

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

-----X  
PAUL AMBAR,

Petitioner(s),

-against-

DEVINGTON TECHNOLOGIES, LTD., TIBOR KLEIN  
and GERSHON KLEIN,

Respondent(s),  
-----X

Index No.:

**VERIFIED PETITION**

09103953

Petitioner, by attorneys, LAW OFFICES OF RUTH L. YANG, complaining of the Respondent(s), respectfully alleges as follows:

PARTIES

1. At all times herein mentioned, Petitioner, PAUL AMBAR, was and is an individual residing in the State of New York, County of Queens.
2. At all times herein mentioned, on information and belief, respondent DEVINGTON TECHNOLOGIES, LTD., (the "Corporation") is a domestic corporation existing under the laws of the State of New York with offices in Queens, New York.
3. At all times relevant to this action, petitioner was and is a shareholder in good standing of respondent corporation. Petitioner holds twelve (12) of forty (40) issued and outstanding shares, comprising thirty percent (30%) of the issued and outstanding shares.
4. At all times herein mentioned, respondent GERSHON KLEIN ("GERSHON") was and is an individual residing in the State of New York, County of Kings.
5. At all times herein mentioned respondent TIBOR KLEIN ("TIBOR") was and is an

**FILED**  
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NEW YORK  
COUNTY CLERK'S OFFICE

individual residing in the State of New York, County of Kings.

6. On or about August 28, 2000 the petitioner and respondents GERSHON and TIBOR incorporated respondent DEVINGTON by filing a certificate of incorporation with the Secretary of State of New York.
7. There were no other shareholders at the inception of the respondent Corporation, and on information and belief, there have been none added.
8. Respondent Corporation's listed Principal Executive Office was and is on file as the address of petitioner.
9. On information and belief, respondents GERSHON and TIBOR were and are officers and directors of the respondent Corporation.
10. Petitioner was and is on file with the office of the Secretary of State as Chairman or Chief Executive.
11. On or about December 2002, the petitioner and respondents GERSHON and TIBOR executed a stockholder's Agreement ("Agreement") purporting to set for the rights and obligations of the parties with regard to respondent Corporation (see annexed Ex. "A").

AS AND FOR A FIRST CAUSE OF ACTION

12. Petitioner repeats and realleges the facts and allegations contained in Paragraphs 1 through 11 of the Petition as though fully stated herein.
13. Beginning on or about April 15, 2008, in violation of Paragraph 2(a) of the Agreement, respondents GERSHON and TIBOR claim to have removed petitioner from the Board of Directors.
14. Respondents GERSHON and TIBOR purport to have terminated petitioner as Officer and

Director, in violation of Paragraph 2(a) of the Agreement.

15. In violation of Paragraph 2(e) of the Agreement, respondents have refused to pay the salary of petitioner.
16. Respondents have cut off petitioner from the operations of the respondent Corporation, have refused to provide form 1065 (K-1) of years 2006, 2007 and 2008.
17. In the course of his tenure as Officer and Director of the respondent Corporation, petitioner was called upon by all parties to employ his American Express account to pay operating expenses of the respondent Corporation.
18. It was agreed by respondents that petitioner would be reimbursed for corporate expenditures, and petitioner acted in reliance upon this.
19. In fact, these expenses were completely repaid by the respondent Corporation from time to time.
20. Nonetheless, without justification of reasonable basis, following the purported termination, respondents suddenly refused to reimburse petitioner for the Corporation's expenses on his charge account.
21. Said expenditures exceeded ONE HUNDRED THOUSAND DOLLARS (\$100,000).
22. In or about November 21, 2008, petitioner was served a subpoena to testify at deposition in the matter of Devington Technologies, Ltd. V. Somasundaram & Sanrosys Info. Pvt., Ltd. 08cv2242, a case in the Eastern District of New York. The sum and substance of his testimony, and for that matter, his entire involvement arose out of his capacity as Officer and Director of respondent Corporation.

