

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

In the Matter of the Application of

RENA PACHTER, in her representative capacity as  
Administrator of the ESTATE OF JUDITH  
LINDENBERG, deceased, individually and derivatively  
on behalf of 3046 WEST 22 ST. PROPERTIES LLC, D-  
WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE  
LLC, and PARK 50 WEST PROPERTIES LLC,

Plaintiff,

For the Dissolution of 3046 WEST 22 ST. PROPERTIES  
LLC, D-WIN PROPERTIES LLC, HOMES R  
BEAUTIFUL RE LLC, and PARK 50 WEST  
PROPERTIES LLC, and other relief,

- against -

DAVID WINIARSKI, ESTHER WINIARSKI, MYRON  
WINIARSKY, ROBERT LUBIN, ARYEH WEBER, and  
THE LAW OFFICE OF ARYEH WEBER, ESQ.,

Defendants,

- and -

3046 WEST 22 ST. PROPERTIES LLC, D-WIN  
PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC,  
and PARK 50 WEST PROPERTIES LLC,

Nominal Defendants.

Index No.: 502779/2020

---

**VERIFIED AMENDED, CONSOLIDATED, AND CONVERTED COMPLAINT**

---

GOLDBERG WEPRIN  
FINKEL GOLDSTEIN LLP  
Zachary D. Kuperman, Esq.  
*Attorneys for Plaintiff Rena Pachter, in her  
representative capacity as Administrator of  
the Estate of Judith Lindenberg*  
1501 Broadway, 22<sup>nd</sup> Floor  
New York, NY 10036  
(212) 221-5700  
zkuperman@gwfglaw.com

Plaintiff, RENA PACHTER (“Plaintiff”), in her representative capacity as Administrator of the ESTATE OF JUDITH LINDENBERG (“Estate”), deceased, individually and derivatively on behalf of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC (each a “Company” and collectively, the “Companies”), by and through her attorneys, Goldberg Weprin Finkel Goldstein LLP, as and for her Verified Amended, Consolidated, and Converted Complaint, being an amendment to and superseding the Verified Petition (Dkt. No. 1, with exhibits), and reflecting the consolidation of this instant action with the action captioned *Rena Pachter, in her capacity as Administrator of the Estate of Judith Lindenberg v. 3046 West 22 St Properties LLC, D-Win Properties LLC, Homes R Beautiful Re LLC, and Park 50 West Properties LLC*, Index No. 511622/2019 (Kings County Supreme Court) pursuant to this Court’s Decision and Order dated October 13, 2020 (Dkt. No. 105 under Index No. 511622/2019), and effectuating the converting of this action from a hybrid special proceeding and action to a civil action, respectfully alleges as follows:

### **INTRODUCTORY STATEMENT**

1. This is an action for judicial dissolution of four limited liability companies holding title to seven real properties in Brooklyn, New York. Dissolution is predicated on the embezzlement, self-dealing, forgery, perjury, fraud, and spoliation of records by Defendants, DAVID WINIARSKI, ESTHER WINIARSKI, and MYRON WINIARSKY (collectively, “Respondents”).<sup>1</sup>

2. Following the death of Judith Lindenberg (“Ms. Lindenberg”)—who was, at her death, a 50% member of each of the Companies—Respondents usurped control over the

---

<sup>1</sup> The term “Respondents” is used herein for clarity and convenience, and should not be construed to indicate the capacity of these parties or the nature of this action.

Companies. Respondents excluded her Estate from participating in the Companies' affairs, denied the Estate the benefits of its membership, forged Ms. Lindenberg's signature, lied about the Estate's interests, and refused to furnish information regarding the Companies' finances. When the Estate pressed for documents, Respondents provided false and falsified information. When ordered by the Surrogate's Court to produce rent records, Respondents intentionally spoliated the Companies' ledgers.

3. In desperate efforts to avoid disclosure of the Companies' financial records and keep the Companies for themselves, Respondents have even engaged in harassing conduct towards the Estate's representatives

4. The motivation for this egregious conduct is now clear. Respondents misappropriated over \$6 million of the Companies' assets.

### **PARTIES AND JURISDICTION**

5. Judith Lindenberg, also known as Judy Lindenberg, also known as Judy Berg, ("Ms. Lindenberg"), was, at the time of her death, an individual and resident of the State of New York, County of Queens. She died on May 8, 2018.

6. The ESTATE OF JUDITH LINDENBERG ("Estate") is the estate of Ms. Lindenberg pursuant to the New York Estates, Powers, and Trusts Law.

7. RENA PACHTER ("Plaintiff"), is, and at all relevant times has been, an individual and a citizen of the State of New York.

8. Plaintiff is the administrator of the Estate of Ms. Lindenberg pursuant to Letters of Administration dated December 9, 2019 issued by the Surrogate's Court of the State of New York, County of Queens, to the Plaintiff appointing the Plaintiff as administrator in and for the Estate. Plaintiff duly qualified and has ever since acted and is now acting as administrator under

said Letters of Administration.

9. Plaintiff has the capacity to bring and maintain this action including pursuant to the New York Estates, Powers, and Trusts Law as well as New York Limited Liability Company Law § 608.

10. Plaintiff brings and maintains this proceeding solely in her representative capacity as administrator of the Estate and not in her personal capacity.

11. Plaintiff brings and maintains this proceeding as administrator of the Estate on behalf of the Estate and well as on behalf of the Estate proceeding derivatively on behalf of the Companies and each of them.

12. Upon information and belief, at all relevant times, defendant, DAVID WINIARSKI (“David”), is and has been an individual and resident of the County of Queens, State of New York, as well as the husband of Esther Winiarski.

13. Upon information and belief, at all relevant times, defendant, ESTHER WINIARSKI (“Esther”), also known as Essie Winiarski, is and has been an individual and resident of the County of Queens, State of New York, as well as the wife of David Winiarski.

14. Upon information and belief, at all relevant times, defendant, MYRON WINIARSKY (“Myron”), also known as Myron Winiarski, also known as Ronny Winiarsky, is and has been an individual and resident of the County of Nassau, State of New York, as well as the son of David and Esther.

15. Upon information and belief, at all relevant times, defendant, ROBERT LUBIN (“Lubin”) is and has been an individual and resident of the County of Kings, State of New York.

16. Upon information and belief, at all relevant times, Lubin is has been a certified public accountant in the State of New York.

17. Upon information and belief, at all relevant times, defendant, ARYEH WEBER (“Weber”) is and has been an individual and resident of the County of Kings, State of New York.

18. Upon information and belief, at all relevant times, Weber is and has been an attorney admitted to practice law in the State of New York and the managing owner, partner, member, and alter ego of the Weber Office.

19. Upon information and belief, defendant, THE LAW OFFICE OF ARYEH WEBER, ESQ. (“Weber Office”) is a law firm owned and operated by Weber, with its principal place of business in the County of Kings, State of New York, and is and has been the alter ego of Weber.

20. 3046 WEST 22 ST. PROPERTIES LLC a/k/a 3046 West 22 St Properties LLC is a domestic limited liability company existing under the laws of the State of New York, having a principal place of business in the County of Kings, State of New York, and having an address for service of process at 1030 Ocean Avenue, Apt. 1E, Brooklyn, New York.

21. D-WIN PROPERTIES LLC is a domestic limited liability company existing under the laws of the State of New York, having a principal place of business in the County of Kings, State of New York, and having an address for service of process at 1030 Ocean Avenue, Apt. 1E, Brooklyn, New York.

22. HOMES R BEAUTIFUL RE LLC is a domestic limited liability company existing under the laws of the State of New York, having a principal place of business in the County of Kings, and having an address for service of process at 1030 Ocean Avenue, Apt. 1E, Brooklyn, New York.

23. PARK 50 WEST PROPERTIES LLC is a domestic limited liability company existing under the laws of the State of New York, having a principal place of business in the

County of Kings, and having an address for service of process at 1030 Ocean Avenue, Unit 1E, Brooklyn, New York.

24. This Court has jurisdiction over this action on the basis of the residency and citizenship of the parties and because most, if not all, of the acts and circumstances giving rise to this proceeding occurred in the State of New York.

25. The basis of venue is the location of the principal place of business of each of the Companies.

26. The amount in controversy exceeds any limitation of any lower court.

**MEMBERSHIP IN THE COMPANIES**

27. Membership in the Companies is as follows:

3046 WEST 22 ST. PROPERTIES LLC	Estate: 50% David Winiarski: 50%
D-WIN PROPERTIES LLC	Estate: 50% Esther Winiarski: 50%
HOMES R BEAUTIFUL RE LLC	Estate: 50% Esther Winiarski: 50%
PARK 50 WEST PROPERTIES LLC	Estate: 50% David Winiarski: 50%

28. Ms. Lindenberg, at the time of her death, was a 50% member of 3046 WEST 22 ST. PROPERTIES LLC, a 50% member of D-WIN PROPERTIES LLC, a 50% member of HOMES R BEAUTIFUL RE LLC, and a 50% member of PARK 50 WEST PROPERTIES LLC.

29. Upon Ms. Lindenberg’s death, the Estate automatically succeeded to Ms. Lindenberg’s interests in the Companies by operation of law.

