

At I.A.S. Part 31 of the Supreme Court of the State of New York held in and for Kings County, at the Court House in the Borough Of Brooklyn, City and State of New York on the 20th day of December, 2023

Present: Honorable Patria Frias-Colon

DAVID ARONOV, INDIVIDUALLY AND AS A MEMBER OF 290 13TH STREET, LLC SUING ON BEHALF OF HIMSELF AND ALL OTHER MEMBERS OF 290 13TH STREET, LLC SIMILARLY SITUATED AND IN THE RIGHT OF 290 13TH STREET, LLC

Plaintiff(s),

-against-

EUGENE A KHAVINSON, MIKHAIL KREMERMAN, MICHAEL KHAVINSON, VYACHESLAV FAYBYSHEV, YANA SOSKIL, VITALY KOCHNEV, ARTYOM KIRZHNER, MIKOLA VOLYNSKY, ALEXANDER BOGUSLAVSKY, OMNI BUILD INC., 290 13TH STREET, LLC

Index number: 500499/2016

This cause having been called for trial in its order on the Calendar, and six trial jurors having been duly drawn, empaneled, and sworn to try the same, the Jury comes into the Court on the 20th day of December, 2023 after a bifurcated trial and say that they find a verdict as follows:

Liability:

As to question one, jury unanimously find that the defendant Eugene Khavinson, breached his fiduciary duty to the LLC, including to its members including plaintiff David Aronov.

As to question two, jury unanimously find that the defendant Vyachslav Faybyshev, breached his fiduciary duty to the LLC, including to its members including plaintiff David Aronov.

As to question three, the jury unanimously find that the defendant Michael Kremerman, breached his fiduciary duty to the LLC, including to its members including plaintiff David Aronov.

As to question four, the jury unanimously find that the defendant Eugene Khavinson, breached his duty of loyalty and good faith to the LLC, including to its members including plaintiff David Aronov.

As to question five, the jury unanimously find that the defendant Vyachslav Faybyshev, breached his duty of loyalty and good faith to the LLC, including to its members including plaintiff David Aronov.

As to question six, the jury unanimously find that the defendant Michael Kremerman breached his duty of loyalty and good faith to the LLC, including to its members including plaintiff David Aronov.

As to question seven, the jury unanimously find that the defendant Eugene Khavinson, is liable to the LLC for fraud and deceit.

As to question eight, the jury unanimously find that the defendant Vyachslav Faybyshev, is liable to the LLC for fraud and deceit.

As to question nine, the jury unanimously find that the defendant Michael Kremerman, is liable to the LLC for fraud and deceit.

As to question ten, the jury unanimously find that the defendant Eugene Khavinson, is liable to the LLC for an accounting.

As to question eleven, the jury unanimously find that the defendant Vyachslav Faybyshev, is liable to the LLC for an accounting.

As to question twelve, the jury unanimously find that the defendant Michael Kremerman, is not liable to the LLC for an accounting.

As to question thirteen, the jury unanimously find that the defendant Eugene Khavinson, is liable to the LLC for unjust enrichment.

As to question fourteen, the jury unanimously find that the defendant Vyachslav Faybyshev, is liable to the LLC for unjust enrichment.

As to question fifteen, the jury unanimously find that the defendant Michael Kremerman, is liable to the LLC for unjust enrichment.

As to question sixteen, the jury unanimously find that the defendant Eugene Khavinson, is liable to the LLC for conversion.


As to question seventeen, the jury unanimously find that the defendant Michael Kremerman, is liable to the LLC for conversion.

As to question eighteen, the jury unanimously find that the defendant Vyachslav Faybyshev, is liable to the LLC for conversion.

VFP

(A true extract of the minutes.)

