

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

PATRICK K. YU,

Plaintiff,

- against -

GUARD HILL ESTATES, LLC, 33 EAST 38TH
STREET, LLC, RAYMOND YU, and CATHERINE
YU,

Defendants.

Index No. _____

To the above-named Defendants:

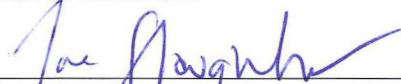
YOU ARE HEREBY SUMMONED to answer the complaint in this action and serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on Plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service, or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

This Court has jurisdiction over the Defendants pursuant to CPLR § 302, and the venue is proper in this County under CLPR § 503. All parties are residents of New York County.

Dated: New York, New York

December 15, 2016

KOBRE & KIM LLP

By: 

Jonathan D. Cogan
Joseph W. Slaughter
Kelly J. Spatola
800 Third Avenue
New York, New York 10022
Tel.: +1 212 488 1200
Fax: +1 212 488 1220
Jonathan.Cogan@kobrekim.com
Joe.Slaughter@kobrekim.com
Kelly.Spatola@kobrekim.com

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COMPLAINT

Plaintiff Patrick K. Yu, by and through his attorneys Kobre & Kim, LLP, alleges as follows:

INTRODUCTION

1. This is an action for judicial dissolution of Guard Hill Estates, LLC (“Guard Hill”), and 33 East 38th Street, LLC (“East 38th Street” and, together with Guard Hill, the “LLCs”) pursuant to New York Limited Liability Company Law § 702.

2. Guard Hill and East 38th Street are two of the numerous business entities owned and operated by the Yu family to conduct its wide-ranging real estate business. The Yu family consists of parents Bong Yu and May Yu (the “Yu Parents”), and adult children Raymond Yu and Catherine Yu (“Defendants” and, together with Bong and May Yu, the “Yu Family”), as well as Patrick Yu—the plaintiff in this action (“Patrick” or “Plaintiff”).

3. Patrick is a minority shareholder in both of the entities at issue in this action. He owns 33 1/3% of Guard Hill, with the remaining 66 2/3% owned by Raymond and Catherine Yu.

He owns 20% of East 38th Street, with the remaining 80% owned by Raymond and Catherine Yu. Patrick was previously employed as legal counsel to Guard Hill as well as various other Yu Family entities, including Moklam Enterprises, Inc. (“Moklam”).¹

4. This complaint stems from the latest in a series of intra-family squabbles pitting Patrick against his parents and siblings. In late 2013, a dispute—unrelated to the business of Guard Hill, East 38th Street, or Moklam—arose between Patrick and his father Bong Yu. This particular dispute, which began sometime after Patrick and his ex-wife divorced, centered on whether or not Patrick should remain living in a house he owned in Scarsdale or move into an apartment building in Manhattan, owned by East 38th Street. Patrick believed it would be best for him and his children to sell his house in Scarsdale and return to Manhattan, while his father demanded that he remain in Scarsdale.

5. Notwithstanding his father’s wishes, in July of 2014, Patrick sold his house in Scarsdale and moved back to Manhattan. Thereafter, Bong Yu, together with Defendants, resolved to use every means at their disposal to marginalize Patrick’s role at the LLCs, to divest Patrick of his ownership stake in those entities, and to defeat Patrick’s reasonable expectation that he would realize some economic benefit from his ownership stake in Guard Hill, East 38th Street, and Moklam—an expectation Patrick had relied on in ordering his personal financial affairs. Defendants also subverted Patrick’s reasonable expectation that he would be entitled to play some role in, and be afforded access to information regarding, the management and operations of the entities he was a part owner of. Finally, Defendants’ actions have made it clear that they are unwilling or unable to promote the stated purposes of the LLCs, and that continuing those companies existence is financially unfeasible.

¹ Patrick also owns 26% of Moklam. The remaining 74% of Moklam is owned by Raymond and Catherine Yu.

6. As described in more detail below, as a result of their personal animus towards Patrick, the Yu Family has embarked upon a systematic course of conduct specifically designed to oppress Patrick, inflict economic harm on him, and eventually divest him of his ownership interest in the LLCs and Moklam. In so doing they have utilized the resources of multiple different business entities not for any legitimate corporate purpose or based on any honest belief that such actions were in the best interests of those entities, but rather simply to enrich themselves at Patrick's expense and extract revenge for personal grievances that have nothing to do with those entities' business operations.

