plaintiffs object to the merger and forced buy-out, we would be required to file a Notice of Dissent, and then accept the same buy-out consideration as the fair market value of our membership interests, or challenge the fair market buy-out rate in an appraisal proceeding pursuant to Section 1005(b) of the LLCL.

32. The NSM Notices of Merger further provide that Plaintiffs have just twenty (20) days to file the Notice of Dissent; otherwise, Plaintiffs would be compelled to accept the buy-out at the arbitrary rate suggested by Defendants in the NSM Notices of Merger.

33. Upon information and belief, by and through the NSM Notices of Merger, NSM unlawfully attempted to cause the merger of NSM and GERE, with NSM the surviving entity, in violation of the NSM Operating Agreement and the applicable provisions of the LLCL.

34. By reason of the foregoing, the NSM Notices of Merger were and are ultra vires, null and void, and of no force or effect.

35. Upon information and belief, NSM and GERE have jointly and/or separately caused certain documents, including but not limited to a Certificate of Merger of NSM and GERE (collectively, the "Certificate of Merger") to be filed with the New York State Secretary of State, Division of Corporations, purporting to cause the merger of NSM and GERE, such that NSM is the surviving entity, in violation of the NSM Operating Agreement and the provisions of the LLCL.

36. Upon information and belief, the acts of NSM and GERE in causing the Certificate of Merger to be filed with the New York State Secretary of State, Division of Corporations, purporting to cause the merger of NSM and GERE, such that NSM is the surviving

entity, were ultra vires, unauthorized and unlawful acts perpetrated by Defendants to the detriment of the Plaintiffs.

FIRST CAUSE OF ACTION

(Declarative Judgment)

37. Plaintiffs repeat, reallege and incorporate by reference the allegations set forth at length in paragraphs 1 through 36 hereof as though fully set forth herein.

38. By reason of the foregoing, Plaintiffs are entitled to a declaratory judgment as each of the following statements:

- a. The transfer of membership interests by certain members of NSM to GERE without the prior consent of a majority of the disinterested members of NSM was in violation of Section 9.3 of the NSM Operating Agreement;
- b. That absent the prior consent of the majority of disinterested members of NSM to the transfer of such membership interests by other members of NSM to GERE, GERE, as transferee, did not acquire by transfer, assignment or otherwise, any right to participate in the management of the business and affairs of NSM;
- c. That absent the prior consent of the majority of disinterested members of NSM to the transfer of such membership interests by other members of NSM to GERE, GERE, as transferee, is only entitled to receive the shares of profits, losses and Cash Flow (as defined the NSM Operating Agreement) or other compensation by way of income and the return of contributions to which the transferors otherwise

would be entitled, or to contribute amounts to which the transferors otherwise would be obligated to contribute, to NSM;

- d. That GERE has no voting rights as a member or manager of NSM;
- e. That the issuance of NSM Notices of Merger to Plaintiffs was without proper authority under the NSM Operating Agreement and the LLC;
- f. That the issuance of the NSM Notices of Merger by NSM were in violation of the NSM Operating Agreement and applicable law;
- g. That the NSM Notices of Merger issued by NSM to Plaintiffs were ultra vires and of no legal force or effect;
- h. That the NSM Notices of Merger issued to Plaintiffs are void and unenforceable;
- i. That the alleged merger of NSM and GERE is a breach of the NSM Operating Agreement;
- j. That the alleged merger of NSM and GERE was an ultra vires act of NSM and is therefore void and unenforceable;
- k. That Plaintiffs are not required by the NSM Notices of Merger issued by NSM or otherwise under the LLCL to accept a cash payment, without interest, in an amount equal to \$88,757.58 for each one (1%) percent of NSM's membership interest held by them, or to dissent to the aforesaid merger pursuant to LLCL Section 1002(e);

