

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MICHELLE HARUVI,

Plaintiff,

-against-

PETER HUNGERFORD, ARTHUR HARUVI,
JOHN AND JANE DOES 1-10, 315W54 OWNER
LLC, 311W54 OWNER LLC, 309W54 OWNER
LLC, 313W54 OWNER LLC, 38W75 OWNER
LLC, 244W74 OWNER LLC, 54W75 OWNER
LLC, FS CREIT Finance Holdings LLC, and JOHN
AND JANE DOES 11-20,

Defendants,

and

SIMRY REALTY CORP., Nominal Defendant.

VERIFIED COMPLAINT

IAS PART

JUSTICE

Plaintiff, Michelle Haruvi, ("Plaintiff"), by and through her counsel, GordonLaw LLP, as and for her Verified Complaint in this derivative and individual action, hereby alleges as follows:

NATURE OF THE ACTION

1. This is a derivative and individual action brought by Plaintiff, who owns approximately 17.7% of the outstanding shares of stock in Nominal Defendant Simry Realty Corp., a New York corporation ("Simry"), in response to actions harmful to Simry and Plaintiff by Defendants Arthur Haruvi, the other directors and officers of Simry, the identities of whom are presently unknown, and by Peter Hungerford ("Hungerford").

2. Plaintiff seeks, derivatively and individually, to rescind an unlawful transfer of Simry's assets, damages, and a declaration that the real property that was unlawfully transferred from Simry belongs to Simry, not the entities that were set up to acquire that real property.

THE PARTIES

3. Plaintiff is an individual who resides in San Francisco, California and New York, New York.

4. Upon information and belief, Defendant Arthur Haruvi ("Haruvi") is an individual who resides and works in the City, County and State of New York and is and at all relevant times was a director and officer of Simry.

5. Upon information and belief, Defendants John and Jane Does 1-10 (the "Doe Defendants") are the directors and officers of Simry other than Haruvi, the identities of whom are presently unknown but are expected to be discovered during the course of this litigation, with an appropriate substitution made when those identities are discovered. The Doe Defendants and Haruvi are, collectively, referred to herein as the "Haruvi Defendants."

6. Upon information and belief, Hungerford is an individual who resides and works in the City, County and State of New York.

7. Upon information and belief, 315W54 Owner LLC is a limited liability company organized under the laws of the State of Delaware with a principal place of business at 114 East 71st Street, East Suite, New York, NY 10021.

8. Upon information and belief, 311W54 Owner LLC is a limited liability company organized under the laws of the State of Delaware with a principal place of business at 114 East 71st Street, East Suite, NY, NY 10021.

9. Upon information and belief, 309W54 Owner LLC is a limited liability company organized under the laws of the State of Delaware with a principal place of business at 114 East 71st Street, East Suite, NY, NY 10021.

10. Upon information and belief, 313W54 Owner LLC is a limited liability company organized under the laws of the State of Delaware with a principal place of business at 114 East 71st Street, East Suite, NY, NY 10021.

11. Upon information and belief, 38W75 Owner LLC is a limited liability company organized under the laws of the State of Delaware with a principal place of business at 114 East 71st Street, East Suite, NY, NY 10021.

12. Upon information and belief, 244W74 Owner LLC is a limited liability company organized under the laws of the State of Delaware with a principal place of business at 114 East 71st Street, East Suite, NY, NY 10021.

13. Upon information and belief, 54W75 Owner LLC is a limited liability company organized under the laws of the State of Delaware with a principal place of business at 114 East 71st Street, East Suite, NY, NY 10021.

14. The entities identified in Paragraphs 7-13 above are referred to collectively herein as the “Real Property Defendants.”

15. Upon information and belief, FS CREIT Finance Holdings LLC (“FSC”) is a Delaware limited liability company with a principal place of business at Rialto Capital Management, LLC (“Rialto”), 600 Madison Avenue, 12th floor, New York, NY 10022.

