

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

**PRESENT: HON. LYLE E. FRANK PART 11M**

*Justice*

-----X

CHEF TANG LLC,

Petitioner,

- v -

TANGY NOODLE LLC, ORCHARD HOSPITALITY CORP.

Respondent.

-----X

**INDEX NO. 650501/2024**

**MOTION DATE 01/30/2024**

**MOTION SEQ. NO. 001**

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34

were read on this motion to/for DISSOLUTION.

Petitioner, holder of thirty three percent interest in Tangy Noodle LLC, brings the instant petition seeking dissolution of Tangy Noodle LLC. Respondent opposes the instant petition and cross-moves to dismiss the petition. For the reasons set forth below, the petition is granted, and the cross-petition is denied.

Pursuant to Limited Liability Company Law § 702, a member make seek judicial dissolution “whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or operating agreement.” LLCL § 702.

While the Court agrees that dissolution of an entity is a drastic remedy, here, petitioner has met their burden in demonstrating that the purpose of the business is no longer practicable. This Court finds that the crucial provision of the operating agreement between Chef Tang LLC and Orchard Hospitality Group with regard to Tangy Noodle LLC is that the operation of the business is “contingent upon...the goodwill” of Chef Tang. As such goodwill clearly no longer exists, as Chef Tang has disagreed with certain menu items that have been set forth, among other things, the business can no longer exist as set out in the operating agreement. The Court also

finds unavailing that Chef Tang might have himself violated the terms of the operating agreement. This is not a breach of contract the test is whether the company can continue to function, as indicated above. The answer to this Court is clearly no. As such, based on the unique circumstances between the parties, dissolution is the only viable result.

Further, the Court finds that petitioner has also met their burden for a preliminary injunction in this case that would prevent the respondents from taking any action other than winding up the business, and to stop the respondents from using Chef Tang's likeness during such wind-up period.

"A movant's burden of proof on a motion for a preliminary injunction is particularly high" *Council of the City of NY v Giuliani*, 248 AD2d 1, 4 [1st Dept 1998]. A party seeking a preliminary injunction must clearly demonstrate (1) the likelihood of ultimate success on the merits; (2) the prospect of irreparable injury if the injunction is not issued; and (3) a balance of the equities in the movant's favor. (*Doe v Axelrod*, 73 NY2d 748 [NY 1988]; *Housing Works, Inc. v City of New York*, 255 AD2d 209 [1st Dept 1998]).

If the movant fails to meet its burden to establish each and every element, the request for injunctive relief must be denied. *See, e.g., Doe v Axelrod*, 73 NY2d 748, 750-51 [1988].

Firstly, the petitioner has succeeded on the merits, as this Court is ordering the dissolution of Tangy Noodle LLC. The Court agrees that there is irreparable harm that would occur without injunctive relief, as the likeness of Chef Tang would be used in an unauthorized way that could very well impact his reputation, and apparently is currently being done. Any monetary damages for such impact would be virtually impossible to calculate, so injunctive relief is the only way to prevent the harm from occurring. Finally, the balance of the equities very

much favors the petitioner, as his likeness is being used in an unauthorized way. Accordingly, it is hereby

ORDERED the dissolution of Tangy Noodle LLC pursuant to the Limited Liability Company Operating Agreement and LLCL §701 et seq.; and it is further


ORDERED that an adjusting of the rights and interests of the members of Tangy Noodle LLC pursuant to the Operating Agreement and LLCL §703 et seq. shall occur; and it is further

ORDERED that Tangy Noodle LLC and Orchard Hospitality Corp are enjoined and restrained from:

- (1) expenditures without Petitioner’s written approval;
- (2) transacting any unauthorized business and from exercising any powers unrelated to the winding up of Tangy Noodle LLC, except by permission of the Court;
- (3) continuing to utilize for any purpose any proprietary information, including but not limited to his likeness, history, relatives, and/or experience in the New York restaurant industry, of Chen Lieh Tang, the sole individual owner of Petitioner;
- (4) collecting or receiving any debt or other property of the company, and from paying out or otherwise transferring or delivering any property of the company, except by permission of the Court; and it is further

ORDERED that any relief not specifically granted herein has been denied.

20240306092821LFRANKB23FF78DA5434367A8EDFD2183147689

  
\_\_\_\_\_  
**LYLE E. FRANK, J.S.C.**

3/5/2024  
DATE

CHECK ONE:  CASE DISPOSED  DENIED  NON-FINAL DISPOSITION

APPLICATION:  GRANTED  SETTLE ORDER  GRANTED IN PART  OTHER

CHECK IF APPROPRIATE:  INCLUDES TRANSFER/REASSIGN  FIDUCIARY APPOINTMENT  REFERENCE