County Clerk
Nancy T. Sunshine



by S.C.C Bernell Rollins
Part 31

2024 JAN 29 AM 9:32

KINGS COUNTY CLERK
FILED

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS Part 30
HON. PATRIA FRIAS-COLÓN, JSC

Index #500499/2016

----- X
David Aronov, Individually and as a Member of
290 13th Street, LLC Suing on Behalf of Himself
and All Other Members of 290 13th Street, LLC
Similarly Situated and in the Right of 290 13th
Street LLC,

PETITIONER,

-against-

Eugene A. Khavinson, Mikhail Kremerman,
Michael Khavinson, Vyacheslav Faybyshev, Yana
Soskil, Vitaly Kochnev, Artyom Kirzhner, Mikola
Volynsky, Alexander Boguslavsky, Omni Build
Inc. and 290 13th Street, LLC.,

RESPONDENT.
----- X

MEMBERS OF THE JURY:

IN ACCORDANCE WITH THE CHARGE OF THE COURT AND THE FACTS AS
YOU HAVE FOUND THEM, YOU ARE TO MAKE THE FOLLOWING
DETERMINATIONS IN EACH INSTANCE:

THE ANSWERS MAY BE MADE WHEN AT LEAST FIVE OF THE SIX
MEMBERS OF THE JURY AGREED. THE FOREPERSON WILL PROVIDE THE
ANSWERS AGREED UPON IN THE SPACE PROVIDED FOR EACH QUESTION. THE
SAME MEMBERS NEED NOT AGREE ON EACH QUESTION.

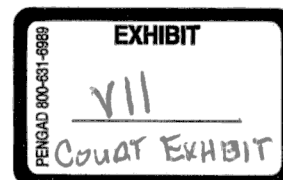
1. HAS DEFENDANT EUGENE KHAVINSON BREACHED HIS FIDUCIARY DUTY
TO THE LLC INCLUDING TO ITS MEMBERS INCLUDING PLAINTIFF DAVID ARONOV?

(At least five (5) jurors must agree on the answer to this question.)

YES ✓ NO _____

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony F...
2. Ben H.



3. *Jan Zhyge*
4. *Sandra Boir*
5. *Benito Oliviera*
6. *Mr. L*

Dissent, if any _____

PROCEED TO QUESTION #2

2. HAS DEFENDANT VYACHSLAV FAYBYSHEV BREACHED HIS FIDUCIARY DUTY TO THE LLC INCLUDING TO ITS MEMBERS INCLUDING PLAINTIFF DAVID ARONOV?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒

NO _____

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. *Anthony Fannin*
2. *Brayley*
3. *Jan Zhyge*
4. *Sandra Boir*
5. *Benito Oliviera*
6. *Mr. L*

Dissent, if any _____

PROCEED TO QUESTION #3

3. HAS DEFENDANT MICHAEL KREMERMAN BREACHED HIS FIDUCIARY DUTY TO THE LLC INCLUDING TO ITS MEMBERS INCLUDING PLAINTIFF DAVID ARONOV?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒

NO _____

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. *Anthony Fannin*

2. Bey
3. 3/2/2
4. Sandra Bain
5. BO
6. MIL

Dissent, if any _____

PROCEED TO QUESTION #4

4. HAS DEFENDANT EUGENE KHAVINSON BREACHED HIS DUTY OF LOYALTY AND GOOD FAITH TO THE LLC INCLUDING TO ITS MEMBERS INCLUDING PLAINTIFF DAVID ARONOV?

(At least five (5) jurors must agree on the answer to this question.)

YES ✓

NO _____

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony K...
2. Bey
3. 3/2/2
4. Sandra Bain
5. BO
6. MIL

Dissent, if any _____

MIL

YES _____

NO _____

PROCEED TO QUESTION #5

5. HAS DEFENDANT VYACHSLAV FAYBYSHEV BREACHED HIS DUTY OF LOYALTY AND GOOD FAITH TO THE LLC INCLUDING TO ITS MEMBERS INCLUDING PLAINTIFF DAVID ARONOV?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony Fannin
2. Boris Galt
3. Bo
4. David Zain
5. Bo
6. M.L