16. Upon information and belief, John and Jane Does 11-20 are affiliates of FSC and/or Rialto (FSC and John and Jane Does 11-20 are referred to as the “Financing Defendants”).

17. Simry is a Corporation organized under the laws of the State of New York with its principal place of business at 114 East 71st Street, New York, New York, New York 10021.

THE FACTS

A. The Unlawful Transfer of Simry's Real Property

18. Prior to May 13, 2022, Simry owned 100% of all right, title, interest and to the following real properties (collectively, the "Real Property"):

- a. 244 West 74 Street, New York, NY, Block 1165, Lot 56;
- b. 54 West 75 Street, New York, NY, Block 1127, Lot 59;
- c. 38 West 75 Street, New York, NY, Block 1127, Lot 52;
- d. 311 West 54 Street, New York, NY, Block 1045, Lot 25;
- e. 309 West 54 Street, New York, NY, Block 1045, Lot 26;
- f. 313 West 54 Street, New York, NY, Block 1045, Lot 22; and
- g. 315 West 54 Street, New York, NY, Block 1045, Lot 24.

19. Upon information and belief, on May 13, 2022, Simry purported to transfer all of its right, title, and interest in and to the Real Property.

20. Upon information and belief, the Transfer was part of a larger transaction in which Hungerford and the Haruvi Defendants encumbered the Real Property and other real property owned by related entities with approximately \$90 million of debt, the purpose of which was, in part, to finance the buy-out of one of the stakeholders of Simry and, in part, to denude Simry of its direct ownership and management of the Real Property.

21. Upon information and belief, the Haruvi Defendants decided and acted on their own without notice and without a meeting of or unanimous consent by shareholders to obtain shareholder approval, with the assistance and active participation of Hungerford, and with no

prior notice to Plaintiff to transfer away all of Simry's right, title and interest in and to the Real Property, without equivalent value being provided to Simry, and then took the steps necessary to effectuate that transfer (the "Transfer"), including causing the Real Property Defendants to execute deeds to the Real Property recorded on the New York City Automated City Register Information System, also known as ACRIS.

22. The deeds for each parcel of Real Property that were executed as part of the Transfer are identified as follows:

a. The Transfer-related deed for 244 West 74 Street, New York, NY, Block 1165, Lot 56 is identified on ACRIS as City Register File Number ("CRFN") 2022000216223;

b. The Transfer-related deed for 54 West 75 Street, New York, NY, Block 1127, Lot 59 is identified on ACRIS as CRFN 2022000216226;

c. The Transfer-related deed for 38 West 75 Street, New York, NY, Block 1127, Lot 52 is identified on ACRIS as CRFN 2022000216222;

d. The Transfer-related deed for 311 West 54 Street, New York, NY, Block 1045, Lot 25 is identified on ACRIS as CRFN 2022000204209;

e. The Transfer-related deed for 309 West 54 Street, New York, NY, Block 1045, Lot 26 is identified on ACRIS as CRFN 2022000204210;

f. The Transfer-related deed for 313 West 54 Street, New York, NY, Block 1045, Lot 22 is identified on ACRIS as CRFN 2022000204212; and

g. The Transfer-related deed for 315 West 54 Street, New York, NY, Block 1045, Lot 24 is identified on ACRIS as CRFN 2022000204208.

23. Upon information and belief, the Real Property subject to the Transfer constituted all or substantially all of the assets of Simry.

24. Upon information and belief, the Real Property was transferred to the Real Property Defendants, each holding one parcel of real property but all Real Property Defendants owned by a newly-formed entity known as Simry Holding LLC, a Delaware limited liability company.

25. The Transfer was not in the ordinary course of Simry's business.

26. The Transfer effectively caused the termination of Simry's business, as an active real estate owner, operator and manager, as Simry was actively involved in owning, operating, and managing the Real Property before the Transfer but was not able to and did not do so after the Transfer, as management of the Real Property Defendants and thus the Real Property was now in the hands of Hungerford and the Haruvi Defendants.