30. Now, and at all times since Ms. Lindenberg’s death, the Estate is and has been a 50% member of each of the Companies.

31. Upon information and belief, at all relevant times, David is and has been a 50% member of 3046 WEST 22 ST. PROPERTIES LLC and a 50% member of PARK 50 WEST

PROPERTIES LLC.

32. Upon information and belief, at all relevant times, Esther is and has been a 50% member of D-WIN PROPERTIES LLC and a 50% member of HOMES R BEAUTIFUL RE LLC.

**THE PROPERTIES AND OTHER ASSETS OF THE COMPANIES**

33. Upon information and belief, at all relevant times, the Companies hold and have held title to certain real properties (collectively, the “Properties”) as follows:

- a. 3046 WEST 22 ST. PROPERTIES LLC owns:
  - i. 2805-09 West 16th Street, Brooklyn, New York;
  - ii. 2837-39 West 20th Street, Brooklyn, New York;
  - iii. 3046-50 West 22nd Street, Brooklyn, New York;<sup>2</sup>
- b. D-WIN PROPERTIES LLC owns:
  - i. 201 Ditmas Avenue, Brooklyn, New York;
  - ii. 3135 Coney Island Avenue, Brooklyn, New York;
- c. HOMES R BEAUTIFUL RE LLC owns 263 East 9th Street, Brooklyn, New York; and
- d. PARK 50 WEST PROPERTIES LLC owns 50 Westminster Road, Brooklyn, New York.

The Properties’ and their ownership are outlined in the chart below.

---

<sup>2</sup> Upon information and belief, the property “3048-50 West 22nd Street, Brooklyn, New York” is part of 3046-50 West 22nd Street, Brooklyn, New York.

Entity	Property Address	Block/Lot
3046 West 22 St Properties LLC	2805-09 West 16th Street, Brooklyn New York	7022/85
	2837-39 West 20th Street, Brooklyn New York	7019/74 & 75
	3046-50 West 22nd Street, Brooklyn New York	7071/24
D-Win Properties LLC	201 Ditmas Avenue, Brooklyn New York	5386/52
	3135 Coney Island Avenue, Brooklyn New York	8706/44
Homes R Beautiful RE LLC	263 East 9th Street, Brooklyn New York	5361/55
Park 50 West Properties LLC	50 Westminster Road, Brooklyn, New York	5072/25

34. In addition to the above-listed Properties, each of the Companies also owns other assets including (i) cash, (ii) loans receivable, and (iii) choses in action.

### **FORMATION AND PURPOSE OF THE COMPANIES**

a. Formation

35. Upon information and belief, 3046 WEST 22 ST. PROPERTIES LLC was formed on or about March 18, 2008, has ever since then maintained an “active” status, and has never undergone a name change.

36. Upon information and belief, D-WIN PROPERTIES LLC was formed on or about March 18, 2008, has ever since then maintained an “active” status, and has never undergone a name change.

37. Upon information and belief, HOMES R BEAUTIFUL RE LLC was formed on or about March 18, 2008, has ever since then maintained an “active” status, and has never undergone a name change.

38. Upon information and belief, PARK 50 WEST PROPERTIES LLC was formed on or about March 18, 2008, has ever since then maintained an “active” status, and has never



undergone a name change.

b. Operating Agreements

39. Upon information and belief, no operating agreement was ever created for 3046 WEST 22 ST. PROPERTIES LLC; or, alternatively, an operating agreement was created but has since been lost or destroyed; or, alternatively, an operating agreement was created but Respondents have failed to produce it.

40. Upon information and belief, an Operating Agreement for D-WIN PROPERTIES LLC exists.

41. Upon information and belief, no operating agreement was ever created for HOMES R BEAUTIFUL RE LLC; or, alternatively, an operating agreement was created but has since been lost or destroyed; or, alternatively, an operating agreement was created but Respondents have failed to produce it.

42. Upon information and belief, an Operating Agreement for PARK 50 WEST PROPERTIES LLC exists.

c. Purpose

43. The purpose of each of the Companies is to lawfully engage in the business of real estate ownership for the benefit of the Companies' respective members.

44. There is no written stated purpose for 3046 WEST 22 ST. PROPERTIES LLC.

45. According to the operating agreement of D-WIN PROPERTIES LLC, the purpose of that company is engaging in any lawful act or activity for which limited liability companies may be formed.

46. There is no written stated purpose for HOMES R BEAUTIFUL RE LLC.

47. According to the operating agreement of PARK 50 WEST PROPERTIES LLC,

the purpose of that company is engaging in any lawful act or activity for which limited liability companies may be formed.

### **MANAGEMENT OF THE COMPANIES AND PROPERTIES**

#### a. The Winiarski Real Estate Enterprise

48. Upon information and belief, at all relevant times, Respondents, with their employees, agents, and alter egos, have together engaged in the business of real estate acquisition, ownership, investment, development, leasing, management, and financing, and other related activities.

49. As part of these real estate affairs, Respondents control, manage, and own (in whole or in part, directly or through entities) dozens of real properties throughout Brooklyn. Included among the many properties which Respondents manage and control are the Properties at issue.

50. Upon information and belief, David Winiarski is the titular head of this real estate enterprise, with his son, Myron Winiarsky, having significant daily control.

51. Upon information and belief, all of the properties under Respondents' control (including the Properties) are managed collectively without maintaining corporate distinctions or formalities; with assets of entities owning real property being applied regularly to the benefit of other entities under Respondents' control; and with bookkeeping, to the extent it is even created, including entries for multiple properties distinguished by address and not corporate ownership.

#### b. Management of the Companies

52. Upon information and belief, at all relevant times, Respondents have controlled and managed the Companies.

53. Upon information and belief, at all relevant times, Respondents have controlled

and managed the Properties.

54. Upon information and belief, at all relevant times, Respondents have caused units in the Properties to be leased to tenants and has caused the collection of rent from the Properties' tenants.

55. Upon information and belief, at all relevant times, David Winiarski has assumed the position of sole "manager" of each of the Companies.

56. Upon information and belief, at all relevant times, David Winiarski has exercised full control over the business, affairs, and assets of the Companies.

57. Upon information and belief, at all relevant times, David Winiarski is and has been the agent and servant of Esther Winiarski with respect to the control and management of the Companies and Properties.

58. Upon information and belief, at all relevant times, Myron Winiarsky is and has been intimately involved in the control and management of the Companies and Properties.

59. Upon information and belief, at all relevant times, Myron Winiarsky is and has been the agent and servant of David Winiarski and Esther Winiarski with respect to the control and management of the Companies and Properties.

60. Upon information and belief, at all relevant times, Myron Winiarsky is and has been, or has acted as, general counsel to each of the Companies.

61. Neither the Estate nor any of its agents or representatives has ever acted as manager of any of the Companies.

62. Neither the Estate nor any of its agents or representatives has ever exercised any authority, power, or control over the business, affairs, or assets of any of the Companies.

63. Neither the Estate nor any of its agents or representatives has ever, in any way,

engaged in management of any of the Properties.

### **RESPONDENTS' PERVASIVE LOOTING AND SELF-DEALING**

64. For years, Respondents systematically looted over \$1.1 million from the Companies and transferred over \$4.9 million of the Companies' assets to themselves. To hide their embezzlement, Respondents created falsified records. To evade responsibility, Respondents spoliated documents, lied under oath, and repeatedly breached their fiduciary duties to the Estate.

#### **a. Embezzlement of Rental Income**

65. While under Respondents' exclusive control, the Properties generated several millions of dollars in rental income. However, through systematic diversion of funds, over \$1.1 million of the Properties' rental income has disappeared and is unaccounted-for.

66. Respondents' own rent ledgers show that, month after month, the rent that tenants of the Properties paid, and which Respondents collected from these tenants, does not match the amounts actually received by the Companies.

67. As indicated by the expert analysis of Glenn S. Liebman, CPA, the amount of the unaccounted-for rental income totals approximately \$1,168,000.

68. This unexplained discrepancy is exemplified by rent ledgers for two consecutive months—December 2016 and January 2017.

69. According to these ledgers, the total rental income for 3046 WEST 22 ST PROPERTIES LLC for December 2016 was \$21,568.70. Of this total, the sum of \$9,372.50 was paid by tenants in cash. That Company's bank records show that only \$12,196.20 was deposited for 3046 WEST 22 ST PROPERTIES LLC for December 2016—a difference of \$9,372.50. This sum that never made it into the Company's bank account is precisely equal to the amount tenants

paid in cash for that month's rent.

70. For the next month, January 2017, the total rental income for 3046 WEST 22 ST PROPERTIES LLC was \$18,402.70. Of this total, \$8,365.00 was paid in cash. Yet the Company's bank show that only \$10,037.70 was deposited for 3046 WEST 22 ST PROPERTIES LLC for January 2017. The amount of the discrepancy (*i.e.* \$8,365.00) exactly matches that month's cash receipts.