Dissent, if any _____

PROCEED TO QUESTION #6

6. HAS DEFENDANT MICHAEL KREMERMAN BREACHED HIS DUTY OF LOYALTY AND GOOD FAITH TO THE LLC INCUDING TO ITS MEMBERS INCLUDING PLAINTIFF DAVID ARONOV?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony Fannin
2. Boris Galt
3. Bo
4. David Zain
5. Bo
6. M.L

Dissent, if any _____

YES ☐NO ☐**PROCEED TO QUESTION #7**

7. IS DEFENDANT EUGENE KHAVINSON LIABLE TO THE LLC FOR FRAUD AND DECEIT?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony Fannin
2. Benjamin
3. Benjamin
4. Tandra Bain
5. BO
6. ML

Dissent, if any _____

YES ☐NO ☐**PROCEED TO QUESTION #8**

8. IS DEFENDANT VYACHSLAV FAYBYSHEV LIABLE TO THE LLC FOR FRAUD AND DECEIT?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony Fannin
2. Benjamin
3. Benjamin
4. Tandra Bain
5. BO
6. ML

Dissent, if any _____

YES ☐NO ☐**PROCEED TO QUESTION #9**

9. IS DEFENDANT MICHAEL KREMERMAN LIABLE TO THE LLC FOR FRAUD AND DECEIT?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒

NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony Fann
2. Begins
3. Bo
4. Michael Kremerman
5. Bo
6. M.L.

Dissent, if any _____

YES ☐

NO ☐

PROCEED TO QUESTION #10

10. IS DEFENDANT EUGENE KHAVINSON LIABLE TO THE LLC FOR AN ACCOUNTING?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒

NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony Fann
2. Begins
3. Bo
4. Michael Kremerman
5. Bo
6. M.L.

Dissent, if any _____

YES ☐

NO ☐

PROCEED TO QUESTION #11

11. IS DEFENDANT VYACHSLAV FAYBYSHEV LIABLE TO THE LLC FOR AN ACCOUNTING?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒

NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony Faguna
2. Beyi
3. JL
4. Andrea Bair
5. BO
6. M.L

Dissent, if any _____

YES ☐

NO ☐

PROCEED TO QUESTION #12

12. IS DEFENDANT MICHAEL KREMERMEN LIABLE TO THE LLC FOR AN ACCOUNTING?

(At least five (5) jurors must agree on the answer to this question.)

YES ☐

NO ☒

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony Faguna
2. Beyi
3. JL
4. Andrea Bair
5. BO
6. M.L

Dissent, if any _____

YES ☐

NO ☐

PROCEED TO QUESTION #13

13. IS DEFENDANT EUGENE KHAVINSON LIABLE TO THE LLC FOR UNJUST ENRICHMENT?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒

NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony F...
2. B...
3. J...
4. Tandra Zain
5. BO
6. ML

Dissent, if any _____

YES ☐

NO ☐

PROCEED TO QUESTION #14

14. IS DEFENDANT VYACHSLAV FAYBYSHEV LIABLE TO THE LLC FOR UNJUST ENRICHMENT?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒

NO ☐

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony F...
2. B...
3. J...
4. Tandra Zain
5. BO
6. ML

Dissent, if any _____

YES _____

NO _____

PROCEED TO QUESTION #15

15. IS DEFENDANT MICHAEL KREMERMAN LIABLE TO THE LLC FOR UNJUST ENRICHMENT?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒ _____

NO _____

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Arthur J. Funn
2. Benjamin
3. Benjamin
4. David Bain
5. B.D.
6. M.L.

Dissent, if any _____

YES _____

NO _____

PROCEED TO QUESTION #16

16. IS DEFENDANT EUGENE KHAVINSON LIABLE TO THE LLC FOR CONVERSION?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒ _____

NO _____

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Arthur J. Funn
2. Benjamin
3. Benjamin
4. David Bain
5. B.D.
6. M.L.