27. Plaintiff was at all relevant times a minority shareholder of Simry with a right to notice of all shareholder meetings and to vote on all matters requiring a shareholder vote.

28. Plaintiff never received notice of the Transfer prior to its occurrence and never received notice of any vote of the shareholders or request for consent concerning the Transfer.

29. To the best of Plaintiff's knowledge, based on the information provided to Plaintiff in response to her numerous requests, Simry shareholders were never given an opportunity to vote on the Transfer prior to its occurrence.

30. To the best of Plaintiff's knowledge, based on the information provided to Plaintiff in response to her numerous requests, no meeting of Simry's shareholders was ever held or action taken by unanimous shareholder consent, whereby all shareholders were afforded the opportunity to discuss and vote on the Transfer before it occurred.

31. Plaintiff learned about the Transfer only after it occurred.

32. As a direct and proximate result of the Transfer taking place behind Plaintiff's back, Plaintiff never had an opportunity to discuss the Transfer (before it occurred) with the other shareholders of Simry, never had an opportunity to learn about the Transfer (before it occurred) and determine whether it was in the best interests of Simry, never had an opportunity to vote on the Transfer (before it occurred) and formally dissent to the Transfer, and was deprived of her appraisal rights under New York Business Corporation Law ("BCL") §§ 623 and 910, the provisions of both of which are incorporated by reference herein and made a part hereof.

33. As Plaintiff was at all relevant times a voting shareholder of Simry and was not notified of and did not have an opportunity to vote on the Transfer before it occurred, and as Plaintiff was not given an opportunity to learn about and discuss the Transfer, which occurred behind Plaintiff's back, the Transfer did not take place in accordance with the strict procedures set forth in and mandated by BCL § 909, the provisions of which are incorporated by reference herein and made a part hereof.

34. As a direct and proximate result of the aforesaid violation of BCL § 909, Plaintiff was deprived of her rights under BCL §§ 909 and 623.

B. Plaintiff's Pre-Derivative Action Demand

35. On February 6, 2023, counsel for Plaintiff sent a written request to counsel for the Haruvi Defendants demanding that they rescind the Transfer pursuant to BCL § 909 on or before February 15, 2023. A true and accurate copy of the February 6, 2023 letter from Plaintiffs' counsel to counsel for the Haruvi Defendants is attached as Exhibit 1 hereto, incorporated by reference herein, and made a part hereof.

36. As of the date hereof, the Haruvi Defendants have not responded to the aforesaid February 6, 2023 demand, despite a deadline of February 15, 2023 having been set.

C. The Haruvi Delaware Action

37. On February 15, 2023, Defendant Haruvi filed a Declaratory Judgment action in the Chancery Court of Delaware (the “Delaware Haruvi Complaint,” a true and accurate copy of which is annexed as Exhibit 2 hereto) seeking a declaration that Plaintiff “has never been a member of [Jade Realty Partners LLC (“JRP”)] and ... is not entitled to inspection rights pursuant to 6 Del. § 18-305 with respect to [JRP].” See Exh. 2 at ¶ 23.

38. Defendant Haruvi commenced the Delaware Haruvi Complaint in response to Plaintiff demanding to inspect the books and records of JRP pursuant to 6 Del. § 18-305.

39. Plaintiff had demanded to inspect the books and records of JRP based upon an August 19, 2022 email to Plaintiff’s counsel from Defendant Haruvi’s counsel, a true and accurate copy of which is annexed as Exhibit 3 hereto, stating that Defendant Haruvi was holding “as nominee for [Plaintiff] legal title to a portion of his interest in Jade Realty equal to [Plaintiff’s] percentage interest in Simry multiplied by the value of Jade Ventures attributable to its ownership in Simry Holding.”