3046 WEST 22 ST. PROPERTIES LLC RENTAL INCOME

Month	Rent Paid by Cash	Rent Paid by Check	Section 8 Paid Rent	Total Rent Received	Deposited Chase	Missing Money
Dec. 2016	\$9,372.50	\$11,192.20	\$1,004.00	\$21,568.70	\$12,196.20	\$9,372.50
Jan. 2017	\$8,365.00	\$9,033.70	\$1,004.00	\$18,402.70	\$10,037.70	\$8,365.00

71. For years, to hide their systematic diversion of rental income, Respondents routinely falsified tax records to reflect only rental income deposited in bank accounts, without accounting for the cash income Respondents had looted.

72. Respondents then submitted these falsified records to Ms. Lindenberg, to the Estate, and to others, to induce them to rely on these falsified figures.

73. Respondents submitted incorrectly low rental income information to Ms. Lindenberg and to the Estate willfully in order to, among other purposes, (i) hide the diversion of income, (ii) justify improperly low or no distributions, (ii) cause the belief that the value of membership in the respective Companies was less than in reality.

b. Undocumented Interest-Free "Loans"

74. Respondents caused the Companies to undertake transfers totaling nearly \$5 million to their own benefit (directly or to entities in which Respondents have an interest) with no benefit inuring to the Companies, to Ms. Lindenberg, or to the Estate.

75. While some of these transfers are unaccounted for, several of the transfers are

disguised as “loans.” However, none of these “loans” is memorialized in any written contract. None of these “loans” accrues interest, is secured by collateral, or guaranteed. For none of these “loans” is there a maturity date, obligation to repay, default parameters, or any other markings of a legitimate transaction. Under Respondents’ control, the Companies took no efforts to collect on those “loans.” The Companies received no consideration for making such “loans.”

76. As indicated by the expert analysis of Glenn S. Liebman, CPA, the amount of these self-interested transfers totals \$4.921 million.

c. Other Misappropriations

77. The Respondents also caused the Companies to make decisions and engage in transactions for the Respondents’ own benefit, including by causing the Companies to retain or engage with the Respondents, and/or by causing the Companies to accept services from Respondents.

78. David has charged the Companies for services and has made claims for services he alleges he provided to the Companies.

79. The Companies’ rent rolls show that a unit at 3135 Coney Island Avenue (owned by D-WIN PROPERTIES LLC) has been provided to Esther rent-free under a 25-year lease. The total value of this rent-free unit inuring to Esther is approximately \$250,000.

80. The Companies’ records also indicate numerous “red flags”—including that Respondents regularly wrote checks to themselves and made numerous unexplained transfers. However, Respondents have failed to provide documentation indicating the nature of these transactions and what benefit they provide to the Companies, if any.

**CONTROL, OPPRESSION, AND FREEZE-OUT**

81. Respondents have taken control of the Companies for themselves; have wholly

excluded the Estate from participation in the Companies' governance, management, affairs, and profit-sharing; and have denied the Estate the economic value of its membership interests in the Companies. Respondents' usurpation of control, oppression, freeze-out, and exclusion of the Estate from the Companies' governance, affairs, and profit-sharing, is wrongful, without justification and is in derogation of law.

82. Respondents' conduct, as described herein, has wholly destroyed the reasonable economic expectations of the Estate and has reduced (absent robust judicial intervention) the practical economic value of the Estate's membership interest in the Companies to zero.

a. Unjustified Control

83. Managerial authority for D-WIN PROPERTIES LLC is vested in the Estate. The Operating Agreement for D-WIN PROPERTIES LLC appoints Ms. Lindenberg as manager. Upon her death, Ms. Lindenberg's management authority has legally inured to her Estate. *See Crabapple Corp. v. Elberg*, 153 A.D.3d 434 (1st Dep't 2017). Respondents' usurpation of management of D-WIN PROPERTIES LLC is thus directly contrary to that Company's operating agreement.

84. With respect to 3046 WEST 22 ST. PROPERTIES LLC and HOMES R BEAUTIFUL RE LLC, managerial authority is vested in those Companies' respective members (with voting rights proportional to their membership shares). However, Respondents have wholly disregarded the Estate's managerial power in these Companies.

85. There is no justification for Respondents' usurpation of management of 3046 WEST 22 ST. PROPERTIES LLC and HOMES R BEAUTIFUL RE LLC. Upon information and belief, no operating agreement nor any vote of members appoints any of the Respondents (or anyone else for that matter) as manager for either of these two Companies.

86. Upon information and belief, in the months following Ms. Lindenberg's death, Respondents caused Ms. Lindenberg's name and what was purported to be Ms. Lindenberg's signature to be used on numerous documents as a means of taking control of the Companies.

87. For example, in the weeks and months after Ms. Lindenberg's death, Respondents caused forms and documents bearing Ms. Lindenberg's name as well as her forged signature to be filed with the City of New York Department of Buildings concerning a development project for HOMES R BEAUTIFUL RE LLC at 263 East 9th Street, Brooklyn, New York.

b. Exclusion of the Estate

88. The Estate has a rightful voting interest of 50% with respect to each of the Companies. However, Respondents have wholly disregarded the Estate's voting rights with respect to each of the Companies.

89. Substantially all business and legal decisions Respondents have made on behalf of the Companies since Ms. Lindenberg's death have been wholly without the knowledge, consent, or participation of the Estate.

90. Respondents have wholly failed to call meetings or votes of members, to provide any notice the Estate of any meetings or votes of members, or to provide the Estate access to any meetings of members or the minutes or records of said meetings.

91. Respondents have failed to provide the Estate with basic information about the affairs of the Companies, have denied the Estate access to the books and records of the Companies, and have refused to provide an accounting of the Companies' income and expenditures.

92. Respondents have excluded the Estate from participation in profit-sharing for any of the Companies. While Respondents very briefly began paying the Estate some distributions



shortly after Ms. Lindenberg's death, Respondents abruptly stopped paying distributions to the Estate—all while continuing to pay themselves distributions and salaries and continuing to benefit extensively from the Companies and their profits.

93. Finally, Respondents have attempted to squeeze and freeze out the Estate through a campaign of harassing and vexatious conduct.

### **FRAUD, PERJURY, AND SPOILIATION**

#### a. Initial Fraud on the Estate

94. After Ms. Lindenberg's death, the Estate undertook several measures to obtain complete and accurate information about the Companies from Respondents. However, at all turns, Respondents contumaciously refused to provide information, lied to the Estate, falsified records, and destroyed documents.

95. On or about July 19, 2018, the Estate requested information from Respondents about Ms. Lindenberg's interests. Respondents refused to provide meaningful information, and directed others (including the Companies' attorney and accountant) to refuse to do so as well.

96. On or about August 21, 2018, the Estate's legal counsel, by letter, requested information from Respondents regarding Ms. Lindenberg's interests.

97. In response to counsel's request, Respondents provided fraudulent and incomplete information.

98. Specifically, on August 23, 2018, Myron Winiarsky, on behalf of Respondents, sent an email to the Estate's counsel that represented that Ms. Lindenberg had:

- i. a 1/3 interest in 263 East 9th Street, Brooklyn, New York;
- ii. a 1/3 interest in 201 Ditmas Avenue, Brooklyn, New York;
- iii. a 1/3 interest in 3135 Coney Island Avenue, Brooklyn, New York;

- iv. a 1/3 interest in 2805-09 West 16th Street, Brooklyn, New York;
- v. a 1/3 interest in 2837-39 West 20th Street, Brooklyn, New York;
- vi. a 1/3 interest in 3046-50 West 22nd Street, Brooklyn, New York;
- vii. a 1/3 interest in 3048-50 West 22 Street, Brooklyn, New York;
- viii. a 1/3 interest in 2169 Coney Island Avenue, Brooklyn, New York;
- ix. a 1/2 interest in 50 Westminster Road, Brooklyn, New York.

99. These representation were materially false because (i) they represented that Ms. Lindenberg (and by extension, the Estate) owned a 1/3 interest in six identified parcels of real property, but Ms. Lindenberg (and by extension, the Estate) actually owned a 1/2 interest in those six properties, and (ii) wholly omitted Ms. Lindenberg's 50% membership interest in the Companies.

100. The difference between Respondents' false representations as to Ms. Lindenberg's interests and reality represents millions of dollars in value.

b. Respondents' Fraudulent and Falsified Disclosure

101. Upon Respondents' refusal to provide basic information about the Companies and Ms. Lindenberg's interests, the Estate commenced a discovery proceeding in Queens County Surrogate's Court under SCPA § 2103 ("Discovery Proceeding").

102. In the Discovery Proceeding, Respondents routinely (i) ignored process, (ii) ignored court orders, (iii) ignored requests for documents, and (iv) provided contradictory, false, and even falsified disclosure responses.<sup>3</sup>

---

<sup>3</sup> Respondents provided a falsified operating agreement for an entity called RNR Realty Group LLC. When this document was first requested, Respondents initially responded by stating, in effect, that they did not possess this document. After the Estate pressed an issue related to a property owned by RNR Realty Group LLC, respondent Myron Winiarsky simply created a document appearing to be the operating agreement for RNR Realty Group LLC, backdated it, printed it, had David sign it, and produced said newly-created document. When the Estate obtained the true document via third-party subpoena, it became apparent that the agreement provided had been falsified.

