

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
JULIUS BEHREND,

Plaintiff,

-against-

THE NEW WINDSOR GROUP, LLC;
ANDREW PERKAL; JOSEPH KLEIN,

Defendants.
-----X

SUMMONS

Index No. 2012 003389
Date Purchased:

The Plaintiff designates
Orange County as the place of trial.
The basis of venue as same is
the Defendants' principal office
and the Situs of the Real Property.

FILED
ORANGE COUNTY CLERK
APR 24 P 1:17

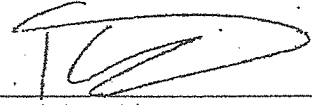
ORIGINAL FILED

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Goshen, New York
April 24, 2012

COHEN, LABARBERA & LANDRIGAN, LLP

By 

Thomas C. Landrigan
Attorneys for Plaintiff
40 Matthews Street, Suite 203
Goshen, New York 10924
(845) 291-1900

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2012 003389

Index No.:

COMPLAINT

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ORANGE COUNTY CLERK
2012 APR 24 P. 1:57

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Plaintiff, Julius Behrend, by and through their undersigned counsel, as and for his Complaint herein, allege as follows:

THE PARTIES

1. The Plaintiff, Julius Behrend, is, and at all relevant times referred to herein was, a an individual residing at 695 Union Road, Spring Valley, New York.
2. Upon information and belief, the Defendant, the New Windsor Group, LLC is, and at all relevant times referred to herein was, a limited liability company organized under the laws of the State of New York with its present principal place of business for the conduct of its affairs in Orange County, New York.
3. Upon information and belief the Defendant, the New Windsor Group, LLC is the record owner of real property located at 436 Blooming Grove Turnpike, New Windsor, New York, a shopping center (the "New Windsor Property") and regularly conducts business at this location.
4. Upon information and belief, the Defendant, Andrew Perkal ("Perkal") is at all

relevant times referred to herein was, a an individual residing in Kings County, New York and a managing member of The New Windsor Group, LLC.

5. Upon information and belief, the Defendant, Joseph Klein ("Klein") is at all relevant times referred to herein was, a an individual residing in Rockland County, New York.

FACTUAL BACKGROUND

6. Over the past ten years, the Plaintiff has loaned monies to Joseph Klein, or companies he has an ownership interests, of over Two Million Five Hundred Thousand (\$2,500,000.00), concerning various real estate and other transactions.

7. On or about the end of 2007, Plaintiff advised Klein that he was in considerable default of his financial obligation to the Plaintiff.

8. On or about December 31, 2007, Joseph Klein executed an agreement a copy of which is attached at Exhibit A ("Assignment") assigning his interest in the New Windsor Group, LLC and the New Windsor Property.

9. The Assignment provides in pertinent part as follows: "FIFTH Joseph Klein hereby transfers and conveys until Gmach Beth Joel - Julius Behrend, all of his interest in The New Windsor Group, LLC, where he owns 50% . . .".

10. The Assignment further provides: SIXTH: OPTION TO REDEEM: for a period of twenty four months from the date of this agreement, Gmach Beth Joel - Julius Behrend agreed that Joseph Klein will have an option to redeem and buy back all his interest in the aforementioned Real Estate entities that were transferred to Gmach Beth Joel - Julius Behrend - upon payment of \$2,290,000 plus interest. . .".

11. Joseph Klein has never redeemed his interest in any of the entities provided for under paragraph Sixth of the Assignment.
12. Upon information and belief, The New Windsor Group, LLC has filed tax returns stating that the Defendant is an owner of The New Windsor Group, LLC.
13. Upon information and belief, the Defendants have indicated in writing that Joel Klein is an owner of the New Windsor Property individually and/or a partner in the New Windsor Property.
14. Upon information and belief, The New Windsor Group, LLC has operated the New Windsor Property for several years and has failed to remit proceeds to either Joel Klein or the Plaintiff, or provide an accounting the operations of same.
15. The Defendants have refused to honor the ownership interests of the Plaintiff in The New Windsor Group, LLC, nor the Plaintiffs interests in the New Windsor Property.

AS AND FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

16. Plaintiff repeats and realleges each and every allegation contained in above paragraphs as if fully set forth herein.
17. The Plaintiff has all rights title and interest in and to fifty percent of the membership interests in The New Windsor Group LLC as of December 31, 2007.
18. The Plaintiff has fifty percent of all right title and interest of Joel Klein in The New Windsor Group Property as of December 31, 2007 or interests concerning same.
19. The Defendants have refused to honor the rights of the Plaintiff in The New Windsor Group, LLC and the New Windsor Property.