40. The so-called “Nominee Agreement,” a true and accurate copy of which is annexed as Exhibit 4 hereto, which Plaintiff did not sign, was signed only by Defendant Haruvi and was created without Plaintiff’s knowledge.

41. The Nominee Agreement appears to be a sham instrument (there is only one party to that “agreement,” Defendant Haruvi) intended to create the false appearance that Plaintiff had or, within 60 days of its execution, would have, a membership interest in JRP.

42. The Delaware Haruvi Complaint explicitly denies that Plaintiff has any membership interest in JRP and alleges that Plaintiff “presently possesses, at best, only a restricted, limited, beneficial interest which does not in any manner confer standing to make the

inspection demands [for books and records] in issue much less confer on her the status of a member of Jade Realty.” *See id.* at ¶ 15.

43. Thus, according to the Delaware Haruvi Complaint, Arthur Haruvi is the sole member of and has sole legal title in and to JRP, which, in turn owns 95% of Jade Venture Partners LLC (“JVP”), which, in turn, owns 90% of Simry Holding LLC (“SHLLC”), which, in turn, owns 100% of each of the single purpose entities that acquired all of the Real Property, which entities are listed in Paragraphs 7-13 hereof.

44. In other words, according to the Haruvi Delaware Complaint, following the Transfer, which was conceived and carried out by Hungerford and the Haruvi Defendants, (a) Defendant Haruvi now owns and controls, indirectly through JRP and SHLLC, all of the Real Property formerly owned by Simry, and (b) Plaintiff has no membership interest in JRP, no legal interest in JRP, no rights of inspection of JRP books and Records, a tiny (1.77%) interest in SHLLC, and no direct ownership interest in any of the Real Property Defendants.

45. Plaintiff was the victim of a scheme, the Transfer, in which the Haruvi Defendants, unlawfully and in plain violation of BCL § 909, siphoned off all of the assets of Simry and put those assets into the hands of the Real Property Defendants, which are ultimately controlled and owned by Defendant Haruvi, through JRP and SHLLC.

46. Based upon the foregoing, Simry was deprived not only of all of its real property assets but also a voice (Plaintiff’s) that might have successfully argued against the Transfer. At the same time, Plaintiff was deprived of the value of an interest in an operating company (Simry) that once upon a time owned, but no longer owns, seven parcels of valuable New York City real property. Those parcels are now owned by seven separate limited liability companies in which Plaintiff has no direct ownership interest and which are owned by a company (SHLLC) in which

Plaintiff has only a tiny, indirect ownership interest (through Simry), the rest of SHLLC's interests being held by companies (Jade Realty and JVP) in which, according to the Delaware Haruvi Complaint, Plaintiff has no legal interest.

AS AND FOR A FIRST CAUSE OF ACTION

(For rescission of the unauthorized and illegal transfer of substantially all of Simry's assets, asserted derivatively on behalf of Simry against the Haruvi Defendants)

47. Plaintiff repeats and realleges Paragraphs 1-46 above as if fully stated herein.

48. BCL § 909 provides, in pertinent part, that "[a] sale, lease, exchange or other disposition of all or substantially all the assets of a corporation, if not made in the usual or regular course of the business actually conducted by such corporation, shall be authorized only in accordance with" the procedures set forth in BCL § 909.

49. BCL § 909 (a) (1) – (3) sets forth the procedures a corporation must follow if the corporation sells, leases, exchanges or otherwise disposes of all or substantially all the assets of the corporation.

50. The procedures set forth in BCL § 909 (a) (1) – (3) are as follows:

- (1) The board shall authorize the proposed sale, lease, exchange or other disposition and direct its submission to a vote of shareholders.
- (2) Notice of meeting shall be given to each shareholder of record, whether or not entitled to vote.
- (3) The shareholders shall approve such sale, lease, exchange or other disposition and may fix, or may authorize the board to fix, any of the terms and conditions thereof and the consideration to be received by the corporation therefor, which may consist in whole or in part of cash or other property, real or personal, including shares, bonds or other securities of any other domestic or foreign corporation or corporations, by vote at a meeting of shareholders of (A) for corporations in existence on the effective date of this clause the certificate of incorporation of which expressly provides such or corporations incorporated after the effective date of this clause, a majority of the votes of all outstanding shares entitled to vote thereon or (B) for other corporations in

existence on the effective date of this clause, two-thirds of the votes of all outstanding shares entitled to vote thereon.

