

AFFIDAVIT OF GEORGE KYRIAKOUCES, RESPONDENT, IN SUPPORT OF CROSS-MOTION AND IN OPPOSITION TO ORDER TO SHOW CAUSE, DATED AUGUST 8, 2019 [79 - 83]

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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF QUEENS

-----X In the Matter of the Application of : VASILIKI APOSTOLOPOULOS, holder of Fifty : Percent of all Outstanding Shares of : OXFORD ASSOCIATES GROUP, INC. and : LANCASTER REALTY MGT. CORP., : Petitioner, : -against- : OXFORD ASSOCIATES GROUP, INC. and : LANCASTER REALTY MGT. CORP. and : GEORGE KYRIAKOUCES a/k/a : GEORGE KYRIAK, : Respondents. : -----X

Index No. 711131/2019

AFFIDAVIT IN OPPOSITION TO PETITION AND MOTION FOR A PRELIMINARY INJUNCTION AND IN SUPPORT OF MOTION TO DISMISS PETITION AND/OR FOR SUMMARY DETERMINATION

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

GEORGE KYRIAKOUCES a/k/a GEORGE KRIAK, being duly sworn deposes and says:

1. I am a respondent in the above-captioned action, and I am the Chief Executive Officer and President of Respondents Oxford Associates Group, Inc. ("Oxford") and Lancaster Realty Mgt. Corp. ("Lancaster") (collectively, the "Corporate Respondents"). I make this Affidavit in opposition to the Verified Petition (the "Petition") filed herein by Petitioner Vasiliki Apostolopoulos ("Petitioner") which seeks dissolution of the Corporate Respondents pursuant to B.C.L. § 1104-a and Petitioner's motion for a preliminary injunction. I also make this Affidavit in support of Respondents' cross-motion, pursuant to CPLR 404 and/or 3211(a)(7) to dismiss the Petition and/or Respondents' motion, pursuant to CPLR 409(b) for a summary determination dismissing the Petition.

2. I am fully familiar with the facts set forth herein, except where stated upon information and belief, and as to those matters I believe them to be true.

**Background**

3. On or about June 26, 1991, I caused Oxford to be formed as a corporation pursuant to the laws of the State of New York.

4. On or about January 20, 1994, I caused Lancaster to be formed as a corporation pursuant to the laws of the State of New York.

5. At all times, I have served as the CEO of the Corporate Respondents.

6. At the outset, it should be noted that Oxford was dissolved by proclamation on June 26, 2016 and has not been reinstated. A copy of the printout from the New York Secretary of State is annexed hereto as Exhibit A.

7. From their inception to 2005, Petitioner served as an officer of the Corporate Respondents.

8. In or about 2005, I discovered that Petitioner and her husband had engaged in a fraudulent scheme to divert business away from other entities that I had co-owned with Petitioner, *i.e.*, Allied Renovation Corp. and Allied Contracting I, Inc. (collectively, the "Allied Entities") Petitioner and her husband (who is a convicted felon) diverted millions of dollars of business and embezzled funds from these entities and other entities I owned.

9. Upon learning of the foregoing, Petitioner and I agreed to dissolve the Allied Entities and to part ways. It was later learned that Petitioner continued to operate these entities with her husband, embezzling a substantial amount of funds and exposing me to substantial liability for unpaid taxes, prevailing wage claims and for workers' compensation coverage for the foregoing entities as well as Corporate Respondents. Indeed, the Commissioner of the State

Insurance Fund commenced an action in 2007 against the Corporate Respondents, the Allied Entities in the Supreme Court, New York County and entities owned by Petitioner (Index No. 402694/2007) to recover insurance premiums for workers' compensation coverage for which the Allied Entities (through me) paid hundreds of thousands of dollars to resolve. I also paid hundreds of thousands of dollars to settle prevailing wage claims against the Allied Entities that resulted from the illegal conduct of Petitioner and her husband.

10. Following the resolution of those claims in 2009, in exchange for me resolving these claims and not seeking to commence litigation against Petitioner and her husband to recover same and for the funds they embezzled, it was agreed and understood, through our respective counsel, that Petitioner relinquished her ownership interest in the Corporate Respondents.

11. Petitioner's subsequent conduct bears out and corroborates this understanding. Indeed, after parting ways in 2005, Petitioner had no involvement in either Oxford or Lancaster, nor did she ever seek any involvement. Rather, she agreed to part ways and voluntarily resigned her positions with the Corporate Respondents and ceased her involvement with the Corporate Respondents. From 2005 to the present, Petitioner did not have any involvement in the management of the Corporate Respondents, the day-to-day operations of the Corporate Respondents, or the financial or other decisions made with respect to the Corporate Respondents. Simply put, from 2005 to the present, Petitioner had no involvement with the Corporate Respondents and never contacted me to express any desire to be involved and never communicated with me regarding same.

12. Further, I never engaged in any oppressive conduct towards Petitioner. To the contrary, I have not even spoken to Petitioner regarding the Corporate Entities since 2005, and Petitioner has not attempted to contact me with respect to the operation of the Corporate

Respondents since that time. I have had no dealings (except through attorneys) with Petitioner since 2005.

13. The only time Petitioner sought any documents regarding the operation of the Corporate Defendants was in 2007, when she commenced a proceeding to allow her to inspect the books and records of the Corporate Respondents and for an accounting. It is my recollection that, while the Corporate Respondents did provide certain documents, there was never a complete production, and Petitioner essentially abandoned this proceeding because she had agreed to relinquish her ownership interest in the Corporate Respondents.

14. Based upon the foregoing, even if the Court finds that Petitioner does have any ownership interest in the Corporate Respondents, the Court should find that there is no basis to dissolve the Corporate Respondents based upon oppressive conduct.

15. Further, Petitioner's claim for oppressive conduct is barred by the statute of limitations as any alleged oppressive conduct could not have occurred after 2007 – the time when Petitioner commenced a proceeding for the inspection of the Corporate Respondents' books and records.

16. Finally, Petitioner cannot establish a right to a preliminary injunction. As set forth above, Petitioner cannot establish that she is likely to succeed on her claim for corporate dissolution pursuant to BCL 1104-a based on oppressive conduct. Additionally, based upon the fact that Petitioner waited 12 years to bring this action, Petitioner cannot demonstrate an immediate threat of irreparable harm.

17. Based upon the foregoing, the Court should grant Respondents' motion to dismiss the Petition pursuant to CPLR 404 and/or 3211(a)(7), or, alternatively should grant a summary determination pursuant to CPLR 409(b) to dismiss the Petition.

**WHEREFORE**, Respondents respectfully request that this Court issue an Order: (a) denying Petitioner’s motion for a preliminary injunction; (b) deny the relief sought in the Petitioner; and/or (c) granting Respondents’ cross-motion and dismissing the Petition pursuant to CPLT 3211(a)(7), or alternatively, granting summary determination pursuant to CPLR 409(b) dismissing the Petition.

  
George Kyriakoudes

Sworn to before me this  
6<sup>th</sup> day of August, 2019

  
Notary Public

**CHRISTOPHER P. MILAZZO**  
**NOTARY PUBLIC, State of New York**  
**No. 02MI6047062**  
**Qualified in Westchester County**  
**Commission Expires Aug. 21, 20**22