20. There is a dispute and controversy between the parties.
21. Money damages are inadequate and there is no adequate remedy at law.
22. The Plaintiff is entitled to a declaratory judgment that Plaintiff is entitled to a to fifty percent of membership interests in The New Windsor Group LLC and a fifty percent interest in the New Windsor Group Property as of December 31, 2007 and a judgment rescinding and setting aside all transfers, or encumbrances to the contrary.

AS AND FOR A SECOND CAUSE OF ACTION
(Specific Performance)

23. Plaintiff repeats and realleges each and every allegation contained in above paragraphs as if fully set forth herein.

24. Joel Klein and the Plaintiff are parties to the Assignment conveying all rights of Joel Klein in The New Windsor Group, LLC and all of his interests in the New Windsor Property as of December 31, 2007.

25. Upon information and belief, the Defendants Perkal and/or the New Windsor Group, LLC were aware that Joel Klein had previously transferred or assigned his interest as aforesaid, but have refused to honor same.

26. Plaintiff has fully performed all of its obligations under the Assignment.

27. Plaintiff is entitled to conveyance of all of Joel Klein's right, title and interest in and to The New Windsor Group, LLC and the New Windsor Group Property.

28. The Defendants have refused to convey the foregoing despite due demand therefore.

29. The property is unique and monetary damages are inadequate.

30. The plaintiff is entitled to specific performance transferring fifty percent of the interests in The New Windsor Group, LLC and the New Windsor Group Property as of December 31, 2007.

AS AND FOR A THIRD CAUSE OF ACTION
(Accounting)

31. Plaintiff repeats and realleges each and every allegation contained in above paragraphs as if fully set forth herein.

32. The Defendants have wrongfully denied the Plaintiff of access to the books and records of The New Windsor Group, LLC concerning the New Windsor Property.

33. These books and records are required for, among other reasons, the management of the Plaintiff's personal financial affairs and the property role of the business.

34. As a result of this failure the Plaintiff will be harmed if these books and records are not provided.

35. Plaintiff has no adequate remedy at law.

36. Plaintiff is entitled a judgment order an accounting of all the books and records, receipts, tax returns, invoices, bills, banking records, ledgers journal and other records of The New Windsor Group, LLC and the New Windsor Property and to a turnover of fifty percent (50%) of all proceeds arising from same from December 31, 2007.

AS AND FOR A FOURTH CAUSE OF ACTION
(Unjust Enrichment)

37. Plaintiff repeats and realleges each and every allegation contained in above paragraphs as if fully set forth herein.

38. The Defendants have received the full benefit of the rights to The New Windsor Group, LLC.

39. The Defendants have failed to convey either the ownership interest and/or proceeds from the New Windsor Group, LLC or the property.

40. The Defendants have therefore been unjustly enriched in an amount to be determined at trial but in no event less than Three Million Dollars (\$3,000,000.00) Dollars which sum lawfully belongs to Plaintiff, together with interests, disbursements and costs of suit.

AS AND FOR A FIFTH CAUSE OF ACTION
(Breach of Fiduciary Duty)

41. Plaintiff repeats and realleges each and every allegation contained in above paragraphs as if fully set forth herein.

42. The Defendant Perkal is in a place of special trust and confidence by reason of his role as the managing member of The New Windsor Group, LLC and the New Windsor Group Property and owes a fiduciary obligation to the owners of same.

43. Upon information and belief, the Defendant has mismanaged the company and property, caused mass vacancies and damage to the property and converted proceeds of the property and engaged in self dealing by converting proceeds from the property for his own personal gain contrary to the interest of maintaining the company and property and contrary to protecting the interests of its owners.

44. The Plaintiff is entitled to damages as a direct result of the breach of the Defendant Perkal of his fiduciary duties in an amount to be determined at trial, but in no event less than Three Million Dollars (\$3,000,000).

45. That said conduct was intentional, willful, wrongful and malicious and as such the Plaintiff is entitled to punitive damages in an amount to be determined at trial, but in no event less than Three Million Dollars (\$3,000,000).

AS AND FOR A SIXTH CAUSE OF ACTION
(Conversion)

46. Plaintiff repeats and realleges each and every allegation contained in above paragraphs as if fully set forth herein.