51. The Transfer did not take place pursuant to the procedures set forth in BCL § 909, as notice of the Transfer (before it occurred) was not given to Plaintiff, who is and at all times was a voting shareholder of Simry and who was not informed of any meeting to discuss and vote on the Transfer and who was not informed of any proposed unanimous shareholder consent.

52. Upon information and belief, Simry did not receive equivalent value for the Real Property as part of the Transfer.

53. Upon information and belief, the Transfer was completed and substantially all of the assets of Simry were sold, transferred, or otherwise disposed of, leaving Simry with a passive, highly leveraged interest in the Real Property Defendants with no other assets or control.

54. As the Transfer was completed in violation of BCL § 909, the Transfer was unauthorized, illegal, and subject to immediate rescission.

55. Plaintiff lacks an adequate remedy at law.

56. Accordingly, Plaintiff requests that the Court order that the Transfer be rescinded.

AS AND FOR A SECOND CAUSE OF ACTION

(For monetary damages on account of the unauthorized and illegal transfer of substantially all of Simry's assets, asserted derivatively on behalf of Simry against the Haruvi Defendants)

57. Plaintiff repeats and realleges Paragraphs 1-56 as if fully stated herein.

58. The Transfer resulted in Simry ceasing its business and the transfer of all or substantially all of its assets.

59. The primary relief Plaintiff seeks, derivatively, on behalf of Simry, is rescission of the Transfer.

60. No amount of money can completely compensate Simry for the damage it suffered as a result of the Haruvi Defendants' decision to effectuate the Transfer in violation of BCL § 909.

61. To the extent the Real Property or any part thereof is not returned to Simry within a reasonable period of time after judgment is entered in favor of Plaintiff on Plaintiff's First Cause of Action, Simry will be entitled to financial compensation in an amount equivalent to the value of that part of the Real Property not returned to Simry, such amount to be determined at trial.

62. The Haruvi Defendants directly and proximately caused the Transfer to occur in violation of BCL § 909.

63. To the extent the Real Property or any part thereof is not returned to Simry within a reasonable period of time after judgment is entered in favor of Plaintiff on Plaintiff's First Cause of Action, the Haruvi Defendants should be required to pay over to Simry an amount of money equivalent to the value of that part of the Real Property not returned to Simry, such amount to be determined at trial.

AS AND FOR A THIRD CAUSE OF ACTION

(For breach of fiduciary duty, asserted derivatively on behalf of Simry against the Haruvi Defendants)

64. Plaintiff repeats and realleges Paragraphs 1-63 as if fully stated herein.

65. As directors and officers of Simry, the Haruvi Defendants owed fiduciary duties to Simry.

66. The Transfer resulted in Simry ceasing its business through the transfer of the Real Property, constituting substantially all the assets of Simry.

67. The Haruvi Defendants directly, knowingly and proximately caused the Transfer to occur in violation of BCL § 909, a wrongful act that violated their fiduciary duties to Simry.

68. As a direct and proximate result of the violation of BCL § 909, Simry suffered damages in that all or substantially all of its assets were transferred away from it without the proper notice and vote, protections intended to ensure that such a transaction does not proceed unless and until all shareholders have had a chance to consider and discuss it and exercise their rights of dissent pursuant to the BCL and without equivalent value having been provided to Simry.

69. Upon information and belief, the Haruvi Defendants effectuated the Transfer to advance their own self-interest, disregarding the interest of Simry.

70. As a direct and proximate result of the Haruvi Defendants' violation of BCL § 909, Simry has been damaged in an amount to be proven at trial.

