

STATE OF NEW YORK SUPREME COURT
COUNTY OF ALBANY

ROBERT SCOTT THOMSON,

Plaintiff,

-against-

**VERIFIED
COMPLAINT**
Index No.:

WALSH and HACKER, WALSH HACKER
and ASSOCIATES, LLP, GLENN D.
CHASE, PETER J. WALSH, JEFFREY M. FOX,
SEAN F. NICOLETTE, and KELLY B. DEAN,

Defendants.

Plaintiff, Robert Scott Thomson (hereinafter "Plaintiff" or "Thomson") by and through his attorneys, Luibrand Law Firm, PLLC, as and for a Complaint against the Defendants, states and alleges as follows:

THE PARTIES

1. Plaintiff, Robert Scott Thomson, was at all times relevant hereto an attorney licensed to practice law in the State of New York and is an individual residing in the County of Saratoga.

2. Defendant, Walsh and Hacker was at all times relevant herein, a general partnership organized under the laws of the State of New York engaged in the practice of law, with its principal place of business in the County of Albany.

3. Defendant Walsh Hacker and Associates, LLP is, upon information and belief, a Limited Liability Partnership under the laws of the State of New York engaged in the practice of law, with its principal place of business in the County of Albany.

4. Glenn D. Chase (hereinafter “Chase”), upon information and belief, was at all times relevant hereto a lawyer and partner within the law firms of Walsh and Hacker and Walsh Hacker and Associates, LLP, residing in the County of Albany.

5. Peter J. Walsh (hereinafter “Walsh”, upon information and belief, was at all times relevant hereto a lawyer and partner within the law firms of Walsh and Hacker and Walsh Hacker and Associates, LLP, residing in the County of Albany.

6. Jeffery M. Fox (hereinafter “Fox”), upon information and belief, was at all times relevant hereto a lawyer and partner within the law firms of Walsh and Hacker and Walsh Hacker and Associates, LLP, residing in the County of Albany.

7. Sean F. Nicolette (hereinafter “Nicolette”), upon information and belief, was at all times relevant hereto a lawyer and partner within the law firms of Walsh and Hacker and Walsh Hacker and Associates, LLP, residing in the County of Saratoga.

8. Kelly B. Dean (hereinafter “Dean”), upon information and belief, was at all times relevant hereto a lawyer and a partner within the law firms of Walsh and Hacker and Walsh Hacker and Associates, LLP, residing in the Wake County, North Carolina.

INTRODUCTION

9. This is an action in equity and law whereby Thomson seeks an accounting with respect to the assets and liabilities of the Walsh and Hacker law firm over which Defendants have exercised domain and control following the alleged dissolution of the law firm on April 15, 2021, and recovery of all assets of Walsh and Hacker transferred by Defendants to themselves and/or others, and breach of Defendants’ fiduciary duties to Plaintiff and Walsh and Hacker by the Defendants exercising dominion and control over the assets of Walsh and Hacker to the exclusion of Walsh and Hacker and Plaintiff.

ALLEGATIONS

10. Walsh and Hacker was a general partnership organized under the laws of the State of New York that existed from 1979 to 2021 and operated without a written partnership agreement.

11. The law firm was founded by Thomas Walsh and Leo Hacker and engaged principally in the conduct of Workers' Compensation law, representing insurance carriers and employers on Workers' Compensation legal proceedings.

12. Thomson was at all times relevant hereto licensed to practice law in the State of New York.

13. Thomson became employed by the Walsh and Hacker law firm in 1984 and became a partner in the law firm in 1989 and was a partner continuously at the time that he was notified of the alleged dissolution of the Walsh and Hacker partnership effective April 15, 2021.

14. Thomson was an employee or partner of Walsh and Hacker for more than 37 years.

15. The Walsh and Hacker partnership existed principally with Thomas Walsh, Leo Hacker and Thomson until the 1990s, at which time the partnership began admitting new partners.