47. Upon information and belief, the Defendant has mismanaged the company and property, caused mass vacancies and damage to the property and converted proceeds of the property and engaged in self dealing by converting proceeds from the property for his own personal gain contrary to the interest of maintaining the company and property and contrary to protecting the interests of its owners.

48. The Plaintiff is entitled to damages as a direct result of the conversion by the Defendant Perkal in an amount to be determined at trial, but in no event less than Three Million Dollars (\$3,000,000).

49. That said conduct was intentional, willful, wrongful and malicious and as such the Plaintiff is entitled to punitive damages in an amount to be determined at trial, but in no event less than Three Million Dollars (\$3,000,000).

AS AND FOR AN SEVENTH CAUSE OF ACTION
(Injunctive Relief)

50. Plaintiff repeats and realleges each and every allegation contained in above paragraphs as if fully set forth herein.

51. Defendants have failed to convey any interest of the New Windsor Group, LLC or the New Windsor Group property and upon information and belief, have and continue to encumber the Property and has threatened to transfer same undermining the Plaintiff's right title and interests.

52. Plaintiff will be immediately and irreparably harmed if the Defendants herein are permitted to continue the aforesaid conduct.

53. There is a strong likelihood that Plaintiff will succeed on the merits and the balance of equities favor Plaintiff.

54. Plaintiff is entitled to a judgment directing that all persons acting under their direction or control be, and they thereby are, enjoined and restrained from taking any steps to assign, sell, alienate, dispose, encumber, alter or in any way take any other action affecting any interest in The New Windsor Group, LLC or the New Windsor Property or any part thereof.

55. Money damages are not adequate to provide an appropriate remedy to the Plaintiff.

WHEREFORE, Julius Behrend respectfully requests that judgment be entered as follows:

1. On the First Cause of Action, a declaratory judgment against all Defendants that Plaintiff is entitled to a to fifty percent of membership interests in The New Windsor Group LLC and a fifty percent interest in the New Windsor Group Property as of December 31, 2007 and a judgment rescinding and setting aside all transfers, or encumbrances to the contrary

2. On The Second Cause of Action, a judgment against all Defendants for specific performance of fifty percent of the interest in The New Windsor Group, LLC and the New Windsor Group Property effective as of December 31, 2007.

3. On the Third Cause of Action, a judgment against all Defendants ordering an accounting of all the books and records, receipts, tax returns, invoices, bills, banking records, ledgers journal and other records of The New Windsor Group, LLC and the New Windsor Property and to a turnover of fifty percent (50%) of all proceeds from December 31, 2007.

4. On The Fourth Cause of Action, a judgment against all Defendants in an amount to be determined at trial but in no event less than Three Million Dollars (\$3,000,000.00).

5. On the Fifth Cause of Action, a judgment against Defendant, Andrew Perkal, in an amount to be determined at trial but in no event less than Three Million Dollars (\$3,000,000), together with punitive damages in an amount to be determined at trial but in no event less than Three Million Dollars (\$3,000,000).

6. On the Sixth Cause of Action, a judgment against Defendants Andrew Perkal and The New Windsor Group, LLC in an amount to be determined at trial but in no event less than Three Million Dollars (\$3,000,000), together with punitive damages in an amount to be determined at trial but in no event less than Three Million Dollars (\$3,000,000).

7. On the Seventh Cause of Action, a judgment directing that Defendants and all persons acting under their direction or control be, and they thereby are, enjoined and restrained from taking any steps to assign, sell, alienate, dispose, encumber, alter or in any way take any other action affecting any interest in The New Windsor Group, LLC or the New Windsor Property or any part thereof.

8. Together with attorneys' fees, including interest, disbursement and costs of this action and for any other and further relief as the Court deems just, proper and equitable.

Dated: Goshen, New York
April 24, 2012

COHEN, LABARBERA & LANDRIGAN, LLP .

By 

Thomas C. Landrigan
Attorneys for Plaintiff
40 Matthews Street, Suite 203
Goshen, New York 10924
(845) 291-1900

EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN JOSEPH KLEIN AND GMACH BETH JOEL - JULIUS BEHREND IN RESPECT TO DEBTS JOSEPH KLEIN AND SOME OF HIS ENTITIES OWE TO GMACH BETH JOEL - JULIUS BEHREND AND TRANSFER OF CORPORATE STOCK AND PARTNERSHIP INTERESTS IN REAL ESTATE ENTITIES.