AS AND FOR A FOURTH CAUSE OF ACTION

**(For an accounting, asserted derivatively on behalf of
Simry against the Haruvi Defendants)**

71. Plaintiff repeats and realleges Paragraphs 1-70 as if fully stated herein.

72. A fiduciary relationship existed between the Haruvi Defendants and Simry, as the Haruvi Defendants are and at all relevant times were officers and directors of Simry and, as such, had fiduciary duties to Simry.

73. As pled in the Paragraphs above, the Haruvi Defendants breached their fiduciary duties to Simry.

74. The breach of the Haruvi Defendants' fiduciary duties concerned the Real Property, which had been owned by Simry, and the Transfer.

Accordingly, Plaintiff, acting derivatively on behalf of Simry, is entitled to an accounting of all facts, circumstances, and transactions concerning the Real Property and the Transfer, at the expense of the Haruvi Defendants.

AS AND FOR A FIFTH CAUSE OF ACTION

**(For breach of fiduciary duty, asserted individually
by Plaintiff against the Haruvi Defendants)**

75. Plaintiff repeats and realleges Paragraphs 1-74 as if fully stated herein.

76. As directors and officers of Simry, the Haruvi Defendants owed fiduciary duties to Plaintiff, who was also, at all relevant times, a shareholder of Simry.

77. The Transfer resulted in Simry effectively ceasing its business through the transfer of substantially all its assets.

78. The Transfer deprived Plaintiff of her right to discuss the Transfer (before it occurred) with the other shareholders of Simry, to learn about the Transfer (before it occurred) and determine whether it was in the best interests of Simry, to vote on the Transfer (before it occurred), and to assess and, upon dissent, exercise her appraisal rights under BCL §§ 623 and 910.

79. The Transfer further deprived Plaintiff of the value of her interest in Simry, which value has been diminished by the Transfer, as aforesaid.

80. Upon information and belief, the Haruvi Defendants effectuated the Transfer to advance their own self-interest, disregarding the interest of Simry and Plaintiff.

81. As a direct and proximate result of the Haruvi Defendants' violation of BCL § 909, Plaintiff has been damaged in an amount to be proven at trial.

AS AND FOR A SIXTH CAUSE OF ACTION

(For aiding and abetting breach of fiduciary duty, asserted derivatively on behalf of Simry against Hungerford)

82. Plaintiff repeats and realleges Paragraphs 1-81 as if fully stated herein.

83. Upon information and belief, Hungerford knew at all relevant times that the Haruvi Defendants were, at all relevant times, directors and officers of Simry.

84. Upon information and belief, Hungerford knew at all relevant times that the Haruvi Defendants owed fiduciary duties to Simry.

85. Upon information and belief, Hungerford knew at all relevant times that the Transfer resulted in Simry effectively ceasing its business through the transfer of substantially all its assets.

86. Upon information and belief, Hungerford knew at all relevant times that the Haruvi Defendants directly and proximately caused the Transfer to occur in violation of BCL § 909, a wrongful act that violated their fiduciary duties to Simry.

87. Upon information and belief, Hungerford knew at all relevant times that, as a direct and proximate result of the violation of BCL § 909, Simry would be damaged in that all or substantially all of its assets would be transferred away from it without the proper notice and vote, which upon information and belief, Hungerford knew were protections intended to ensure that such a transaction does not proceed unless and until all shareholders have had prior notice and a chance to consider and discuss it and exercise their rights under the BCL, and without equivalent value having been provided to Simry.

88. Upon information and belief, Hungerford knew at all relevant times that the Haruvi Defendants effectuated the Transfer to advance their own self-interest, disregarding the interest of Simry.

