

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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 In the Matter of the Application of Mark Rozof, Linda :
 Rozof-Guber, and Judith Teitell, General Partners, :
 :
 Petitioners, :
 : Index No.
 For the Judicial Winding Up of 392 1st Street Company, a :
 Domestic Partnership, Pursuant to Section 68 of the :
 Partnership Law, :
 : **VERIFIED PETITION**
 -and- :
 :
 Arthur Rozof, as a General Partner and in his :
 Representative Capacity as Executor of the Estate of Edna :
 Rozof, General Partner, deceased, :
 :
 Respondent. :
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TO THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF KINGS:

Petitioners Mark Rozof, Linda Rozof-Guber, and Judith Teitell (collectively, “Petitioners”), by their attorneys, Farrell Fritz, P.C., respectfully allege and show to this Court as follows:

1. This is a proceeding seeking the judicial winding up of 392 1st Street Company (“Partnership”), a New York general partnership, pursuant to Partnership Law §§62(4), 62(1)(b), and 68 on the grounds that the Partnership dissolved on the death of Edna Rozof on December 4, 2011 and/or upon the withdrawal of Judith Teitell on February 18, 2016, and the general partners of the Partnership are unable to agree on the process of winding up the affairs of the Partnership.
2. The Partnership is terminable at will.
3. The Partnership, a domestic general partnership formed in or about 1988, has an office and place of business located in the County of New York, State of New York.

4. Petitioner Mark Rozof (“Mark”) resides at 140 Reservoir Road, Barkhamsted, Connecticut, 06063. At all relevant times he was, and is, a general partner of the Partnership owning 18.27% of the Partnership (*see* Ex. “A,” Redacted 2009 K-1 of Partnership).

5. Petitioner Linda Rozof-Guber (“Linda”) resides at 58 Bounty Lane, Jericho, Nassau County, New York 11753. At all relevant times she was, and is, a general partner of the Partnership owning 16.35% of the Partnership (*see* Ex. “A”).

6. Petitioner Judith Teitell (“Judith”) resides at 125 Seacord Road, New Rochelle, Westchester County, New York 10804. At all relevant times she was, and is, a general partner of the Partnership owning 16.35% of the Partnership (*see* Ex. “A”).

7. Respondent Arthur Rozof (“Arthur”) resides, upon information and belief, at 230 West End Avenue, New York, New York 10023. At all relevant times he was, and is, a general partner of the Partnership owning 18.27% of the Partnership (*see* Ex. “A”).

8. Arthur is the Executor of the Estate of Edna Rozof, who died on December 4, 2011. Edna was a general partner of the Partnership owning 30.76% of the Partnership (*see* Ex. “A”).

9. Mark, Linda, Judith, and Arthur are adult siblings.

10. In or about 1988, the Partnership was formed.

11. The sole material asset of the Partnership is a four-story residential apartment building located at 392 1st Street, Brooklyn, New York (Block/Lot 971/14) (“Property”).

12. The Property is owned by, and titled in the name of, the Partnership. *See* Exhibit “B” annexed hereto.

13. The Property, upon information and belief, is not encumbered by any liens or mortgages.

14. On December 4, 2011, the Partnership dissolved by operation of law upon Edna's death pursuant to Partnership Law § 62.4.

15. Arthur has disputed, and has continued to dispute, that the Partnership dissolved upon Edna's death.

16. On February 19, 2016, Judith served a notice upon Arthur (in his individual and representative capacities), Mark, and Linda stating she was withdrawing from the Partnership, effective immediately. *See* Exhibit "C" annexed hereto.

17. As a result of this withdrawal, the Partnership dissolved by operation of law pursuant to Partnership Law § 62.1(b).

18. Petitioners desire to sell the Property as part of the winding up of the Partnership's affairs.

19. Arthur objects to the sale of the Property and to the winding up of the Partnership and has sought to interfere with the sale of the Property and the winding up of the Partnership.

20. Mark, Linda, and Judith retained a licensed real estate broker who has identified a ready, willing and able purchaser for the Property, but Arthur's objections have interfered with the sale of the Property.

21. As a result of the discord among Petitioners, on the one hand, and Arthur, on the other, the partners of the Partnership are unable to agree on decisions necessary for the winding up of the Partnership's affairs.

22. The Partnership does not have a partnership agreement covering its affairs, governance, and operations.

23. Because there is no existing partnership agreement, the default provisions of the Partnership Law apply.

24. Partnership Law § 62 (4) provides that a partnership at will such as the Partnership dissolves automatically upon the death of a partner.

25. Edna's death on December 4, 2011 caused the dissolution of the Partnership.

26. Partnership Law § 62(1)(b) provides that a partnership at will such as the Partnership may be dissolved "[b]y the express will of any partner when no definite term or particular undertaking is specified" in a partnership agreement.