23. Respondent Corporation had an obligation to defend, and in the alternative, to indemnify petitioner, including the obligation to pay the reasonable cost of representation.
24. Respondent refused to pay the reasonable cost of representation and petitioner was forced to spend approximately NINE THOUSAND DOLLARS (\$9,000) towards his own representation.
25. In or about November 26, 2008, a date more than thirty (30) days prior to the date thereof, petitioner offered his shares for sale to respondents in accordance with the Agreement.
26. Respondents refused the tender.
27. Pursuant to Paragraph 9 of the Agreement, the book value of petitioner's interest is a minimum of ONE HUNDRED THOUSAND TWENTY DOLLARS (\$100,020)
28. Also in accordance with the terms of the Agreement, petitioner is free to sell to a third party.
29. However, due entirely to the willful violation of the agreement and oppression of petitioner by respondents GERSHON and TIBOR, petitioner's shares are rendered unmarketable.
30. The only recourse respondent has is to liquidate the respondent Corporation and seek his equity from the proceeds of this process.
31. New York Business Corporations Law § 1104-a. provides for judicial dissolution of a corporation when (1) The directors or those in control of the corporation have been guilty of illegal, fraudulent or oppressive actions toward the complaining shareholders;
32. Respondents GERSHON and TIBOR have wrongfully eliminated petitioner's role in the respondent Corporation, cut off his income, refused access to the books and records of the respondent Corporation, devalued his shares, and fraudulently induced him to accept personal obligations on the part of the Corporation which respondents refuse to

reimburse.

33. Such actions by respondents constitute illegal, fraudulent or oppressive actions toward the complaining shareholder which mandate the dissolution of the respondent Corporation.
34. Absent purchase of petitioner's shares by respondents GERSHON and TIBOR, liquidation of the corporation is the only feasible means whereby the petitioner may reasonably expect to obtain a fair return on his investment.
35. New York Business Corporations Law § 1104-a(2) the property or assets of the corporation are being looted, wasted, or diverted for non-corporate purposes by its directors, officers or those in control of the corporation.
36. On information and belief, the respondents GERSHON and TIBOR have refused to make available the books and records of the Corporation because they are treating the respondent Corporation as their cash cow, and are draining its assets.
37. On information and belief, respondents GERSHON and TIBOR are accepting compensation from the respondent Corporation that is equitably due to petitioner.
38. By so doing, respondents GERSHON and TIBOR reduce the equity stake held by petitioner, and petitioner is entitled to recover the diminished value of his equity stake.
39. As a consequence, the respondent Corporation should be judicially dissolved.

AS AND FOR A SECOND CAUSE OF ACTION

40. Petitioner repeats and realleges the facts and allegations contained in Paragraphs 1 through 39 of the Petition as though fully stated herein.
41. Pursuant to BCL 1104(a)2(c) petitioner demands that respondents make available for inspection and copying to the petitioners under reasonable working conditions the

corporate financial books and records for the three preceding years.

AS AND FOR A THIRD CAUSE OF ACTION

42. Petitioner repeats and realleges the facts and allegations contained in Paragraphs 1 through 41 of the Petition as though fully stated herein.
43. Pursuant to New York Business Corporations Law §624(d) petitioner is entitled to a reasonable inspection of the books and records of the corporation.
44. Petitioner demands such inspection, including the opportunity to make copies of any and all documents petitioner deems relevant.

AS AND FOR A FOURTH CAUSE OF ACTION

45. Petitioner repeats and realleges the facts and allegations contained in Paragraphs 1 through 44 of the Petition as though fully stated herein.
46. In the course of his tenure as Officer and Director of the respondent Corporation, petitioner was called upon by all parties to employ several of his American Express accounts and his Citibank credit card to pay operating expenses of the respondent Corporation.
47. It was agreed by respondents that petitioner would be reimbursed for corporate expenditures, and petitioner acted in reliance upon this.
48. In fact, these expenses were completely repaid by the respondent Corporation from time to time.
49. Nonetheless, without justification of reasonable basis, following the purported termination, respondents suddenly refused to reimburse petitioner for the Corporation's expenses on his charge account.

50. Said expenditures exceeded ONE HUNDRED THOUSAND DOLLARS (\$100,000).

51. Petitioner is entitled to the reimbursement of all costs and fees associated with these expenditures.

AS AND FOR A FIFTH CAUSE OF ACTION

52. Petitioner repeats and realleges the facts and allegations contained in Paragraphs 1 through 51 of the Petition as though fully stated herein.

53. In or about November 21, 2008, petitioner was served a subpoena to testify at deposition in the matter of Devington Technologies, Ltd. V. Somasundaram & Sanrosys Info. Pvt., Ltd. 08cv2242, a case in the Eastern District of New York. The sum and substance of his testimony, and for that matter, his entire involvement arose out of his capacity as Officer and Director of respondent Corporation.

54. Respondent Corporation had an obligation to defend, and in the alternative, to indemnify petitioner, including the obligation to pay the reasonable cost of representation.

55. Respondent refused to pay the reasonable cost of representation and petitioner was forced to spend approximately NINE THOUSAND DOLLARS (\$9,000) towards his own representation.