Dissent, if any _____

YES _____

NO _____

PROCEED TO QUESTION #17

17. IS DEFENDANT MICHAEL KREMERMAN LIABLE TO THE LLC FOR CONVERSION?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒ _____

NO _____

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony F...
2. B...
3. J...
4. Barbara B...
5. B...
6. M.L.

Dissent, if any _____

YES _____

NO _____

PROCEED TO QUESTION #18

18. IS DEFENDANT VYACHSLAV FAYBYSHEV LIABLE TO THE LLC FOR CONVERSION?

(At least five (5) jurors must agree on the answer to this question.)

YES ☒ _____

NO _____

Jurors, after answering the above question, will sign their names/initials/numbers below:

1. Anthony F...
2. B...
3. J...
4. Barbara B...
5. B...
6. M.L.

Exhibit Sheet

Trial Term Part 31

Justice HON P. FRIAS-COLON

Title DAVID ARANOV V. EUGENE A KHAVISON; ET AL

Court Reporter(s) CASSANDRA JOHNSON

Calendar No.

Index No. 500499/2016

Date(s) of Trial Liability 12/4/2023, 12/5/23, 12/6/23, 12/7/23, 12/8/23, 12/11/23, 12/12/23, 12/18/23 12/19/23, 12/20/23

PLAINTIFF

DEFENDANT

Number	Identification	Evidence	Description of Exhibit	Letter	Identification	Evidence	Description of Exhibit
1		X	Operating agreement 2/9/2008 for 290 13th st.LLC	A		X	Chase Bank Statements Acct. Ending in 9324 & 1806
2		X	2014 Accounting Ledger for 290 13th st.LLC	B1		X	Color Copy photo of Property as purchased
3		X	Omni Build Inc. 2014 Cash Receipts Journal	B2		X	Color Copy photo of construction site
4a		X	Corp. Tax Returns 2007	B3		X	Color copy photo of property upon completion
b		X	Corp. Tax Returns 2008	C1		X	Bank Statement for Aug 9, 2014 Sep 8, 2014
c		X	Corp. Tax Returns 2009	C2		X	Bank Statement for Sep 9, 2014 to October 8, 2014
d		X	Corp. Tax Returns 2010				
e		X	Corp. Tax Returns 2011				
f		X	Corp. Tax Returns 2012				
g		X	Corp. Tax Returns 2013				
h		X	Corp. Tax Returns 2014				
5		X	Financial Records for the subject property				
6		X	Amended Verified Complaint dated 11/6/2023				
7		X	NYSCEF Doc # 71Statement of Material Facts				
8		X	NYSCEF Doc #69 Affidavit of Eugene Khavinson				
9		X	NYSCEF Doc #91 Response to Statement of Material Facts				
10		X	Profit/Loss Ledger				
COURT EXHIBITS							
I	Jury Note			IV	Definition Given to Jury		
II	Jury Note			V	Jury Note		
III	Jury Note			VI	Jury Note (Verdict Reached)		

Exhibit Sheet

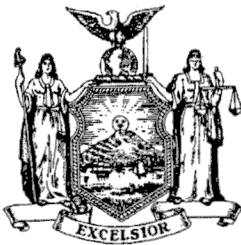
Justice Hon. P. Frias-Colon

Court Reporter(s) CASSANDRA JOHNSON

Index No. 500499/2016

Date(s) of Trial See page 1

[illegible]



Supreme Court of the State of New York
 Honorable ~~SIDA. PATRIA FRIAS-COLÓN~~ Select Judge
 Civil Term -

JURY NOTE

Date: 12/04/23 Time: 3:40pm

Dear Judge:

JUROR #4

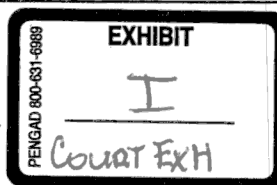
With all due respect and importance I've given to serving my time here, as a juror, I formally request permission to be excused of my duty. With the uncertainty of the length of trial, I have to attend a long awaited job interview ^{tomorrow, Dec. 5th.} that I've already rescheduled once to come here on Thurs, Nov. 30th, 2023. With the fear that I may not be given this opportunity again, I must request to excuse myself from the rest of the proceedings.