103. In the Discovery Proceeding, Respondents refused to produce basic documents regarding the Companies, including their operating agreements or tax returns. When Respondents eventually produced some documents, including some tax returns, the production was incomplete, deficient, and, in the case of the provided tax returns, reflected material misrepresentations of the Properties' rental income.

104. Respondents falsely asserted that the operating agreements for D-WIN PROPERTIES LLC did not exist. The Estate nevertheless obtained the operating agreement for D-WIN PROPERTIES LLC from another source. Respondents had no explanation for their failure to produce this operating agreement.

105. In the Discovery Proceeding, Respondents continued to falsely claim that Ms. Lindenberg had had a 1/3 interest in each of the Properties.

106. The Estate nevertheless obtained conclusive documentary evidence as well as admissions from Respondents that irrefutably establish that Ms. Lindenberg actually has a 1/2 interest (not a 1/3 interest) in each of the Companies.

c. Respondents' Refusal to Provide an Accounting

107. In January of 2019, the Estate requested, pursuant to LLCL § 1102(b), to inspect and copy the records of the Companies referred to at LLCL § 1102(a) as well as the financial statements of the Companies for the three most recent fiscal years preceding said request.

108. Respondents failed to comply with said request.

109. On or about April 26, 2019, the Estate requested an accounting of and from the Companies.

110. Respondents failed to provide said accounting, and instead completely ignored the Estate's request, despite having an obligation to account to the Estate.

111. The Estate was thus forced to commence an action in Supreme Court to compel the Companies to render an accounting entitled *Rena Pachter in her representative capacity as Administrator of the Estate of Judith Lindenberg, deceased v. 3046 West 22 St. Properties LLC, D-Win Properties LLC, Homes R Beautiful RE LLC, and Park 50 West Properties LLC*, New York Supreme Court, Kings County, Index Number 511622/2019 (which action is now consolidated with this instant action).

112. After Plaintiff moved for summary judgment in that action, the Court, by Decision and Order dated March 5, 2020 (the “Accounting Order”), granted Plaintiff’s motion for summary judgment on the Complaint’s cause of action requesting “full and complete” equitable accountings of each of the Companies.

113. In the Accounting Order, this Court ruled that “the plaintiff clearly maintains a fiduciary relationship” as a 50% member of the Companies, and has a legal right to receive “all accountings requested in the complaint.” Accordingly, this Court Ordered the Respondents to provide all such accountings within “sixty days from the date of this order”—*i.e.*, by May 4, 2020.

114. However, Respondents, through Myron Winiarsky, failed to obey and willfully violated the Accounting Order by failing to render the accounting as required and, instead, by furnishing insufficient, false, and falsified information which do not constitute accountings.

d. Respondents’ Spoliation of Inculpatory Records

115. Respondents refused to provide rent records to the Estate. Then, once ordered to do so by the Surrogate’s Court, they destroyed all of those rent records.

116. After earlier refusals to produce documents led to motion practice and a resulting order, and yet further refusals, Respondents agreed to produce, among other things, rent rolls and

rent ledgers for the Properties pursuant to a stipulation dated March 21, 2019 (“Stipulation”).

117. However, Respondents failed to produce the required rent rolls and rent ledgers by the Stipulation’s deadline, ignored two subsequent good-faith letters attempting to obtain the rent documents per the Stipulation, and ignored a request at an April 16, 2019 compliance conference for production of the rent records. The Estate accordingly moved to compel compliance with the Stipulation.

118. The Surrogate’s Court granted the Estate’s motion to compel Respondents to comply with the Document Stipulation by Short Form Order dated May 29, 2019 and accompanying Decision dated May 29, 2019 (collectively, the “May 29 Order”).

119. The Estate yet again reminded Respondents of their court-ordered obligation to produce the required rent documents. Nevertheless, the deadline set by the May 29 Order came and went without any word from Respondents. The Estate yet again sent a good-faith letter requesting the required rent documents.

120. Respondents then provided wholly deficient responses, which included numerous irrelevant and unrequested documents, and which did not include (among other things) any rent ledgers.

121. Instead of providing the required rent documents, Respondents stated that the rent ledgers they were ordered to produce had inexplicably vanished from their possession. According to Respondents, some unexplained software issue resulted in the total loss of all of their rent ledgers except those for the “current month”—which they nevertheless did not produce.

122. Apparently, Respondents had failed to impose a litigation hold on the Companies’ records. Respondents not only failed to undertake any document preservation measures, they

violated nearly every one of their discovery obligations, and contumaciously destroyed inculpatory documents in order to avoid the financial consequences implicated by these records.

123. Nevertheless, the Estate was able to obtain, mainly from other sources, records sufficient to demonstrate the malfeasance indicated by the analysis of Glenn S. Liebman, CPA.

e. Respondents' Repeated Perjury

i. David Winiarski Walked Out of a Deposition—and then Lied to the Court

124. In the Discovery Proceeding, after David Winiarski had delayed and avoided being deposed (through at least 8 requests for adjournment),<sup>4</sup> the deposition of David was being conducted at the Queens County Surrogate's Court on April 2, 2019. On that day, during that deposition, while an objection made by his counsel was being conferenced with the Surrogate,<sup>5</sup> while the question remained pending, and without approval (or the knowledge of the Estate's counsel or the Court), David simply left the deposition and failed to attend the remainder of the deposition that day.

125. David's counsel (Myron Winiarsky) stated that day directly to Surrogate Peter J. Kelly, and to the Estate's counsel, and on the record, that health issues had forced David to leave the inquiry. Respondents thereafter continued to assert to the Estate's counsel and to the Court that the reason David walked out of the deposition on April 2, 2019 was because of health issues.

126. This was a lie. Both David and Myron left in the middle of the deposition that

---

<sup>4</sup> By stipulation, dated November 8, 2018, the inquiry of David and Esther was scheduled for January 15, 2019. By stipulation dated January 14, 2019 and stipulation dated January 28, 2019, the inquiry of David and Esther was adjourned to February 26, 2019. By stipulation dated February 21, 2019 the inquiry of David and Esther was adjourned to March 14, 2019. By stipulation dated March 13, 2019 the inquiry of David and Esther adjourned to March 21, 2019. By stipulation dated March 25, 2019 the continuation of the inquiry of David was set for March 27, 2019. By stipulation dated March 26, 2019 and stipulation dated April 2, 2019, the continuation of the inquiry of David was set for April 2, 2019. Although each request was made by Respondents, the Estate acquiesced rather than engage in motion practice.

<sup>5</sup> Respondent and David's counsel, Myron Winiarsky, in violation of CPLR 3115 and Uniform Rules for the Conduct of Depositions, Rule 221.2 ("Refusal to answer when objection is made", codified at 22 NYCRR 221.2), directed his client David to not answer non-privileged questions. This resulted in the Estate's counsel requesting a conference with the court to obtain a ruling on the objection. The court ruled in the Estate's favor on the objection.

day in order to attend a closing which took place in Manhattan that afternoon on the purchase of real property known as and located at 3801 Avenue L, Brooklyn, New York 11201.

ii. Myron Winiarsky's False Testimony

127. Myron Winiarsky has repeatedly falsely testified under oath to the Estate's injury including in deposition testimony and false affidavits.

128. In deposition, Myron Winiarsky testified, among other things, as follows: (i) he claimed that he was not involved in business with Ms. Lindenberg and had no idea how Ms. Lindenberg had earned a living—even though Myron is general counsel to the Companies and worked with Ms. Lindenberg for years; (ii) he claimed he was not involved in HOMES R BEAUTIFUL RE LLC when in fact he is a licensed corporate broker (License No. 10311207718) at that Company; (iii) when asked how long he had been conducting business at an office address he had indicated, he claimed he did not understand the meaning of “conducting business”; and then when asked what it is that he regularly does at the office location he had indicated, he responded, “I have lunch”; (iv) he claimed to not understand the meaning of the term “closing” on real property, even though he is a real estate attorney and had himself used the word “closing” contextually; and (v) falsely claimed to have never previously seen documents being shown to him, and feigned that he did not understand they were photocopies.

129. Furthermore, Myron Winiarsky has filed several false affidavits, a few examples of which are provided below:

130. Myron Winiarsky submitted an affidavit in Surrogate's Court which falsely stated that he is “not a party to this proceeding” and that he has “not represented any party to this proceeding.” This was a lie because Myron Winiarsky was a respondent in that proceeding and represented respondents, David and Esther, in that proceeding.

131. Myron Winiarsky filed a frivolous motion for sanctions (in response to a motion to compel compliance with a discovery order) which falsely claimed that “[the Estate] never made a good faith effort to resolve this discovery issue” and that “never called, wrote, or emailed respondents to advise them that it had an issue with respondents’ discovery compliance.” (emphasis omitted). As shown by the April 12 and 16 emails, these assertions were false. The Court rebuked Respondents’ frivolous motion for sanctions.

