

STATE OF NEW YORK
SUPREME COURT COUNTY OF JEFFERSON

JOHN L. YEHLE
P.O. Box 246
Wellesley Island, New York 13640

Petitioner,

**VERIFIED
PETITION**

v.

Index No.
RJI No.

JON T. RICH, JR.
Peel Dock Road
Wellesley Island, New York 13640

Assigned Justice:

Respondent.

John L. Yehle, for a Verified Petition against Respondent Jon T. Rich, alleges:

1. Petitioner is an individual residing in the County of Jefferson, New York.
2. Respondent is an individual residing in the County of Jefferson, New York.
3. On or about December 17, 2012, Petitioner and Respondent formed a New York

limited liability company known as Wellesley Island Storage, LLC, by filing, or causing to be filed, Articles of Organization of Wellesley Island Storage, LLC with the New York Secretary of State. A copy of the filed Articles of Organization, together with the Department of State's filing receipt, is attached as Exhibit "A."

4. On or about February 7, 2013, Petitioner and Respondent signed the Operating Agreement for Wellesley Island Storage, LLC, identifying themselves at "Exhibit A" of the Operating Agreement, stating that the percentage interest of each member was fifty percent (50%), and reciting a capital contribution of each member of \$35,000.00. A copy of the Operating Agreement is attached as

Exhibit “B.”

5. Although Exhibit “A” to the Operating Agreement stated that the capital contribution of each member was in the amount of \$35,000.00, neither party deposited that amount at the time.

6. The parties filed a Certificate of Publication of the required notice of the Company’s formation with the New York Secretary of State on July 15, 2013. A copy of the Secretary of State’s filing receipt for the Certificate of Publication is attached as Exhibit “C.”

7. The Corporation, by its third party designee, a representative of Legal Zoom.com, filed for, and received, an employer identification number. A copy of the IRS assignment of the EIN is attached as Exhibit “D.”

8. The purpose for the formation of Wellesley Island Storage, LLC was to construct and operate storage units for rental to the general public.

9. Under the terms of the Operating Agreement, the Company was to be managed by the members. No managing member was appointed.

10. According to the Operating Agreement, Respondent Jon T. Rich, Jr. was designated as the “tax matters member of the Company . . . in connection with all examinations of the Company’s affairs by tax authorities and [authorized] to expend Company funds for professional services and costs associated with any such examination.”

11. In performing these duties, however, Respondent:
- a. Failed to remit New York State Sales Tax on the units rented;
 - b. Used the Company checking account personally for the purchase of materials and supplies;

- c. Failed to record cash payments for rentals and failed to deposit those funds in the Company account;
- d. Failed to provide receipts for Company expenses;
- e. Took possession of the title to a Company trailer;
- f. Converted Company property to his own use; and
- g. Upon information and belief, has filed incorrect Company income tax returns.

12. As a result of Respondent's actions, Respondent has made the defined purpose of the entity as becoming impossible to fulfill.

13. As a result of the foregoing, it is not reasonably practicable to carry on the business of the Company in conformity with the Articles of Organization and/or Operating Agreement.

FOR A FIRST CAUSE OF ACTION

14. Commencing in late 2014, Petitioner and Respondent began a series of negotiations to resolve monetary disputes regarding the financial status of the Company and management responsibilities.

15. Despite Petitioner's best efforts, such discussions ultimately failed and, on or about March 2015, it became clear that the Petitioner and Respondent cannot continue business in the Company.

16. Upon information and belief, dissolution of the Company pursuant to Section 702 of the New York Limited Liability Company Law is appropriate.

17. The Operating Agreement provides that only the unanimous consent of both members can voluntarily terminate the Operating Agreement.

18. Accordingly, Petitioner has no remedy at law, and is compelled to seek the equitable remedy of judicial dissolution of Wellesley Island Storage, LLC.

19. For the foregoing reasons, Petitioner respectfully requests a decree dissolving Wellesley Island Storage, LLC in accordance with Section 702 of New York's Limited Liability Company Law.

FOR A SECOND CAUSE OF ACTION

20. Petitioner's repeats and realleges paragraphs 1 through 19 of this Petition.

21. Upon information and belief, Respondent has not rendered to Petitioner an accounting of the contributions that Respondent has allegedly made to or on behalf of the Company, or of monies paid to or received on behalf of the Company.

22. Moreover, Respondent has not rendered to Petitioner an accounting of the expenses of the Company, including receipts for items allegedly spent with Company funds for Company purposes.

23. Accordingly, Petitioner seeks an accounting of all goods and services of value which Respondent claims he has contributed to or on behalf of the Company and, further, an accounting of all materials, goods, or services of value which Respondent claims were appropriately paid with Company funds by him while in charge of the Company's checkbook.

24. Respondent currently possesses and controls the books, assets, accounts, tax records and all other records of the Company. Possession and control of the books, assets, accounts and records of the Company are necessary for the winding-up of the Company's affairs and distribution of assets.

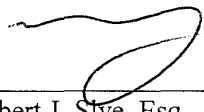
25. To further the request for an accounting, Petitioner requests that Respondent be

Ordered to turn over the books, assets, accounts and records of the Company to Petitioner so that the affairs of the Company may be wound up and the assets of the Company distributed in accordance with Court Order.

WHEREFORE, Petitioner respectfully requests an Order of this Court:

- a. Decreeing that Wellesley Island Storage, LLC be dissolved;
- b. Directing that all property of Wellesley Island Storage, LLC be sold in an expeditious but commercially reasonable manner;
- c. Directing that an accounting be had of contributions made by each of its members from the date of the formation of the Company to date, and that an accounting be made by each of its members in connection with monies spent on behalf of the Company with Company funds;
- d. Directing that the assets of Wellesley Island Storage, LLC be distributed to its members after payment of all its debts, in accordance with this Order and the New York Limited Liability Company Law; and
- e. Granting such other and further relief as the Court deems just and proper.

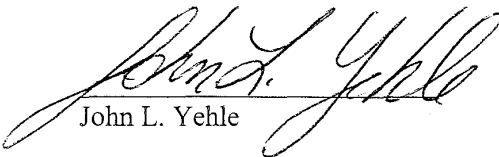
Dated: June 11, 2015



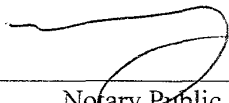
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STATE OF NEW YORK)
) ss.:
COUNTY OF JEFFERSON)

John L. Yehle, being duly sworn, deposes and says that he has read the foregoing Verified Petition that the same is true to his own knowledge, except as to those matters stated upon information and belief, and as to those matters he believes it to be true.


John L. Yehle

Sworn to before me this
11th day of Junc, 2015.



Notary Public
ROBERT J. SLYE
Notary Public, State of New York
Qualified in Jefferson County
Commission No. 4829641
Commission Expires Sept. 30, 20 17