- l. That the aforesaid acts of GERE in voting for the purported merger of NSM and GERE, and in causing the NSM Notices of Merger to be issued to Plaintiffs was a breach of the NSM Operating Agreement;
- m. That the aforesaid acts of GERE in voting for the purported merger of NSM and GERE, and in causing the NSM Notices of Merger to be issued to Plaintiffs was a breach of GERE's fiduciary duties to Plaintiffs;
- n. That the aforesaid acts of GERE in voting for the purported merger of NSM and GERE, and in causing the NSM Notices of Merger to be issued to Plaintiffs was a breach by GERE of the covenant of good faith and fair dealing in the NSM Operating Agreement owed to Plaintiffs;
- o. That the aforesaid acts of NSM in voting for the purported merger of NSM and GERE, and in causing the NSM Notices of Merger to be issued to Plaintiffs was a breach of the NSM Operating Agreement;
- p. That the aforesaid acts of NSM in causing the NSM Notices of Merger to be issued to Plaintiffs was a breach of NSM's fiduciary duties to Plaintiffs;
- q. That the aforesaid acts of interested members of NSM in voting for the purported merger of NSM and GERE, and in causing the NSM Notices of Merger to be issued to Plaintiffs was a breach by NSM and the operating managers of NSM of the covenant of good faith and fair dealing in the NSM Operating Agreement owed to Plaintiffs;

39. By reason of the foregoing, there now exists a justiciable controversy ripe for determination, for which Plaintiffs have no adequate remedy at law, as to the statements listed above as they pertain to the NSM Operating Agreement, the purported NSM Notices of Merger, the purported merger of NSM and GERE, and of Plaintiffs' rights and entitlements as minority members of NSM.

40. Therefore, Plaintiffs are entitled to a judgment declaring their rights and entitlements with regard to the statements set forth in paragraph 36 hereof.

SECOND CAUSE OF ACTION

(For Injunctive Relief)

41. Plaintiffs repeat, reallege and incorporate by reference the allegations set forth at length in paragraphs 1 through 41 hereof as though fully set forth herein.

42. Defendants have undertaken the aforesaid acts in violation of the rights and entitlements of Plaintiffs under the NSM Operating Agreement and the LLCL.

43. Defendants have undertaken the aforesaid acts in an effort to unlawfully deprive Plaintiffs of their rights and entitlements as members of NSM.

44. Defendants have undertaken the aforesaid acts in bad faith and solely for purposes of self-dealing.

45. Defendants have undertaken the aforesaid acts in breach of their fiduciary duties owed to Plaintiffs.

46. Defendants, however, did not have the right or authority to issue the NSM Notices of Merger.

47. Defendants did not have the right or authority to cause the merger of NSM and GERE.

48. Defendants do not have the right or authority to seek the termination of Plaintiffs rights as members of NSM.

49. Defendants do not have the right to force the buy-out of Plaintiffs' membership interests in NSM.

50. Plaintiffs do not have an adequate remedy at law if their membership interests of NSM are terminated.

51. Plaintiffs do not have an adequate remedy at law if they are forced to accept a cash buy-out of their membership interests of NSM.

52. Defendants have unclean hands and have engaged in bad faith conduct in seeking to interfere with Plaintiffs' membership interests in NSM.

53. The granting of the requested injunctive relief will not pose an undue burden on Defendants.

54. As a result, the balance of the equities weighs in favor of granting Plaintiffs' request for injunctive relief.

55. Plaintiffs will be irreparably harmed if they are forced to surrender their membership interests in NSM for a cash payment.

56. As indicated herein and in Plaintiffs' Order to Show Cause and accompanying documents, Plaintiffs have a likelihood of success on the merits for their claims against Defendants for declaratory and injunctive relief, and for breach of the NSM Operating Agreement.

57. As a consequence, Plaintiffs are entitled to a preliminary and permanent injunction and temporary restraining order enjoining (and/or compelling) Defendants from doing, or requiring Defendants to do, the following:

- a. Enjoining and prohibiting Defendants from proceeding with the alleged merger of NSM and GERE;
- b. Enjoining and prohibiting Defendants from enforcing the actions described in the alleged NSM Notices of Merger;
- c. Enjoining and tolling the time period set forth in the NSM Notices of Merger for Plaintiffs to accept the “Merger Consideration” as that term is defined in the NSM Notices of Merger or to dissent to such merger, pending the determination of the causes of action set forth herein;
- d. Enjoining and tolling the time period set forth in the NSM Notices of Merger for Plaintiffs to file with NSM a written notice of dissent from the merger, as those term are defined in the NSM Notices of Merger;
- e. Enjoining and compelling Defendants to take such further action and to file such documents with the New York State Secretary of State, Division of Corporations, as may be required in order to rescind and/or otherwise undue the alleged merger of NSM and GERE, and to return NSM and GERE to their individual capacities as separate and independent limited liability companies, as they existed before the alleged merger;

- f. Enjoining and prohibiting NSM from seeking to enforce the alleged NSM Notices of Merger;
- g. Enjoining and prohibiting GERE from undertaking to, engaging in, or otherwise participating in the management of the business and affairs of NSM.

58. By reason of the foregoing, Plaintiffs ask the Court to temporarily, preliminarily, and permanently enjoin, restrain and/or compel Defendants and all persons known and unknown acting on their behalf or in concert with it, in any manner or by any means, from doing, or, as indicated above, compelling them to do, the acts as more fully described in paragraph 55 hereof, or to otherwise prohibit Defendants from interfering with Plaintiffs' rights and entitlements as members of NSM, and for such other and further relief as to the Court seems just, equitable and proper.

THIRD CAUSE OF ACTION

(Breach of Contract)

59. Plaintiffs repeat, reallege and incorporate by reference the allegations set forth at length in paragraphs 1 through 59 hereof as though fully set forth herein.

60. Defendants breached the operating agreement.

61. As a result of Defendants' breach of the operating agreement, Plaintiffs' have suffered damages, and continue to suffer damages.

62. Defendants have conspired, in bad-faith and without a legitimate business reason, to deprive Plaintiffs of their valuable investment in NSM.

63. By reason of the foregoing, Plaintiffs have been damaged in the sum of at least \$500,000.00.

WHEREFORE, Plaintiffs respectfully demand judgment in their favor as follows:

- a. On the First Cause of Action, for a declarative judgment pertaining to each of the statements set forth in paragraph 38 hereof, which paragraph is incorporated herein by this reference and made a part hereof;
- b. On the Second Cause of Action, for a temporary restraining order, preliminary injunction and permanent injunction as to each of the matters set forth in paragraph 57 hereof, which paragraph is incorporated herein by this reference and made a part hereof, and for an order tolling the time period set forth in the NSM Notices of Merger for Plaintiffs to file with NSM a written notice of dissent from the merger, as those term are defined in the NSM Notices of Merger.
- c. On the Third Cause of Action, for damages in the sum of at least \$500,000.00.
- d. Awarding Plaintiffs such other and further relief as this Court deems just, equitable and proper.

Dated: New York, New York
May 3, 2016

KLEIN & SOLOMON, LLP

By: 

Jay B. Solomon, Esq.
Attorneys for Plaintiffs
275 Madison Avenue
11th Floor
New York, New York 10016
(212) 661-9400

VERIFICATION

JAY B. SOLOMON, an attorney duly admitted to practice law in the State of New York, affirms the following to be true pursuant to CPLR 2106 and under penalties of perjury:

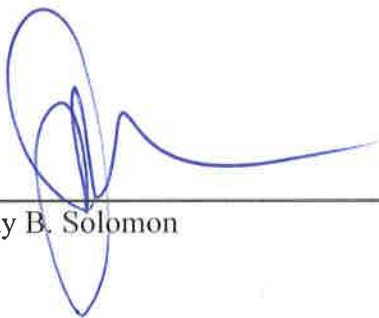
I am an attorney at law, and am a member of Klein & Solomon, LLP, the attorneys of record for the Plaintiffs herein.

I have read the annexed Complaint, and know that all of the material allegations set forth therein are true and are within my personal knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

The basis for my knowledge of the facts alleged in the Complaint are conversations with the Plaintiffs and/or their agents, and my review of Plaintiffs' files and relevant documents.

I make this verification pursuant to CPLR 3020(d)(3), because the Plaintiffs do not reside in the county where Klein & Solomon, LLP, maintains its offices.

Dated: New York, New York
May 3, 2016



Jay B. Solomon