### **VEXATIOUS AND HARASSING CONDUCT**

132. Myron Winiarsky, an attorney, even after being asked to desist, repeatedly violated Rule 4.2 of the New York Rules of Professional Conduct (codified at 22 NYCRR 1200.0)—which prohibits attorneys from communicating with a party the attorney knows is represented by legal counsel—by harassing Adiv Pachter (the former executor of the Estate) and Plaintiff, Rena Pachter, in over 25 instances. This harassment was committed with the intent of pressuring the Estate to compromise or discontinue the Discovery Proceeding.

133. Myron Winiarsky called Adiv Pachter on August 22, 2018, August 23, 2018, October 5, 2018, October 15, 2018, October 26, 2018, January 31, 2019 (repeatedly), February 6, 2019 (repeatedly), and February 7, 2019. He called Plaintiff on August 22, 2018, October 5, 2018, October 26, 2018, January 31, 2019 (repeatedly), and February 6, 2019 (repeatedly). Myron sent text messages to Adiv Pachter on August 23, 2018, October 5, 2018, October 15, 2018, October 26, 2018, January 31, 2019, and February 5, 2019. Myron sent text messages to Plaintiff on October 15, 2018 and October 26, 2018. Myron sent emails to Adiv Pachter on October 26, 2018 and October 29, 2018. Myron sent emails to Plaintiff on October 26, 2018, October 29, 2018, and December 26, 2018 (twice).

134. On February 10, 2020, Nativ Winiarsky, Esq., sent Adiv Pachter a text message



regarding this and related litigation.

135. The foregoing communications lack any legitimate justification, were improper, and were undertaken solely for the purpose of harassment.

### **GROSS MISMANAGEMENT**

136. Respondents have grossly mismanaged the Companies in numerous respects. Respondents' conduct, as described herein, has negatively affected the Companies and severely impaired their ability to operate as intended or to further their interests.

a. Unjustifiable Halt of Construction at 263 East 9th Street, Brooklyn, New York

137. Upon information and belief, in or about 2017, HOMES R BEAUTIFUL RE LLC undertook redevelopment of the real property it owns at 263 East 9th Street, Brooklyn, New York by demolishing a previously existing structure at the site and planning to erect a 4 to 6-story residential development in its place.

138. Upon information and belief, in about 2017 or early 2018, HOMES R BEAUTIFUL RE LLC undertook development and construction of the said planned new multiple-occupancy residential development at 263 East 9th Street, Brooklyn, New York.

139. Upon information and belief, in or about late 2018 or early 2019, Respondents caused HOMES R BEAUTIFUL RE LLC to stop all construction and development of this project, and caused the total cessation of business of HOMES R BEAUTIFUL RE LLC.

140. Specifically, David Winiarski stated that such development was halted, and that the reason construction was halted was because the Estate commenced a discovery proceeding to obtain information about Ms. Lindenberg's membership interests in the Companies.

141. Even if construction was halted but then subsequently resumed, there is no legitimate business justification for this total halt of business.

142. Such total halt of business, regardless if temporary, caused injury to HOMES R BEAUTIFUL RE LLC and the property it owns.

b. Hazardous Living Conditions at the Properties

143. Upon information and belief, several of the Properties, while under Respondents' control, have, from time to time, fallen into disrepair, become infested with vermin and mold, and lack adequate heat and hot water, among other issues.

144. According to New York City Housing Preservation and Development records, there are indications that, under Respondents' control, the Properties have several open violations and tenant complaints for, among other things (i) lack of heat, (ii) lack of hot water, (iii) presence of roaches, bedbugs, and mold, and (iv) lack of adequate smoke and carbon monoxide detectors.

c. Other Mismanagement

145. Upon information and belief, Respondents have caused the Companies to lose track of millions of dollars of the Companies' assets.

146. Upon information and belief, Respondents have caused the Companies to undertake waste of the Companies' assets.

147. Upon information and belief, Respondents have caused the Companies to undertake transactions that no business person of ordinary, sound judgment could conclude provided adequate consideration to the Company for which the transaction was undertaken.

148. Upon information and belief, Respondents have failed to keep sufficient books and records of the Companies.

149. Upon information and belief, Respondents have failed to maintain or even create many if not any of the documents required by LLCL § 1102(a).

150. Upon information and belief, Respondents have failed to preserve or maintain the books and records of the Companies and, in fact, have willfully, recklessly, or negligently lost, destroyed, or spoliated the books and records of the Companies.

151. Upon information and belief, Respondents have failed to retain competent professional personnel for the Companies insofar as the legal and accounting services provided to the Companies (especially by Weber, Weber Office, and Lubin) has been manifestly deficient, especially inasmuch as the legal and accounting professionals (especially Weber, Weber Office, and Lubin) retained by Respondents to provide services for the Companies have been grossly negligent, committed numerous instances of malpractice, and have been intentionally or grossly recklessly complicit, to the detriment of the Companies, by, among other things, failing to detect, report, or stop the looting and mismanagement indicated herein, and the failure to create or maintain documents for the Companies as indicated herein.

### **DEADLOCK AND DISCORD**

152. Perpetual discord, animosity, distrust, and strife exist between the Estate (and its representatives) and Respondents.

153. With respect to the Companies, the parties disagree on practically every issue: who should manage the Companies, who should manage the Properties, if the Properties should be sold, if a mortgage should be refinanced, if the Companies should be repaid millions of dollars owed to them, and if the Companies should even continue to exist.

154. This strife is significantly detrimental to the Companies.

155. Harm to the Companies is foregone under the circumstances but may also be inferred by Respondents' recalcitrance and obstructionism in light of their duties to account for the wellbeing of the Companies.

156. The Companies may only make decisions through the affirmative vote of a majority of the Companies' voting interests.

157. No member of any of the Companies has a majority voting interest.

158. The members of the Companies are hopelessly and irreconcilably deadlocked.

159. The discord, distrust, and outright animosity between and among the Companies' members have resulted in a situation where the Companies can no longer function or reasonably serve their intended purposes.

160. Because of this deadlock and discord, it is not reasonably practicable to carry on the business of the Companies in conformity with its articles of organization, operating agreement, and/or the New York Limited Liability Company Law.

#### **PIERCING THE CORPORATE VEIL**

161. Respondents, and specifically David Winiarski, exercised complete domination of and over 611 E 76 LLC, Gates Avenue Properties LLC, Orly Properties LLC, RNR Realty Group LLC, West 16-22 St Properties LLC, Zor Properties LLC, 1812 East 18 Properties LLC, 2657 Bedford LLC, 9801 Foster Avenue LLC, and "Winiarski Real Estate," and each of them, (collectively, the "Alter Ego Entities") in and with respect to the "loans" and other self-interested transactions as discussed herein.

162. Respondents failed to adhere to corporate formalities with respect to these Alter Ego Entities; regularly comingled and intermingled funds between and among these entities as well as among Respondents and these entities; wrongfully applied the assets of these entities for their own purposes; failed to maintain separate books and records; and failed to adhere to corporate distinctions.

163. With respect to Respondents and the Alter Ego Entities, there is an overlap in

ownership, officers, directors and personnel; there is shared or common office space or telephone numbers; and there is high overlap if not a complete identity of financial and operational control exercised in practice by the Respondents over the Alter Ego Entities.

164. Each of the Alter Ego Entities is an alter ego of Respondents, and specifically of David Winiarski.

165. Respondents' domination over the Alter Ego Entities was used to commit a fraud or wrong against the Companies resulting in injury.

### **DERIVATIVE ALLEGATIONS**

166. Plaintiff brings this action including derivatively on behalf of each of the Nominal Defendants (the Companies) to redress injury suffered by each of the Nominal Defendants.

167. The Estate as represented by Plaintiff is currently a member of each of the Nominal Defendants.

168. This action is not a collusive one to confer jurisdiction that the Court would otherwise lack.

169. Plaintiff has not made demand upon the Nominal Defendants because pre-suit demand would be futile.

170. Each of the Nominal Defendants is wholly controlled by Respondents.

171. Demand would be futile because Respondents' acts which give rise to Plaintiff's claims constitute interested transactions which cannot be considered valid exercises of business judgment.

172. Demand would be futile because the acts which give rise to Plaintiff's claims implicate Respondents in culpable conduct.

173. Respondents have a conflict of interest with respect to this action and to the

Nominal Defendants.

174. With respect to deciding whether or not the Nominal Respondents should advance the claims asserted herein, the Respondents and Nominal Defendants are incapable of impartiality.

**CAUSES OF ACTION FOR RELIEF**

**FIRST CAUSE OF ACTION**

**(Common Law Dissolution)**

175. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

176. Common law (equitable) dissolution is warranted because of Respondents' egregious malfeasance, including looting of the Companies and self-interested transactions, as explained herein.

177. Common law (equitable) dissolution is warranted because of Respondents' unjustified usurpation of unilateral control over the Companies, as well as Respondents' oppression and freeze-out of the Estate from the Companies.

178. This Court should make and enter an Order judicially dissolving the Companies.

179. This Court should make and enter an Order decreeing the winding up of the affairs of the Companies incident to dissolution.

180. This Court should make and enter an Order appointing a receiver or liquidating trustee over the assets and affairs of the Companies to wind up the affairs of the Companies incident to dissolution.