12/31/07.

Whereas Joseph Klein hereby acknowledges that he owes the sum of two million two hundred and ninety thousand dollars (\$2,290,000), plus any interest due and outstanding to Gmach Beth Joel - Julius Behrend; and

Whereas as an additional security to secure the outstanding debt obligation, Joseph Klein wishes to transfer to Gmach Beth Joel - Julius Behrend his ownership interest in certain Real Estate entities as listed below; and

Whereas Gmach Beth Joel - Julius Behrend agrees to accept Joseph Klein's interests in Real Estate entities listed below as an additional security to secure his debt obligation of \$2,290,000 plus any interest due and outstanding.

It is therefore agreed as follows:

FIRST: Joseph Klein hereby transfers and conveys unto Gmach Beth Joel - Julius Behrend, all of his interest in Greenville Realty Associates LP where he owns 49.50%; and

SECOND: Joseph Klein hereby transfers and conveys unto Gmach Beth Joel - Julius Behrend, all of his interest in Quail Ridge Realty Associates LP where he owns 49.50%; and

THIRD: Joseph Klein hereby transfers and conveys unto Gmach Beth Joel - Julius Behrend, 100% of Greenville Realty Inc. corporate stock; and

FOURTH: Joseph Klein hereby transfers and conveys unto Gmach Beth Joel - Julius Behrend, 100% of Quail Ridge Realty Inc. corporate stock; and

FIFTH: Joseph Klein hereby transfers and conveys unto Gmach Beth Joel - Julius Behrend, all his interest in The New Windsor Group, LLC, where he owns 50%; and

SIXTH: OPTION TO REDEEM: For a period of twenty four months from the date of this agreement, Gmach Beth Joel - Julius Behrend agrees that Joseph Klein will have an option to

redeem and buy back all his interests in the aforementioned Real Estate entities that were transferred to Gmach Beth Joel - Julius Behrend upon payment of \$2,290,000 plus interest; and

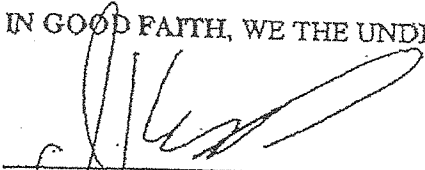
SEVENTH: LIMITATIONS: The parties agree that if within twenty four months Joseph Klein does not exercise his option to redeem and buy back his interest in the aforementioned Real Estate entities as described in "Option to Redeem" above, his interests in the above mentioned entities shall be considered an additional security on the outstanding debt owed to Gmach Beth Joel - Julius Behrend, and his option to redeem and buy back same will be extinguished forever, unless Gmach Beth Joel - Julius Behrend, at it's option, agrees to extend the time.

EIGHTH: MANAGEMENT OF THE PROPERTIES: The parties agree that the management company that presently manages all of the properties under the ownership of Joseph Klein will continue to manage the properties owned by the aforementioned Real Estate entities, until such time that Gmach Beth Joel - Julius Behrend determines otherwise.

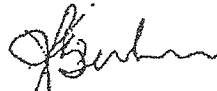
NINTH: It is clearly understood that Gmach Beth Joel - Julius Behrend does not accept the transfer of the interests in the above mentioned Real Estate entities in lieu of the outstanding balance, but is purely accepting them as an additional security on the outstanding debt.

TEN: This agreement is the entire agreement between the parties and it can only be changed in writing upon the mutual consent of all the parties involved.

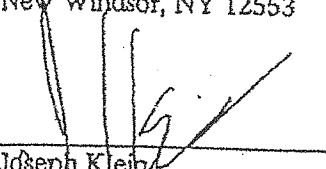
IN GOOD FAITH, WE THE UNDERSIGNED AGREE TO THE ABOVE.



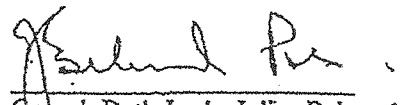
Joseph Klein
The New Windsor Group LLC
For Property Located at:
436 Blooming Grove Turnpike
New Windsor, NY 12553



Julius Behrend



Joseph Klein
For Properties Located in:
Sulphur Spring, Texas
Greenville, Texas



Gmach Beth Joel - Julius Behrend

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Plaintiff,

-against-

Index No.: 2012/003389

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ANDREW PERKAL; JOSEPH KLEIN,

Defendants.
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SUMMONS & COMPLAINT

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