16. Over time, Chase, Walsh, Fox, Nicolette, and Dean became admitted as law partners into Walsh and Hacker.

17. On June 30, 2016, Thomas Walsh died.

18. On January 1, 2017, Leo Hacker retired from the Walsh and Hacker law firm.

19. On June 22, 2018, Defendant Walsh began acting as the managing partner for Walsh and Hacker and, in that role, exercised significant managerial control over the affairs of the Walsh and Hacker partnership.

20. As of April 15, 2021 and prior to the effective date of the alleged dissolution of Walsh and Hacker, the law partners in Walsh and Hacker were Defendants Chase, Walsh, Fox, Nicolette, Dean and Plaintiff Thomson.

21. During the existence of the Walsh and Hacker partnership, Plaintiff and Defendants Chase, Walsh, Fox, Nicolette, Dean were in a fiduciary relationship to each other and to the Walsh and Hacker partnership.

22. As of April 15, 2021, Thomson was the most senior partner of Walsh and Hacker upon the passing of Thomas Walsh and the retirement of Leo Hacker.

23. During calendar year 2020, Thomson became ill and was absent from active work for a period of time.

24. Because of Thomson's health issues and as a result of the remaining Defendants seeking to advance younger lawyers to replace Thomson, Walsh, on behalf of some or all of the Defendants, requested that Thomson retire from Walsh and Hacker and transfer his partnership interest to Defendants Chase, Walsh, Fox, Nicolette, and Dean and/or new incoming partners.

25. Thomson declined to retire and at some time prior to April 15, 2021, outside the presence of Thomson and without notice to Thomson, the Defendants met, and upon information and belief, executed a purported Notice of Dissolution of Walsh and Hacker.

26. The Notice of Dissolution was sent to Thomson, and Walsh and Hacker was allegedly dissolved effective April 15, 2021.

27. On or about April 15, 2021, Defendants Chase, Walsh, Fox, Nicolette, and Dean, and others, formed Defendant law firm Walsh Hacker and Associates, LLP.

28. Upon the alleged dissolution of the Walsh and Hacker partnership, Defendants Chase, Walsh, Fox, Nicolette, and Dean remained in a fiduciary relationship with each other, to Walsh and Hacker, and to Plaintiff for the alleged winding up of the Walsh and Hacker partnership affairs, the accumulation of all Walsh and Hacker partnership assets, and the distribution of the Walsh and Hacker partnership assets.

THOMSON CAPITAL ACCOUNT

29. During the course of Thomson's period as partner in Walsh and Hacker, Thomson was attributed income of the Walsh and Hacker partnership upon which he paid taxes.

30. During his period as partner, Thomson did not receive substantial cash payments upon which he was attributed income and paid taxes, with said monies being retained by Walsh and Hacker and recognized by Walsh and Hacker in a Capital Account for Thomson.

31. At the time of the alleged dissolution of Walsh and Hacker on April 15, 2021, Thomson had a capital account in Walsh and Hacker of approximately \$62,807.00.

ACTIONS OF DEFENDANTS

32. At the time of the alleged dissolution of Walsh and Hacker, Thomson owned 17.99% of the Walsh and Hacker partnership.

33. Following the alleged April 15, 2021 dissolution, the Defendants individually and collectively exercised complete dominion and control over all of the assets and affairs of Walsh and Hacker, to the exclusion of Thomson.

34. Defendants, Chase, Walsh, Fox, Nicolette, Dean and Walsh Hacker and Associates, LLP, upon information and belief, assumed the rental space previously occupied by Walsh and Hacker to the exclusion of Thomson and inserted Walsh Hacker and Associates, LLP into the leasehold premises in place of Walsh and Hacker, to the exclusion of Thomson.

35. Defendants, Chase, Walsh, Fox, Nicolette, Dean, and Walsh Hacker and Associates, LLP, upon information and belief, assumed dominion and control over the computers, equipment, technology networks and business relationships of Walsh and Hacker, to the exclusion of Thomson.