181. This Court should make and enter an Order directing that all of the assets of the Companies, and particularly including the Properties, be sold in a commercially reasonable manner and distributed incident to dissolution.

SECOND CAUSE OF ACTION  
(Statutory Dissolution)

182. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

a. Misconduct

183. The Companies' management is and has become so dysfunctional that it is no longer practicable to operate the business of the Companies.

184. Respondents' looting, spoliation of records, forgery, fraud, and mismanagement are paradigms of dysfunctional management.

185. Management rife with such misconduct is not, and cannot be, furthering the business of the Companies.

186. Respondents' pervasive malfeasance shows they are solely advancing their own selfish interests to the detriment of the Companies, and are thus unwilling or unable to promote the business purpose of the Companies.

b. Shareholder Wealth Maximization

187. The Companies' management is unable or unwilling to reasonably permit or promote the stated purpose of the Companies to be realized or achieved.

188. As a matter of fact and law, the business purpose of LLCs must include shareholder wealth maximization, and the purposes of each of the Companies in this action must entail economic benefit inuring to the Companies' members.

189. Respondents are not operating the Companies for the benefit of their members but rather for the private benefit of those in control.

190. Respondents' pervasive looting, oppression, fraud, and breaches of fiduciary duty show that the Companies are being operated, and will continue to be operated, for the private

benefit of the Respondents at the expense of the Companies' members—specifically, the Estate.

c. Lawfulness

191. The Companies' business purpose is and must be lawful.

192. An LLC's manager's duty to adhere to lawful behavior is presumed and implied by law in LLC operating agreements such that illicit conduct by a manager or director is violative of the business purpose of the company and in breach of such implied term of the operating agreement.

193. Inasmuch as Respondents' litany of malfeasance (as alleged herein) is unlawful, the Companies' purpose is being frustrated and the Companies' respective operating agreements are being breached.

d. Usurpation

194. A member's usurpation of control in violation of either the LLC's operating agreement or the LLC Law renders an LLC not operating in conformity with the operating agreement or LLC Law.

195. Respondents have usurped control of D-WIN PROPERTIES LLC and denied the Estate its rightful managerial authority of this Company in derogation of its Operating Agreement and LLC Law. Because Respondents have usurped control, this LLC is not operating in conformity with its Operating Agreement, and so dissolution is warranted under LLCL § 702.

196. Both the Estate and Respondents must share joint control over 3046 WEST 22 ST. PROPERTIES LLC and HOMES R BEAUTIFUL RE LLC because these LLCs, upon information and belief, have no operating agreement and so the provisions of LLCL §§ 401 and 402 mandate that managerial authority is vested in the members who conduct management by vote of their shares.



197. Yet, Respondents have usurped unilateral control of 3046 WEST 22 ST. PROPERTIES LLC and HOMES R BEAUTIFUL RE LLC to the exclusion of the Estate, even though the law requires the affairs of these Companies to be conducted jointly by vote of the members. Thus, Respondents' unilateral control over these Companies is in violation of the LLC Law, and so dissolution of these Companies is warranted.

198. Respondents' usurpation of unilateral control over the Companies is not in conformity with the Companies' operating agreements or LLC Law, thus warranting dissolution.

e. Deadlock and Discord

199. The parties' relationship has been beset by extreme distrust and discord as a result of Respondents' pervasive maltreatment of the Estate. The parties disagree about almost everything, and are deadlocked over basic issues regarding the Companies.

200. Deadlock is a quintessential example of a situation justifying a judicial dissolution of an LLC.

201. The parties' intense acrimony and distrust is toxic to the wellbeing of the Companies, and thus warrants dissolution.

202. As just one example, what might otherwise have been a mundane mortgage issue (regarding refinancing of the mortgage on 50 Westminster Road) became yet another quarrel resulting in no action being taken with respect to refinancing.

203. Acrimony and deadlock make any chance of functional management hopeless for the Companies.

204. It is not reasonably practicable to carry on the business of the Companies in conformity with their articles of organization or operating agreement.

205. This Court should make and enter an Order judicially dissolving the Companies

pursuant to LLCL § 702.

206. This Court should make and enter an Order decreeing the winding up of the affairs of the Companies incident to dissolution pursuant to LLCL § 703.

207. This Court should make and enter an Order appointing a receiver or liquidating trustee over the assets and affairs of the Companies in order to wind up the affairs of the Companies incident to dissolution pursuant to LLCL § 703.

208. This Court should make and enter an Order directing that all of the assets of the Companies, and particularly including the Properties, be sold in a commercially reasonable manner and distributed pursuant to LLCL § 704 incident to dissolution.

THIRD CAUSE OF ACTION  
(Equitable Buyout)

209. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

210. In lieu of winding up of the affairs of the Companies, sale of the Companies' assets, and termination of the Companies' juridical existence, this Court should order compulsory buyout of the Estate's membership interests in the Companies as just and equitable under the circumstances.

211. This Court should, upon a finding of fact, determine and decree the fair market value of the Companies.

212. This Court should make and enter an Order directing the Companies or their respective member(s) (beside the Estate), jointly and severally, to pay to the Estate amounts equal to 50% of the fair values of the respective Companies, plus prejudgment interest, plus attorney's fees; and should make and enter a judgment in favor of the Estate in the said amounts; and decree that the Estate's membership interests in the Companies is transferred to the

Companies' other respective members upon payment to the Estate of the said amounts.

FOURTH CAUSE OF ACTION  
(Withdrawal)

213. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

214. The Estate may withdraw as a member of each of the Companies upon the respective dissolutions of the Companies.

215. This Court should make and enter an Order judicially dissolving the Companies.

216. Upon such dissolutions, this Court should permit the Estate to withdraw as a member of the Companies.

217. Upon withdrawal, the Estate is entitled to receive the fair value of its membership interest in the Companies pursuant to LLCL § 509.

218. This Court should, upon a finding of fact, determine and decree the fair value of the Companies.

219. Upon withdrawal of the Estate, this Court should make and enter an Order directing the Companies or their respective remaining members, jointly and severally, to pay to the Estate amounts equal to 50% of the fair values of the respective Companies, plus statutory interest, plus attorney's fees.

FIFTH CAUSE OF ACTION  
(Conversion—Derivatively)

220. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

221. The Companies own assets, including rental income paid by tenants in cash.

222. Respondents intentionally converted the assets belonging to the Companies for

their own benefit.

223. The Companies were damaged by the said conversion.

224. Accordingly, the Companies are entitled to judgment against Respondents in an amount to be determined at trial but believed to exceed the sum of \$1.1 million, plus punitive damages, plus attorney's fees, costs, and disbursements, plus statutory interest.

SIXTH CAUSE OF ACTION  
(Voiding and Reversing Interested Transactions—Derivatively)  
(Constructive Trust—Derivatively)

225. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

226. Respondents caused the Companies to engage in transactions with the Respondents themselves, or with Respondent's alter egos, the Alter Ego Entities, or with persons very closely associated and united in interest with Respondents.

227. Among other things, Respondents caused the Companies to (i) transfer money and property to Respondents, (ii) engage in transactions, contracts, and loans with Respondents, (iii) receive services from Respondents, and/or (iv) assume, absolve, or discharge the debts of Respondents.

228. Said transactions undertaken between the Companies and Respondents are interested transactions which were not undertaken in good faith, were not fair and reasonable, and provided no, little, or unreasonable consideration to the Companies.

229. Said transactions between the Companies and Respondents were undertaken without a vote of the managers or members of the Companies and without disclosure of the nature of the transactions and interestedness of the Respondents.

230. By reason of said transactions, the Companies have been injured.

231. Said transactions between the Companies and Respondents are void or voidable under LLCL § 411.

232. To the extent that the said transactions were made to appear as though they were undertaken between the Companies and nonparty entities (specifically, the Alter Ego Entities), Respondents so dominated and controlled such other entities, and undertook the said transactions to work a fraud, such that the form of the entities and the transactions should be overlooked to impose direct responsibility upon the Respondents for said transactions.

233. Additionally or alternatively, to the extent that the said transactions were made to appear as though they were undertaken between the Companies and nonparty entities, including the Alter Ego Entities (such nonparty entities being under Respondent's domination and control), the Court should impose a constructive trust for the benefit of the Companies upon the proceeds, benefits, profits, and enrichment unjustly inuring to said entities and/or Respondents.

234. Accordingly, the Companies are entitled to a decree voiding and reversing said interested transactions, together with attorney's fees, costs, disbursements, and statutory interest, and all such other and further relief as this Court deems just and equitable.

SEVENTH CAUSE OF ACTION  
(Breach of Contract—Derivatively)

235. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

236. Respondents entered into contracts with the Companies whereby the Companies loaned to Respondents, and Respondents borrowed from the Companies, an amount to be determined at trial but believed to exceed the sum of \$4.9 million.

237. Pursuant to said contracts, Respondents became obligated to repay to the Companies the amount borrowed.

238. Respondents breached said contracts by failing to repay to the Companies the amount borrowed pursuant to said contracts.