89. Upon information and belief, Hungerford was directly and actively involved in all aspects of the Transfer, including without limitation planning meetings, meetings with attorneys, and negotiations with the Haruvi Defendants and other parties involved in the Transfer, including without limitation FSC and John and Jane Does 11-20, and their respective affiliates, which, upon information and belief, financed the Transfer. In fact, Hungerford was the “Authorized Signatory” on all publicly filed Transfer documents.

90. As a direct and proximate result of the Haruvi Defendants’ violation of BCL § 909, which Hungerford knowingly and actively aided and abetted, Simry has been damaged in an amount to be proven at trial.

AS AND FOR A SEVENTH CAUSE OF ACTION

(For aiding and abetting breach of fiduciary duty, asserted individually by Plaintiff against Hungerford)

91. Plaintiff repeats and realleges Paragraphs 1-90 as if fully stated herein.

92. Upon information and belief, Hungerford knew at all relevant times that the Haruvi Defendants were at all relevant times directors and officers of Simry.

93. Upon information and belief, Hungerford knew at all relevant times that Plaintiff was also, at all relevant times, a shareholder of Simry.

94. Upon information and belief, Hungerford knew at all relevant times that the Haruvi Defendants owed fiduciary duties to Plaintiff.

95. Upon information and belief, Hungerford knew at all relevant times that the Transfer would result in the effective liquidation of Simry effectively ceasing its business through the transfer of substantially all its assets.

96. Upon information and belief, Hungerford knew at all relevant times that the Transfer would deprive Plaintiff of her right to discuss the Transfer (before it occurred) with the

other shareholders of Simry, to learn about the Transfer (before it occurred) and determine whether it was in the best interests of Simry, to vote on the Transfer (before it occurred), and to assess and, upon dissent, exercise her appraisal rights under BCL §§ 623 and 910.

97. Upon information and belief, Hungerford knew at all relevant times that the Haruvi Defendants effectuated the Transfer to advance their own self-interest, disregarding the interest of Simry and Plaintiff.

98. As a direct and proximate result of the Haruvi Defendants' violation of BCL § 909, which Hungerford knowingly and actively aided and abetted, Plaintiff has been damaged in an amount to be proven at trial.

AS AND FOR AN EIGHTH CAUSE OF ACTION

(To quiet title pursuant to RPAPL Article 15 asserted derivatively on behalf of Simry against the Real Property Defendants, and the Financing Defendants)

99. Plaintiff repeats and realleges Paragraphs 1-98 as if fully stated herein.

100. Simry is the owner in fee simple of the Real Property.

101. Any interest claimed by the Real Property Defendants and/or the Financing Defendants in the Real Property is invalid and ineffective as against Simry, as the Transfer did not vest any of the Real Property Defendants with any right, title or interest in or to any of the Real Property or the financing thereof.

102. Any interest in the Real Property that the Real Property Defendants and/or the Financing Defendants claim or may claim, and any lien and/or encumbrances on the Real Property which ever existed, were claimed or may be claimed in favor of the Real Property Defendants, are ineffective as against the title and interest of Simry in the Real Property.

103. Simry owns the Real Property free of all estates, interests, liens and encumbrances existing in favor of or claimed by the Real Property Defendants or any other party that might claim any such interest, including without limitation the Financing Defendants.

104. Simry's interest as fee owner of the Real Property is predicated on the recorded deeds that evidence Simry's ownership rights prior to the Transfer.

105. All claims that the Real Property Defendants and/or the Financing Defendants may assert as to the Property are invalid and of no force and effect, as the Real Property Defendants' and/or the Financing Defendants' claimed rights in and to the Real Property are based entirely on the validity of the Transfer, and the Transfer was invalid and of no force or effect.

106. Based on all of the above, Simry has a superior claim to title to the Real Property to any and all of the Real Property Defendants and any and all other persons or entities, including without limitation the Financing Defendants.