7. Despite Patrick's consistent efforts to resolve the personal differences between him and his family and proceed to a fair resolution regarding his role in the family businesses, Defendants have continued and in fact increased their oppressive and bad faith conduct. As a result, Patrick has been left with no choice but to file the instant complaint in an effort to ensure that the LLCs are no longer used for purposes that are at odds with their stated purpose.

8. The allegations below describe a coordinated pattern of conduct in which the Yu Family, including Defendants, has used resources at its disposal—including multiple business entities—to take action against Patrick. In addition to this Complaint, Patrick has already filed a complaint for declaratory relief against Guard Hill, and intends shortly to file a petition to dissolve Moklam pursuant to New York Business Corporation Law § 1104-a and the common law of New York.

PARTIES

9. Plaintiff Patrick K. Yu is an individual and a resident of the County of New York and the State of New York. Plaintiff owns 33 1/3% of Guard Hill and 20% of East 38th Street.

10. Guard Hill is a domestic Corporation duly organized and existing under and by virtue of the laws of the State of New York and having its principal place of business at 200 Park Avenue, 11th Floor, New York, New York 10166.

11. East 38th Street is a domestic Corporation duly organized and existing under and by virtue of the laws of the State of New York and having its principal place of business at 200 Park Avenue, 11th Floor, New York, New York 10166.

12. Defendant Raymond Yu is an individual and a resident of the County of New York and the State of New York. He is the second son of Bong and May Yu, the brother of Patrick and Catherine Yu, and a Manager of Guard Hill and East 38th Street.

13. Defendant Catherine Yu is an individual and a resident of the County of New York and the State of New York. She is the daughter of Bong and May Yu, the sister of Patrick and Raymond Yu, and a Manager of Guard Hill and East 38th Street.

VENUE

14. Venue is proper in this Court because Guard Hill and East 38th Street have their principal places of business in the County of New York and because Raymond and Catherine Yu are residents of the County of New York. *See* CPLR § 503.

BACKGROUND OF YU FAMILY BUSINESSES

15. After immigrating to America from China and Hong Kong, Bong and May Yu gradually built a highly successful and profitable real estate development business throughout the 1980s and to the present. As their business branched out, they established various other entities to handle different areas of the business. Moklam is the primary cash producing entity funding the Yu Family's various real estate and other business activities.

16. Guard Hill and East 38th Street are entities that were formed with the specific purpose of holding one individual piece of property each. In the case of Guard Hill, that is the Yu Family country estate in Bedford, New York, where Bong and May Yu generally reside on the weekends. In the case of East 38th Street, that is a townhouse located at 33 E. 38th St. in Manhattan, where Raymond and Catherine Yu reside full-time with their families and Bong Yu and May Yu reside during the weekdays.

17. To provide a rough sense of the size of the Yu Family businesses, in 2011, Raymond Yu estimated the fair value of Patrick's minority share of the Yu Family businesses in which he has an ownership stake at approximately \$60 million.

18. While various different legal entities nominally perform various different functions as a part of the Yu Family real estate empire, in reality all of these entities are under the same management and are operated as a cohesive unit. The members of the Yu Family make all important final decisions relative to the operation of their businesses regardless of which legal entity the business is owned by. There are no outside or independent officers or directors for any of the Yu Family businesses.

19. All three Yu children have spent much of their adult lives working for various Yu Family entities. Raymond and Catherine Yu joined the family business in 1990 directly after they graduated from college. Patrick Yu first obtained a master's degree in real estate development and investment, as well as a law degree, before becoming involved with the family business in approximately 1995, where his role included handling much of the day-to-day landlord-tenant legal work, as well as other legal work for various Yu Family entities.