239. By reason of the said breaches by the Respondents, the Companies have been injured.

240. To the extent that the said contracts were made to appear as though they were undertaken between the Companies and other entities (including and specifically the Alter Ego Entities), Respondents so dominated and controlled such other entities, and undertook the said transactions to work a fraud, such that the form of the entities and the transactions should be overlooked to impose direct responsibility upon the Respondents for said contracts.

241. Accordingly, the Companies are entitled to judgment against Respondents in an amount to be determined at trial but believed to exceed the sum of \$4.9 million, plus attorney's fees, costs, and disbursements, plus statutory interest.

EIGHTH CAUSE OF ACTION  
(Breach of Fiduciary Duty—Derivatively)

242. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

243. Respondents, at all relevant times, owed fiduciary duties to each of the Companies.

244. Respondents breached said fiduciary duties by, among other things, (i) misappropriating the Company's assets, (ii) spoliating the Companies' records, (iii) engaging in self-interested transactions with the Companies to the injury of the Companies, (iv) failing to advance the interest of the Companies, (v) mismanaging the Companies' affairs, (vi) exposing the Companies to liability, and (vii) making claims against the Companies or otherwise causing the Companies to become indebted to Respondents.

245. Respondents' breaches of fiduciary duty to the Companies caused the Companies to be injured.

246. Accordingly, the Companies are entitled to judgment against Respondents in an amount to be determined at trial but believed to exceed the sum of \$10 million, plus attorney's fees, costs, and disbursements, plus statutory interest.

NINTH CAUSE OF ACTION  
(Aiding and Abetting Breach of Fiduciary Duty—Derivatively)

247. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

248. David Winiarski and Esther Winiarski owed a fiduciary duty to each of the Companies.

249. Myron Winiarsky, Robert Lubin, Aryeh Weber, and Weber Office each, at all relevant times, owed the Companies heightened duties of loyalty, good faith, good care, and candor.

250. Myron Winiarsky, Robert Lubin, Aryeh Weber, and Weber Office each aided and abetted David Winiarski and Esther Winiarski to breach the fiduciary duties owed to the Companies by, among other things, aiding and abetting them in (i) misappropriating the Company's assets, (ii) spoliating the Companies' records, (iii) engaging in self-interested transactions with the Companies to the injury of the Companies, (iv) failing to advance the interest of the Companies, (v) mismanaging the Companies' affairs, (vi) exposing the Companies to liability, and (vii) making claims against the Companies or otherwise causing the Companies to become indebted to Respondents.

251. These breaches of fiduciary duty to the Companies caused the Companies to be injured.

252. Accordingly, the Companies are entitled to judgment against Myron Winiarsky, Robert Lubin, Aryeh Weber, and Weber Office in an amount to be determined at trial but believed to exceed the sum of \$10 million, plus attorney's fees, costs, and disbursements, plus statutory interest.

TENTH CAUSE OF ACTION  
(Accounting Malpractice—Derivatively)

253. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

254. Lubin is, and at all relevant times has been, a certified public accountant, tax professional, and tax preparer.

255. Lubin provided accountant and tax services to and for the Companies.

256. Lubin owes, and at all relevant times has owed, the Companies, and each of them, duties, including duties of care.

257. The duties of care which Lubin owed the Companies included the duty to perform accounting and tax services in conformity with the applicable standard of care governing accounting and tax professionals in the State of New York and to not commit accounting malpractice.

258. The applicable standard of care governing accounting and tax professionals, such as Lubin, includes duties to detect, report, disclose, prevent, and frustrate any looting, self-dealing, and other gross malfeasance such as is alleged herein.

259. The applicable standard of care governing accounting and tax professionals, such as Lubin, includes duties to prepare truthful and accurate reports, returns, ledgers, balance sheets, and filings.

260. Lubin breached the duties he owed to the Companies by failing to detect, report,



disclose, prevent, or frustrate the looting, self-dealing, and other gross malfeasance alleged herein.

261. Lubin breached the duties he owed to the Companies by knowingly, recklessly, or negligently failing to prepare truthful and accurate reports, returns, ledgers, balance sheets, and filings for the Companies; including by intentionally turning a blind eye to inaccurate and incomplete information presented to him regarding the Companies and by failing to detect the looting, self-dealing, and other gross malfeasance alleged herein.

262. Lubin's actions, as alleged herein, constitute a material deviation from the recognized and accepted professional standards for accountants and auditors, generally measured by generally accepted accounting principles and generally accepted auditing standards (GAAS) promulgated by the American Institute of Certified Public Accountants.

263. Such accounting malpractice committed by Lubin proximately caused the Companies to be injured.

264. Accordingly, the Companies are entitled to judgment against Robert Lubin in an amount to be determined at trial, plus attorney's fees, costs, and disbursements, plus statutory interest.

ELEVENTH CAUSE OF ACTION  
(Legal Malpractice—Derivatively)

265. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

266. Weber and the Weber Office are, and at all relevant times have been, an attorney.

267. Weber and the Weber Office provided legal service for the Companies.

268. Weber and the Weber Office owe, and at all relevant times have owed, the Companies, and each of them, duties, including duties of care.

269. The duties of care which Weber and the Weber Office owed the Companies included the duty to perform legal services in conformity with the applicable standard of care governing attorneys in the State of New York and to not commit legal malpractice.

270. The applicable standard of care governing attorneys, such as Weber/Weber Office, includes duties to create and keep operating agreements for limited liability companies, such as the Companies at issue, and to not misplace, lose, or destroy such operating agreements.

271. Weber and the Weber Office breached the duties owed to the Companies by not creating operating agreements for 3046 WEST 22 ST. PROPERTIES LLC and HOMES R BEAUTIFUL RE LLC, by not keeping and maintaining such operating agreements, and/or by losing, misplacing, or destroying such operating agreements.

272. Such legal malpractice committed by Weber and the Weber Office proximately caused the Companies to be injured.

273. Accordingly, the Companies are entitled to judgment against Weber and the Weber Office in an amount to be determined at trial, plus attorney's fees, costs, and disbursements, plus statutory interest.

TWELFTH CAUSE OF ACTION  
(Equitable Accounting—Derivatively)

274. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

275. A confidential and fiduciary relationship exists between the Companies, and each of them, on the one hand and David, Esther, and Myron on the other hand.

276. David, Esther, and Myron breached their fiduciary duties to the Companies by way of the conduct set forth more fully above.

277. David, Esther, and Myron have an obligation to render equitable accountings with

respect to the Companies.

278. Demand has been made requesting that David, Esther, and Myron each provide equitable accountings with respect to the Companies.

279. Despite due demand, and due obligation, David, Esther, and Myron have refused and failed to render equitable accountings with respect to the Companies.

280. The Court should Order David, Esther, and Myron, and each of them, to render all truthful, accurate, full, complete, detailed, and substantiated equitable accountings with respect to the Companies and Properties, as well as with respect to all of the assets, liabilities, income, expenditures, profits, losses, distributions, and transactions of the Companies and Properties (from January 1, 2008 onward), as well as Order the recovery of any funds misappropriated, improperly obtained, and/or unaccounted-for, and Order all such surcharges, penalties, sanctions, and awards as are warranted including and especially due to any failure to sufficiently render any such equitable accountings, together with all such other and further relief as the Court deems just and equitable.

THIRTEENTH CAUSE OF ACTION  
(Unjust Enrichment—Derivatively)

281. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

282. Respondents have engaged in unjust and inequitable conduct whereby Respondents have been enriched at the detriment of the Companies.

283. Respondents have been enriched under circumstances which were unjust and inequitable.

284. It would be unjust and inequitable for Respondents to retain the benefit of such enrichment without making restitution to the Companies.

285. Accordingly, the Companies are entitled to judgment against Respondents in an amount to be determined at trial, plus attorney's fees, costs, and disbursements, plus interest.

FOURTEENTH CAUSE OF ACTION  
(Constructive Trust—Derivatively)

286. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

287. The real property designated as Borough of Brooklyn, Block 7019, Lot 74 (which together with Block 7019, Lot 75, is known by the street address 2837-39 West 20th Street, Brooklyn, New York) is owned by 3046 WEST 22 ST. PROPERTIES LLC.

288. However, it appears that the recorded legal title of this Lot 74 may be designated as being in the name of David Winiarski.

289. If so, David Winiarski has been holding legal title to Lot 74 for the benefit of 3046 WEST 22 ST. PROPERTIES LLC, which company is the beneficial owner, or the owner of equitable title, or the actual owner of this Lot 74.

290. David Winiarski has acknowledged and admitted that 3046 WEST 22 ST. PROPERTIES LLC is the sole owner of 2837-39 West 20th Street, Brooklyn, New York, inclusive of both Lots 74 and 75 of Block 7019.

291. Accordingly, to the extent necessary, the Court should impose a constructive trust over Block 7019, Lot 74 for the benefit of 3046 WEST 22 ST. PROPERTIES LLC.

FIFTEENTH CAUSE OF ACTION  
(Books and Records / Equitable Accounting)

292. Plaintiff repeats and realleges all other allegations of this pleading as though fully set forth herein.

293. Upon information and belief, Ms. Lindenberg was, upon her death, a shareholder

of “Homes R Beautiful, Inc.,” (the “Corporation”) which, upon information and belief, is a corporation existing under the laws of the State of New York and having a principal place of business in the County of Kings, State of New York.