56. Petitioner is entitled to recover from respondents the sum of NINE THOUSAND DOLLARS (\$9,000) comprising the legal defense costs related to Devington Technologies, Ltd. V. Somasundaram & Sanrosys Info. Pvt., Ltd.

AS AND FOR A SIXTH CAUSE OF ACTION

57. Petitioner repeats and realleges the facts and allegations contained in Paragraphs 1 through 56 of the Complaint as though fully stated herein.

58. The book value of the petitioner's shares in the respondent Corporation, based upon the EIGHT THOUSAND THREE HUNDRED THIRTY-FIVE DOLLAR (\$8,335) per share value provided in Paragraph 9 of the Agreement is ONE HUNDRED THOUSAND TWENTY DOLLARS (\$100,020).

59. In the event the Court declines to order the dissolution of the respondent Corporation, petitioner is entitled to payment for the equity value in an amount not presently calculable, but in excess of ONE HUNDRED THOUSAND TWENTY DOLLARS (\$100,020).

AS AND FOR A SEVENTH CAUSE OF ACTION

60. Petitioner repeats and realleges the facts and allegations contained in Paragraphs 1 through 59 of the Complaint as though fully stated herein.

61. By virtue of their directorial positions within respondent Corporation, respondents TIBOR and GERSHON bore a fiduciary duty to protect petitioner's interests as a shareholder.

62. By reason of the foregoing, respondents TIBOR and GERSHON breached their fiduciary duty to petitioner.

63. As a result of this breach of duty, petitioner was damaged.

WHEREFORE, petitioner demands judgment against all respondents on the First Cause of Action for judicial dissolution of the respondent Corporation, DEVINGTON TECHNOLOGIES, LTD., on the Second and Third Causes of Action, for an order permitting disclosure and copying of the books and records of the Corporation, on the Fourth Cause of Action for a sum not presently calculated but estimated to exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000), on the Fifth Cause of Action for the sum of NINE



THOUSAND DOLLARS (\$9,000), on the Sixth Cause of Action for the sum of ONE HUNDRED THOUSAND TWENTY DOLLARS (\$100,020) and for a surcharge on respondents GERSHON and TIBOR in accordance with BCL 1104-a(d), and on the Seventh Cause of Action for a sum not presently calculated, but estimated in excess of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) together with attorneys fees and interest from April 15, 2008 and costs, fees and disbursements as provided by law, together with any such other and further relief as the Court deems equitable and just.

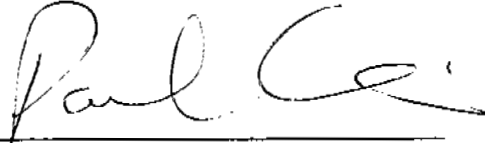
Yours, etc.

LAW OFFICES OF RUTH L. YANG  
Attorneys for Petitioner(s)  
40 Exchange Place Suite 2010  
New York, New York 10005  
(212) 931-9988

VERIFICATION

PAUL AMBAR, of full age being duly sworn, deposes and says:

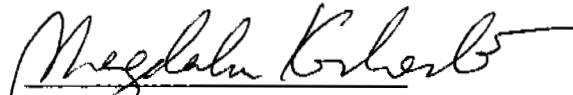
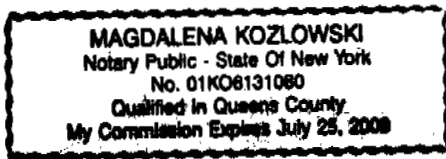
I am Petitioner in this matter, I have read the annexed PETITION and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my file.



PAUL AMBAR

Sworn to before me this

9 day of MARCH 2008 2009

  
notary public

PAUL AMBAR

Petitioner

DEVINGTON TECHNOLOGIES, LTD., TIBOR KLEIN and GERSHON KLEIN,

Respondents

VERIFIED PETITION

Ruth L. Yang, Esq.

Attorney(s) for

Petitioner

Office and Post Office Address, Telephone

40 Exchange Place, Suite 2010  
New York, New York 10005  
(212) 931-9988

To

Signature (Rule 130-1.1-a)

Print name beneath: A. SILVERSTEIN, 7 C.M.S.F.

Service of a copy of the within is hereby admitted.

Dated: \_\_\_\_\_

Attorney(s) for

PLEASE TAKE NOTICE:

NOTICE OF ENTRY

that the within is a (certified) true copy of a  
duly entered in the office of the clerk of the within named court on

NOTICE OF SETTLEMENT

that an order  
will be presented for settlement to the HON.  
within named Court, at

of which the within is a true copy  
one of the judges of the

on \_\_\_\_\_ at \_\_\_\_\_ M.