36. Defendants, Chase, Walsh, Fox, Nicolette Dean, and Walsh Hacker and Associates, LLP, upon information and belief, assumed dominion and control over the website of Walsh and Hacker, to the exclusion of Thomson.

37. Defendants, Chase, Walsh, Fox, Nicolette Dean, and Walsh Hacker and Associates, LLP, upon information and belief, assumed dominion and control over the accounts receivable owed to Walsh and Hacker, to the exclusion of Thomson.

38. Defendants, Chase, Walsh, Fox, Nicolette Dean, and Walsh Hacker and Associates, LLP, upon information and belief, assumed control over the cash accounts of Walsh and Hacker, to the exclusion of Thomson.

39. Defendants, upon information and belief, directed the accountants for Walsh and Hacker to cease all communication with Thomson regarding assets and the business affairs of Walsh and Hacker and the winding up of the Walsh and Hacker operations.

40. Defendants banned Thomson from entry to Walsh and Hacker offices on or after April 15, 2021.

41. On May 20, 2021, Defendants informed Thomson that Defendants would not communicate with Thomson on any matters including Thomson COBRA benefits.

42. Defendants took possession of personal property of Thomson which has not been returned to Thomson despite due demand therefore.

DEMAND FOR ACCOUNTING

43. On July 21, 2021, Thomson through counsel, requested from Defendants an accounting pursuant to the New York State Partnership Law of the assets of Walsh and Hacker, with an account deadline of August 12, 2021.

44. On August 17, 2021, Thomson's counsel sent a letter to the counsel for the Defendants requesting return of Thomson's capital account and renewed Plaintiff's request for an accounting.

45. Plaintiff's counsel extended the time for the accounting by Defendants to August 31, 2021.

46. On September 21, 2021, a partial payment of Thomson's capital account was made to Thomson.

47. The extension date for the accounting has passed and there has been no accounting provided by the Defendants to Thomson.

48. Plaintiff Thomson's capital account remains unpaid in part.

49. The Defendants are in the exclusive control of the accounts of Walsh and Hacker, have exercised dominion and control over all the assets of Walsh and Hacker, and have refused to account to Thomson for the assets of Walsh and Hacker.

ACCOUNTING

50. Plaintiff restates all the allegations hereinabove as if fully set forth herein.

51. As set forth above, at all times, Defendants owed a fiduciary duty to, among other things, exercise the utmost good faith and undivided loyalty to Walsh and Hacker and its partners, including Plaintiff, throughout the duration of the parties' relationship including but not limited to, any claimed wind down period of Walsh and Hacker.

52. At all times relevant during the wind down period, Plaintiff requested of Defendants an accurate accounting of each and all of the assets and liabilities of Walsh and Hacker.

53. Despite Plaintiff's repeated demands, Defendants failed, refused and neglected to provide an accurate accounting of the assets and liabilities of Walsh and Hacker.

54. Plaintiff has a specific monetary and legal interest in the accounting for the assets and liabilities of Walsh and Hacker, and to his distributive share of the Walsh and Hacker assets.

55. Plaintiff is entitled to, among other things, a full, adequate and expeditious accounting of all the assets and liabilities of Walsh and Hacker.

56. Plaintiff's demand an accounting from Defendants with respect to all assets of Walsh and Hacker, including but not limited to the following:

- The partnership's capital accounts for each partner as of the date of dissolution.
- The current partnership capital accounts.
- All bank account statements of the partnership for calendar year 2021 through July 31, 2021.
- All escrow accounts of the partnership for calendar year 2021 through July 2021.
- The partnership's accounts receivable as of the date of dissolution.
- The partnership's accounts receivable as of July 31, 2021.
- The partnership's accounts payable as of the date of dissolution.
- The partnership's accounts payable as of July 31, 2021.
- The partnership's work in process as of the date of dissolution.
- The partnership's work in process through July 31, 2021.
- All write offs and write downs of the partnership's work in process during calendar year 2021.
- All write offs and write downs of the partnership's accounts receivables during calendar year 2021.
- All bills issued by the partnership for calendar year 2021.
- All furniture, desks, computers, computer systems, equipment, art and office fixtures or property maintained as partnership property as of the date of dissolution.
- All furniture, desks, computers, equipment, computer systems, art and other office fixtures or property maintained as partnership property as of the current date.
- The leasehold agreement by Walsh and Hacker for the rental space at 18 Corporate Woods Boulevard, Third Floor.
- The Walsh and Hacker copyrighted website.
- The partnership balance sheet as of the date of dissolution.
- The partnership balance sheet as of July 31, 2021.
- The partnership Income statement as of December 31, 2020.
- The partnership Income statement as of the date of dissolution.
- The partnership income statement as of July 31, 2021.
- The 2020 United States and New York State partnership tax returns.

- Any accounting analysis paid for by the partnership of the assets and liabilities of the partnership for calendar years 2020 and 2021.
- Any other partnership asset as to the date of dissolution.
- Any other partnership asset as of the current date.

57. Defendants have and continue to fail, neglect and refuse to conduct and provide Plaintiff an accounting.

CONVERSION

58. Plaintiff restates all the allegations hereinabove as if fully set forth herein.

59. Defendants intentionally, improperly, without authorization or consent of Plaintiff, transferred, hypothecated, diverted and/or secreted the assets of Plaintiff and Walsh and Hacker, deliberately concealing from Plaintiff a true and accurate accounting of Plaintiff's and the assets of Walsh and Hacker, and failed to disclose, reimburse or distribute to Plaintiff his personal property and his share of the assets or the proceeds of the assets of Walsh and Hacker.

60. Defendants transferred, hypothecated, diverted and/or secreted the assets of Plaintiff and Walsh and Hacker to themselves.

61. Plaintiff had a right to possession of his property and partnership interest in the assets, including all current and future assets of Walsh and Hacker upon its dissolution.

62. As a result of Defendants' improper and unauthorized transfer, hypothecating, diverting and/or secreting of the Plaintiff's and Walsh and Hacker assets, Plaintiff has been damaged in an amount to be determined at trial.

CONSTRUCTIVE TRUST

63. Plaintiff restates all the allegations hereinabove as if fully set forth herein.

64. Plaintiff is entitled to an accounting and distribution of assets to Plaintiff, including but not limited to, his percentage of the assets of Walsh and Hacker that were transferred to and/or assumed by Defendants.

65. The assets of Walsh and Hacker have been improperly and without Plaintiff's authorization and consent transferred by Defendants for what was supposed to be the intended purpose of liquidating and/or distributing the business assets of Walsh and Hacker to themselves without having been fully accounted for to the Plaintiff.

66. Among other responsibilities, the Defendants had a confidential fiduciary relationship with Plaintiff in connection with the duties and the discharge in the purported winding down of Walsh and Hacker.

67. Defendants failed to account for and distribute the assets of Walsh of Hacker to which Plaintiff is entitled and has an interest either in whole or in part in said transferred and liquidated assets for their own pecuniary gain.

68. The Plaintiff demands judgment for the imposition of constructive trust along with such other and further relief as deemed just, proper and equitable.

UNJUST ENRICHMENT

69. Plaintiff restates all the allegations hereinabove as if fully set forth herein.

70. Defendants have, upon information and belief, assigned and transferred some or all of the assets of Walsh and Hacker to themselves and/or the individual Defendants' new business entity, Walsh Hacker and Associates, LLP.

71. Defendants have been unjustly enriched by virtue of their intentional and fraudulent liquidating, transferring, pledging, hypothecating and/or conveying of the assets of Walsh and Hacker for their own benefit and for their own use and ownership to the detriment of the Plaintiff.

72. The Defendants have been unjustly enriched by their actions to the extent of the value of the Walsh and Hacker assets to which Plaintiff has an interest either in whole or in part.