I do apologize for any inconvenience.

Signed:

Clerks' use only - Court Exhibit number: I

Index number: 500499/2016



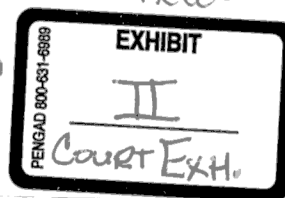


Supreme Court of the State of New York
Honorable
Civil Term - **HON. PATRIA FRIAS-COLÓN**

JURY NOTE

Date: 12/6/23 Time: _____

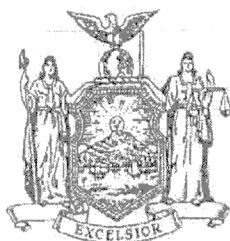
12/6/23
Juror #1 has informed me
that his car broke down on the
way here. He said it's his only
mode of transportation and needs to
have it fixed tomorrow



Signed: _____

Clerks' use only - Court Exhibit number: _____

Index number: _____



Supreme Court of the State of New York

Honorable HON. PATRIA FRIAS-COLÓN

Civil Term - 31

JURY NOTE

Date: 12/19 Time: 1607

- Operative agreement
- Promissory note
- Need definition of unjust enrichment
- 2014 Tax returns

Signed: 

Clerks' use only - Court Exhibit number: III

Index number: 500499/16

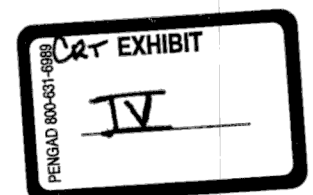


HON. PATRIA FRIAS-COLÓN**N.Y. Pattern Jury Instruction–Civil 4:2 Contracts Quasi Contract Restitution Unjust Enrichment**

As you have heard, Plaintiff David Aronov claims that the managing members were unjustly enriched at David Aronov's expense in that the Operating Managers have been guilty of illegal, fraudulent and oppressive actions towards the shareholders, the property and assets of the Company are being looted, wasted, or diverted for non-corporate purposes by managing partners, thereby enriching themselves at the expense of the minority shareholders and continuing the corporation's existence for the sole purpose of benefiting. The managing members deny Plaintiff's claims and contend that they acted in good faith, exercised sound business judgment and did not Breach their Fiduciary Duty.

Unjust enrichment occurs when one person has obtained money from another person under such circumstances that, in fairness and good conscience, the money should not be retained. In those circumstances, the law requires that person to repay, return to or compensate the other person.

Plaintiff has the burden of proving that funds were misused by members if the subject LLC and profits were misdirected to non-members of the subject LLC. If you decide that managing members did not misappropriate funds, you will find for Defendants. If you decide that there was misappropriation, you will find that Defendants are liable to Plaintiff.





Supreme Court of the State of New York
Honorable **HON. PATRIA FRIAS-COLÓN**
Civil Term - 31

JURY NOTE

Date: 12/20 Time: 1058

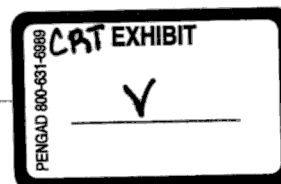
Define "an accounting" for questions #10-12
on the verdict sheet

We, the jurors, withdraw the inquiries on this
jurors note. JZ

Signed: 

Clerks' use only - Court Exhibit number: _____

Index number: 500499/16





Supreme Court of the State of New York

Honorable HON. PATRIA FRIAS-COLÓN

Civil Term - 31

JURY NOTE

Date: 12/20 Time: 1210

We, the jurors, have reached a verdict.

Signed: 

Clerks' use only - Court Exhibit number: VI

Index number: 500499/16

