

SUPREME COURT OF THE STATE OF NEW YORK — New York COUNTY
PRESENT: O. PETER SHERWOOD Justice PART 49

In the matter of the application of PRASHANT GOYAL,

Petitioner,

-against-

For the judicial of VINTAGE INDIA BYC, LLC Pursuant to Section 702 of the New York Limited Liability Act,

Respondent.

INDEX NO. 657004/2017
MOTION DATE Jan. 24, 2018
MOTION SEQ. NO. 001
MOTION CAL. NO.

The following papers, numbered 1 to were read on this motion for preliminary injunction/ TRO.

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits

Replying Affidavits

PAPERS NUMBERED

Cross-Motion: Yes No

The unverified petition alleges that petitioner is a 50% owner member of respondent. Neither the petition nor the motion is supported by admissible proof of any kind. Lynn Keller, undisputedly the holder of at least 50% of the company, asserts in a sworn affidavit that although petitioner was a 50% owner, he has no current vested interest in respondent as he failed to make the required contribution. She also alleges, inter alia, that petitioner engaged in a pattern of misappropriation of company funds and offers proof thereof. At oral argument petitioner's counsel conceded that petitioned did not make a capital contribution but contends he contributed in another (unspecified) manner to be revealed during discovery. As to the alleged misappropriation, counsel explained that although company checks made out to a vendor were deposited in the personal account of petitioner's wife, there was no theft, just sloppiness.

Because petitioner has failed to carry her burden of showing a likelihood of success on the merits, the motion is DENIED.

Dated: January 25, 2018

O.P. Sherwood
O. PETER SHERWOOD, J.S.C.

Check one: FINAL DISPOSITION
Check if appropriate: DO NOT POST
SUBMIT ORDER/ JUDG.

NON-FINAL DISPOSITION
REFERENCE
SETTLE ORDER/ JUDG.

MOTION/CASE IS RESPECTFULLY RECOMMENDED FOR THE FOLLOWING REASON(S):