27. Because there is no partnership agreement, Judith's withdrawal from the Partnership on February 19, 2016 provided an additional basis for the dissolution of the Partnership.

28. Under Partnership Law § 68, Petitioners are entitled to wind up the Partnership.

29. Arthur has refused to acknowledge the Partnership has dissolved and has refused to cooperate with the winding up of the Partnership.

30. Arthur has sought to frustrate Petitioners' efforts to sell the Property to a third-party for fair market value and has sought instead to purchase the property for himself for less than fair market value.

31. As a result, the Court's supervision of the winding up of the Partnership is necessary.

32. The Verified Petition does not seek to impose liability on the Partnership, which is made a party to this proceeding solely to make it subject to the orders and judgment of this Court and thereby afford Petitioners complete relief.

33. On or about February 23, 2016, an identical proceeding ("Prior Proceeding") was commenced in the Supreme Court, Nassau County, under Index No. 601181/2016.

34. On or about May 31, 2016, the Hon. Stephen A. Bucaria issued a Short Form Order in the Prior Proceeding where he denied Respondent's motion to dismiss the Petition and transferred the action to Kings County (*see* Exhibit "D" annexed hereto).

35. On or about August 31, 2016, the Prior Proceeding was transferred to the Supreme Court, Kings County, and assigned Index No. 515373/2016.

36. Respondent argued in the Prior Proceeding that the Petition is procedurally improper and "there is nothing before the Court for determination" (NYSCEF Docket Entry 48). By failing to render a decision on the Petition since September 13, 2016, despite repeated requests to the Court for such a determination (*see* NYSCEF Docket Entries 46, 47, 49, and 50), it appears the Court in the Prior Proceeding has accepted this argument. As a result, Petitioners have commenced the instant proceeding, placing venue in Kings County, the county that Respondent argued, in the Prior Proceeding, was proper due to the location of the Partnership's primary asset.

37. Petitioners have no adequate remedy at law.

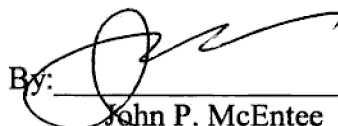
38. Petitioners therefore request: that the Court determine that the Partnership has dissolved by operation of law; that the Court supervise the winding up of the Partnership's affairs pursuant to Partnership Law § 68; that Petitioners be permitted and directed to sell the Property; that the assets of the Partnership, including the proceeds of the sale of the Property, be applied as provided for in Partnership Law §§ 69 and 71 or as otherwise directed by the Court; that a final accounting be prepared; and that upon a final accounting a declaration issue that the Partnership's affairs have been wound up.

WHEREFORE, Petitioners respectfully pray for an Order and Judgment of this Court as follows:

- (a) determining that the Partnership has dissolved by operation of law; that the Court supervise the winding up of the Partnership's affairs pursuant to Partnership Law § 68; that Petitioners be permitted and directed to sell the Property; that the assets of the Partnership, including the proceeds of the sale of the Property, be applied as provided for in Partnership Law §§ 69 and 71 or as otherwise directed by the Court; that a final accounting be prepared; and that upon a final accounting a declaration issue that the Partnership's affairs have been wound up; and
- (b) granting Petitioners such other and further relief as the Court may deem just and proper under the circumstances, together with the costs and disbursements of this proceeding and attorney's fees, if appropriate.

Dated: Uniondale, New York
November 21, 2019

· FARRELL FRITZ, P.C.

By: 

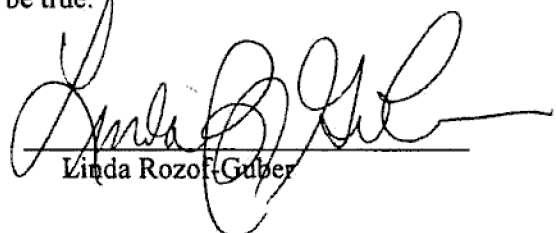
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Attorneys for Petitioners
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Uniondale, New York 11556
(516) 227-0700

VERIFICATION

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

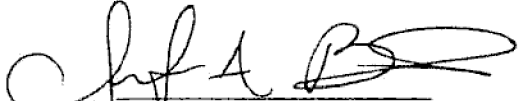
Linda Rozof-Guber, being duly sworn, deposes and says:

I am a General Partner of 392 1st Street Company and a Petitioner in this proceeding. I have read the foregoing Verified Petition and know the contents thereof; and the same is true to my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.



Linda Rozof-Guber

Sworn to before me this
21 day of November, 2019



Notary Public

JENNIFER A BENEVENTIN
Notary Public - State of New York
NO. 01BE6248395
Qualified in Nassau County
My Commission Expires 9-19-23