294. Upon information and belief, upon Ms. Lindenberg’s death, her shareholder interests in the Corporation automatically inured to the Estate by operation of law, and, as such, the Estate is now, and has been since Ms. Lindenberg’s death, a shareholder of shares of stock in the Corporation.

295. Upon information and belief, Esther Winiarki is an officer, director, manger or managing shareholder of the Corporation.

296. Upon information and belief, David and Myron are officers, directors, or mangers of the Corporation.

297. The Estate has a right to inspect the books and records of the Corporation.

298. The Estate has a right to an equitable accounting of and with respect to the Corporation.

299. The Estate made due demand for inspection of the Corporation’s books and records.

300. The Estate made due demand for an equitable accounting of the Corporation.

301. Despite demand, the Corporation’s books and records have not been furnished to the Estate.

302. Despite due demand, an equitable accounting has not been rendered to the Estate.

303. The Court should Order Respondents to produce the books and records of the Corporation.

304. The Court should Order Respondents to render an equitable accounting of the

Corporation.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, RENA PACHTER, in her representative capacity as Administrator of the ESTATE OF JUDITH LINDENBERG, deceased, individually and derivatively on behalf of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC, respectfully requests that this Court enter an Order, Decree, and Judgment granting the following relief:

i. On the FIRST CAUSE OF ACTION,

- a. Judicial dissolution of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC;
- b. Appointment of a receiver or liquidating trustee over 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC and each of their assets;
- c. Winding up of the affairs of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC;
- d. Liquidation and sale of the assets of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC;
- e. Distribution of the assets of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC according to law;

- f. Awarding to Plaintiff attorney's fees, costs, expenses, and interest;
- ii. On the SECOND CAUSE OF ACTION,
    - a. Judicial dissolution of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC;
    - b. Appointment of a receiver or liquidating trustee over 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC and each of their assets;
    - c. Winding up of the affairs of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC;
    - d. Liquidation and sale of the assets of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC;
    - e. Distribution of the assets of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC according to law;
  - iii. On the THIRD CAUSE OF ACTION,
    - a. Ordering DAVID WINIARSKI and 3046 WEST 22 ST. PROPERTIES LLC to pay to the ESTATE OF JUDITH LINDENBERG an amount to be determined at trial, together with prejudgment interest, attorney's fees, costs, and expenses, in purchase of the ESTATE's membership interest in 3046 WEST 22 ST. PROPERTIES LLC, upon which payment the ESTATE's membership interest in

3046 WEST 22 ST. PROPERTIES LLC will be deemed to be transferred to DAVID WINIARSKI;

- b. Ordering ESTHER WINIARSKI and D-WIN PROPERTIES LLC to pay to the ESTATE OF JUDITH LINDENBERG an amount to be determined at trial, together with prejudgment interest, attorney's fees, costs, and expenses, in purchase of the ESTATE's membership interest in D-WIN PROPERTIES LLC, upon which payment the ESTATE's membership interest in D-WIN PROPERTIES LLC will be deemed to be transferred to ESTHER WINIARSKI;
- c. Ordering ESTHER WINIARSKI and HOMES R BEAUTIFUL RE LLC to pay to the ESTATE OF JUDITH LINDENBERG an amount to be determined at trial, together with prejudgment interest, attorney's fees, costs, and expenses, in purchase of the ESTATE's membership interest in HOMES R BEAUTIFUL RE LLC, upon which payment the ESTATE's membership interest in HOMES R BEAUTIFUL RE LLC will be deemed to be transferred to ESTHER WINIARSKI;
- d. Ordering DAVID WINIARSKI and PARK 50 WEST PROPERTIES LLC to pay to the ESTATE OF JUDITH LINDENBERG an amount to be determined at trial, together with prejudgment interest, attorney's fees, costs, and expenses, in purchase of the ESTATE's membership interest in PARK 50 WEST PROPERTIES LLC, upon which payment the ESTATE's membership interest in PARK 50 WEST PROPERTIES LLC will be deemed to be transferred to DAVID WINIARSKI;

iv. On the FOURTH CAUSE OF ACTION,



- a. Decreeing judicial dissolution of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC;
- b. Upon said dissolutions, decreeing the ESTATE OF JUDITH LINDENBERG to have withdrawn as a member of 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC;
- c. Upon said withdrawals, ordering DAVID WINIARSKI, ESTHER WINIARSKI, 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC to pay to the ESTATE OF JUDITH LINDENBERG an amount to be determined at trial reflecting the fair value of the ESTATE's membership interests in 3046 WEST 22 ST. PROPERTIES LLC, D-WIN PROPERTIES LLC, HOMES R BEAUTIFUL RE LLC, and PARK 50 WEST PROPERTIES LLC, together with prejudgment interest, attorney's fees, costs, and expenses;
- v. On the FIFTH CAUSE OF ACTION, judgment in an amount to be determined at trial, plus punitive damages in an amount to be determined at trial, plus statutory interest, plus attorney's fees, costs, and expenses;
- vi. On the SIXTH CAUSE OF ACTION, declaratory judgement, imposition of a constructive trust, and judgment in an amount to be determined at trial, plus punitive damages in an amount to be determined at trial, plus statutory interest, plus attorney's fees, costs, and expenses;
- vii. On the SEVENTH CAUSE OF ACTION, judgment in an amount to be determined at

trial, plus statutory interest, plus attorney's fees, costs, and expenses;

viii. On the EIGHTH CAUSE OF ACTION, judgment in an amount to be determined at trial, plus punitive damages in an amount to be determined at trial, plus statutory interest, plus attorney's fees, costs, and expenses;

ix. On the NINTH CAUSE OF ACTION, judgment in an amount to be determined at trial, plus punitive damages in an amount to be determined at trial, plus statutory interest, plus attorney's fees, costs, and expenses;

x. On the TENTH CAUSE OF ACTION, judgment in an amount to be determined at trial, plus punitive damages in an amount to be determined at trial, plus statutory interest, plus attorney's fees, costs, and expenses;

xi. On the ELEVENTH CAUSE OF ACTION, judgment in an amount to be determined at trial, plus statutory interest, plus attorney's fees, costs, and expenses;

xii. On the TWELFTH CAUSE OF ACTION, judgment against David, Esther, and Myron, and each of them, ordering and compelling them to render all truthful, accurate, full, complete, detailed, and substantiated equitable accountings with respect to the Companies and Properties, as well as with respect to all of the assets, liabilities, income, expenditures, profits, losses, distributions, and transactions of the Companies and Properties (from January 1, 2008 onward), as well as Ordering the recovery of any funds misappropriated, improperly obtained, and/or unaccounted-for, and Ordering all such surcharges, penalties, sanctions, and awards as are warranted including and especially due to any failure to sufficiently render any such equitable accountings, together with statutory interest, plus attorney's fees, costs, and expenses;

xiii. On the THIRTEENTH CAUSE OF ACTION, judgment in an amount to be determined at trial, plus statutory interest, plus attorney's fees, costs, and expenses;

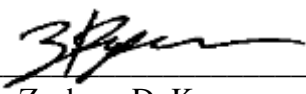
xiv. On the FOURTEENTH CAUSE OF ACTION, imposition of a constructive trust over Block 7019, Lot 74 for the benefit of 3046 WEST 22 ST. PROPERTIES LLC, plus attorney's fees, costs, and expenses;

xv. On the FIFTEENTH CAUSE OF ACTION, order and judgment compelling the production of books and records and compelling the rendering of an equitable accounting, together with all such surcharges, penalties, sanctions, and awards as are warranted, plus attorney's fees, costs, and expenses; and

xvi. All such other and further relief as this Court deems just and proper.

Dated: New York, New York  
November 25, 2020

GOLDBERG WEPRIN  
FINKEL GOLDSTEIN LLP

By:   
Zachary D. Kuperman, Esq.

1501 Broadway -- 22nd Floor  
New York, New York 10036  
(212) 221-5700  
Fax: (212) 221-6532  
zkuperman@gwfglaw.com

*Attorneys for Plaintiff Rena Pachter, in her  
representative capacity as Administrator of  
the Estate of Judith Lindenberg*

**VERIFICATION**

STATE OF NEW YORK )ss.  
COUNTY OF ROCKLAND )

RENA PACHTER, being duly sworn, deposes and says:

I am the Plaintiff in the within matter as administrator of the Estate of Judith Lindenberg, deceased. I have read the foregoing Verified Amended, Consolidated, and Converted Complaint, and know the contents thereof. The same are true to my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. The grounds for my belief as to all matters not stated upon personal knowledge are a review of documents in the possession of the Plaintiff, attorney investigation, and communications with persons having knowledge.

  
RENA PACHTER

STATE OF NEW YORK )ss.  
COUNTY OF ROCKLAND )

On the 25th day of November in the year 2020, before me, the undersigned, personally appeared RENA PACHTER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
NOTARY PUBLIC

TOVIA MALIK  
Notary Public State of New York  
#01MA6256180  
Qualified in Rockland County  
Commission Expires Feb. 21 20 24