107. Plaintiff has no adequate remedy at law.

AS AND FOR A NINTH CAUSE OF ACTION

(For slander of title asserted derivatively on behalf of Simry against the Real Property Defendants, the Haruvi Defendants, and Hungerford)

108. Plaintiff repeats and realleges Paragraphs 1-107 as if fully stated herein.

109. By executing and filing for recordation the deeds for the Real Property in connection with the Transfer, identified more fully above in Paragraph 21, the Real Property Defendants made and published a false statement to third persons that casts a cloud upon Simry's right, title, and interest in and to the Real Property.

110. Upon information and belief, the Haruvi Defendants and Hungerford were instrumental in causing, and took an active role in causing, the Real Property Defendants to

make and publish false statements to third persons that cast a cloud upon Simry's right, title, and interest in and to the Real Property.

111. Upon information and belief, the aforesaid communication and publication were made with express and implied malice designed to cause harm to Simry and one or more of its shareholders, as those communications contained false statements casting doubt on the validity of Simry's title and were made with malicious intent and reckless disregard of their truth or falsity.

112. The aforesaid communications and publications were not made in good faith nor were they made under color of title.

113. Simry has suffered special damages and injuries as a result of the actions of the Real Property Defendants, the Haruvi Defendants, and Hungerford in that Simry has lost control of the Real Property, has been prevented from selling, leasing, and otherwise managing for profit the Real Property, has been saddled with the debt that, upon information and belief, now encumbers the Real Property, and has incurred and will continue to incur the cost of reversing the Transfer and restoring ownership of the Real Property to Simry.

114. The actions of the Real Property Defendants, the Haruvi Defendants, and Hungerford in unlawfully attempting to deprive Simry of the Real Property through the unlawful Transfer was willful and malicious.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment for Plaintiff as follows:

A. On Plaintiff's First Cause of Action, rescinding the Transfer for the benefit of Simry;

B. On Plaintiff's Second Cause of Action, awarding Simry compensatory damages in an amount to be proved at trial;

C. On Plaintiff's Third Cause of Action, awarding Simry compensatory damages in an amount to be proved at trial;

D. On Plaintiff's Fourth Cause of Action, granting Plaintiff, on behalf of Simry, the right to an accounting concerning the Real Property and the Transfer;

E. On Plaintiff's Fifth Cause of Action, awarding Plaintiff compensatory damages in an amount to be proved at trial;

F. On Plaintiff's Sixth Cause of Action, awarding Simry compensatory damages in an amount to be proved at trial;

G. On Plaintiff's Seventh Cause of Action, awarding Plaintiff compensatory damages in an amount to be proved at trial; and

H. On Plaintiff's Eighth Cause of Action, declaring, adjudging, and ordering that Simry is the rightful owner of the Real Property, barring the Real Property Defendants and all others who or that might claim an interest in or to the Real Property from any such interest, and finally determining that Simry is the lawful owner and vested with an absolute and unencumbered title in fee to Real Property, and declaring, adjudging and ordering that the deeds purporting to convey title to the Real Property to the Real Property Defendants, as recorded on ACRIS and identified above in Paragraph 21 are void and of no force and effect; and

I. On Plaintiff's Ninth Cause of Action, awarding Simry compensatory damages in an amount to be proved at trial; and

J. For such other and further relief as is just and proper, including an award of attorneys' fees, costs, interest, and punitive damages against all Defendants to be awarded to Plaintiff and Simry.

Dated: Katonah, New York
February 23, 2023

Yours, etc.,

GordonLaw LLP

By: _____

Michael R. Gordon

Attorneys for Plaintiff Michelle Haruvi

51 Bedford Road, Suite 2
Katonah, New York 10536
914.232.9500
mgordon@gordonlawllp.com

VERIFICATION

STATE OF OREGON)
COUNTY OF DESCHUTES) ss.:

Michelle Haruvi, being duly sworn, deposes and says:

I am the Plaintiff in this action. I have read the Verified Complaint and know its contents. The Verified Complaint is true to my personal 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.


MICHELLE HARUVI

Sworn to before me this
23 day of February, 2023


NOTARY PUBLIC