73. Equity requires restitution by Defendants to Plaintiff.

74. As a result of Defendants' actions, Plaintiff has been damaged in an amount to be determined at trial.

BREACH OF FIDUIARY DUTY

75. Plaintiff restates all the allegations hereinabove as if fully set forth herein.

76. Defendants had at all times a fiduciary duty owed to Walsh and Hacker and Plaintiff.

77. Defendants intentionally and maliciously breached their fiduciary by converting assets of Walsh and Hacker and Plaintiff to themselves during the claimed wind down process of Walsh and Hacker.

78. By the aforesaid breach of fiduciary duties by the Defendants, Defendants forfeit any interests they have or claim in the assets of Walsh and Hacker.

79. Plaintiff demands that the forfeited assets be paid by Walsh and Hacker and Defendants to Plaintiff.

Wherefore, Plaintiff demands judgment that:

1. An accounting be produced by Defendants of the assets and liabilities of Walsh and Hacker, which shall include the following:

- The partnership's capital accounts for each partner as of the date of dissolution.
- The current partnership capital accounts.
- All bank account statements of the partnership for calendar year 2021 through July 31, 2021.
- All escrow accounts of the partnership for calendar year 2021 through July 2021.
- The partnership's accounts receivable as of the date of dissolution.
- The partnership's accounts receivable as of July 31, 2021.
- The partnership's accounts payable as of the date of dissolution.
- The partnership's accounts payable as of July 31, 2021.
- The partnership's work in process as of the date of dissolution.
- The partnership's work in process through July 31, 2021.

- All write offs and write downs of the partnership's work in process during calendar year 2021.
 - All write offs and write downs of the partnership's accounts receivables during calendar year 2021.
 - All bills issued by the partnership for calendar year 2021.
 - All furniture, desks, computers, computer systems, equipment, art and office fixtures or property maintained as partnership property as of the date of dissolution.
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 - The partnership Income statement as of the date of dissolution.
 - The partnership income statement as of July 31, 2021.
 - The 2020 United States and New York State partnership tax returns.
 - Any accounting analysis paid for by the partnership of the assets and liabilities of the partnership for calendar years 2020 and 2021.
 - Any other partnership asset as to the date of dissolution.
 - Any other partnership asset as of the current date.
2. Plaintiff have judgment against the Defendants for the value of the assets of Walsh and Hacker converted by the Defendants for their own benefit;
 3. Plaintiff have judgment against the Defendants for their unjust enrichment through their transfer of the assets of Walsh and Hacker to themselves;
 4. Plaintiff have judgment against the Defendants of forfeiture in the amount of all Walsh and Hacker assets for breach of their fiduciary duties;
 5. Plaintiff have judgment against the Defendants for punitive damages for Defendants' intentional and malicious acts;
 6. Plaintiff have judgment against Defendants for the value of Plaintiff's personal property appropriated by Defendants; and

7. Plaintiff be awarded legal fees and such other and further relief as is just, proper and equitable.

Dated: October 1, 2021

LUIBRAND LAW FIRM, PLLC

Kevin A. Luibrand

Kevin A. Luibrand, Esq.

Attorney for Plaintiff

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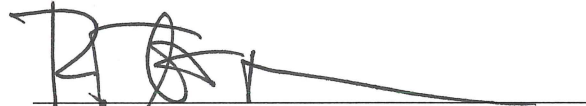
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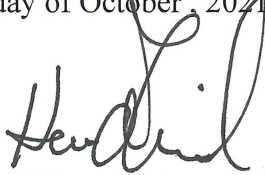
VERIFICATION

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

Robert Scott Thomson, being duly sworn, states that she is the Complainant in this action and that the forgoing **Verified Complaint** is true to his knowledge, except as to the matters therein stated on information and belief and, as to those matters, he believes them to be true.


Robert Scott Thomson

Sworn to before me this
4 day of October, 2021.



Notary Public

KEVIN A. LUIBRAND
Notary Public, State of New York
No. 02LU6247718
Qualified in Saratoga County
Commission Expires August 29, 2023