

At a ~~Special Term~~ Part Com 1 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, New York on the 28th day of April, 2010

PRESENT:

Hon. C E DEMAREST
Justice

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In the Matter of the Application of DINA DICENSO, as a Member,

Petitioner, ✓

For the Dissolution of EIGHT OF SWORDS LLC, a New York Limited Liability Company, Pursuant to Section 702 of the Limited Liability Company Law,

- against -

DAVID WALLIN,

Respondent.

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**ORDER TO
SHOW CAUSE**

Index No.

10104/10

Justice Assigned:
Hon.

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KINGS COUNTY CLERK
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Upon reading and filing of the annexed petition of Dina DiCenso, verified the 21st day of April 2010, and the exhibits annexed thereto and the emergency affirmation of David Berg Esq. dated April 21, 2010 and the exhibits annexed thereto, and it appearing that Eight of Swords LLC (the "Company") is a limited liability

company duly organized and existing under the laws of the State of New York with its principal place of business located at 178 North Eighth Street, Brooklyn, New York, and it further appearing that petitioner Dina DiCenso ("petitioner") and respondent David Wallin ("respondent") each have a 50 percent interest in the Company, and it further appearing that there is dissension between the members, who are so divided that dissolution would be beneficial to each of them, and it is not reasonably practical to carry on the business,

NOW, THEREFORE, it is

Let
~~ORDERED~~, that respondent David Wallin, show cause at I.A.S. Part Com 1 (Rm 756)

before the Hon. Justice of the Supreme Court of the State of New York, located at 360 Adams Street, Brooklyn, New York, on the 19 day of May, 2010 at 9:30 a.m. in the forenoon or as soon thereafter as counsel can be heard:

1. Why judgment should not be entered dissolving the Company pursuant to Limited Liability Law § 702, and directing the payment of its liabilities (including all sums due petitioner) and the distribution of its assets;
2. Why a temporary receiver should not be appointed pursuant to Limited Liability Law § 703 to wind up the Company's affairs;
3. Why judgment should not be entered declaring the rights and responsibilities of the petitioner and respondent upon dissolution as prayed for in the petition and compelling respondent David Wallin to take such action and execute such

documents as are necessary to effectuate payment of the Company's liabilities and distribution of its assets;

4. Why judgment should not be entered compelling respondent David Wallin to account to the Company for its funds he expended for his sole and personal benefit; and

5. Why judgment should not be entered compelling respondent David Wallin to account to the Company for all sums received and expended since respondent excluded petitioner from the business of the Company.

6. why judgment should not be entered directing that petitioner have immediate access to the premises where the Company's business is conducted and to have involvement in running and operating the business.

7. Why petitioner should not have such other and further relief, including costs and attorneys' fees, as to the court seems just and proper; and it is further

ORDERED, that the Company, by David Wallin, shall on the return date

of the within petition furnish to the court a schedule of the accounts of the Company, including a statement of the Company's assets and liabilities, and of the names and addresses of each creditor and claimant, including any with claimants with liquidated or contingent claims and any with whom the Company has unfulfilled contracts; and it is further

DW
JSC

STNY
CJD
JSC

ORDERED, that pending the hearing of the within ^{motion} ~~petition~~, (a) respondent

David Wallin, and his agents, are enjoined from destroying, altering or secreting any

Company books and records, and are enjoined from transferring, removing,

hypothecating, secreting or in any way disposing of any and all income and property of the

Company, except in the ordinary course of business and (b) that petitioner have

~~immediate access to the premises where the Company's business is conducted and to~~

~~have involvement in running and operating the business of the Company; and it is further~~

^{Let} **ORDERED**, that a copy of this order and the papers upon which it is

granted shall be served upon David Wallin by personal service on or before ^{petition} and the Attorney General April 30,

2010.

ENTER:

J.S.C.

Pursuant to ~~22 N.Y.C.R.P. 130.1~~

~~David Wallin~~
April 22, 2010

HON. CAROLYN E. DEMAREST