20. Guard Hill and East 38th Street were created as entities wholly owned by the Yu children so that the Yu parents could transfer their interest in the Bedford and E. 38th St.

properties to their children for tax and/or other reasons. The ownership of those two entities is divided as follows:

GUARD HILL	
Individual	Ownership Percentage Of Guard Hill
Catherine Yu	33.33%
Raymond Yu	33.33%
Patrick Yu	33.33%

EAST 38TH STREET	
Individual	Ownership Percentage Of East 38th Street
Catherine Yu	40%
Raymond Yu	40%
Patrick Yu	20%

21. At the time he received stock in these entities, Patrick understood that Guard Hill and East 38th Street were to be passive entities meant solely as holding companies for their respective properties, and that the LLCs would neither generate revenue, incur expenses beyond the purchase of the respective properties, nor would the members of those LLCs be responsible for funding any operations. Furthermore, Patrick ordered his personal financial affairs in reliance on the reasonable expectation that his shares in the Yu Family entities—including but not limited to Guard Hill and East 38th Street—were worth a substantial amount of money. Patrick did not expect—and could not have reasonably expected—that he would be frozen out of the entities entirely, that he would be subject to taxation on income he never received, or that he would be pressured to sell those stakes at an enormous discount to their fair value (or outright

divested of his shares) through oppressive tactics and corporate maneuvering. But that, unfortunately, is exactly what has happened.

FAMILY TENSIONS

22. Bong Yu had never fully approved of Patrick's decision to attend law school out of state, as he wanted Patrick to follow in his footsteps and take over the family business, and he viewed Patrick's educational choice as an abandonment of the family. Nonetheless, after his graduation, the family welcomed him, at his mother's urging, into the business where he utilized his legal skills for the benefit of the family businesses. However, the tension between Patrick and his father never fully subsided.

23. In early 2011, Patrick's marriage of 13 years fell apart and he and his wife began divorce proceedings. These proceedings re-opened old wounds in the relationship between Patrick and his father, who apparently viewed Patrick's failed marriage as an example (like going to law school out of state) of poor judgment. This dynamic was further exacerbated by the fact that Patrick's financial situation had deteriorated significantly due to his divorce.

24. In particular, in the wake of his divorce Patrick had several conversations with his parents about his financial status. Among other options, Patrick suggested that he could better manage his financial affairs were he to sell his house in Scarsdale and move back into the apartment building on East 38th Street. However, the Yu Parents (his father, in particular) were vehemently opposed to the idea of Patrick selling his house in Scarsdale. Rather, on information and belief, they had already decided to use Patrick's financial distress as a lever to get him to relinquish his stake in the family business at far below its fair value, and the sale of his house would provide Patrick a financial lifeline that would have made it harder for his parents to achieve this goal.

25. Indeed, instead of agreeing that Patrick should sell his house, Bong Yu demanded that Patrick sell 100% of his ownership stake in all Yu Family entities for approximately \$3 million—*approximately 5%* of its fair value according to information provided by Raymond Yu during Patrick’s divorce proceedings. To add insult to injury, Bong Yu’s offer called for the \$3 million to be paid out over the course of 30 years.

26. Patrick knew that his shares of the family businesses were worth far more than \$3 million, and he believed that his father was attempting to use his financial distress and his control over Patrick’s livelihood as a lever to divest Patrick of his ownership stake in those entities at an unreasonably low price. Patrick, however, refused to acquiesce to his father’s strong-arm tactics. Thus, needing money and lacking other options, Patrick eventually sold his Scarsdale house in July of 2014 despite his parents’ opposition. He then moved back to Manhattan, although not to the East 38th Street house with the rest of his family.

THE YU FAMILY’S OPPRESSIVE AND RETALIATORY ACTIONS

27. Bong Yu was outraged when he learned that Patrick had “defied” him by selling the Scarsdale house against his wishes and told him he was “out” of the family business. Soon thereafter, upon information and belief, Bong Yu directed the Yu Family entities no longer to utilize Patrick for legal work. Patrick did not receive any new legal matters from the Yu Family entities thereafter, depriving him of his main source of income.

28. Worse, Bong Yu further exacerbated Patrick’s financial situation by, upon information and belief, directing Moklam to cease paying dividends to Patrick. This step was particularly significant because, after several years of posting losses in the wake of the financial crisis, Moklam reported a substantial gain in 2014—the 2014 K-1 form issued to Patrick

attributed over \$400,000 of taxable income to Patrick based on his 26% share of the company. Patrick was thus stuck with a sizeable tax bill and no distribution from the company to offset it.²

29. In an effort to establish some kind of acceptable path out of this financial and familial morass, Patrick determined to try to establish the value of his stake in the Yu family entities with an eye towards negotiating a fair deal with his father. To that end, he decided to use his statutory right to inspect the books and records of Moklam and the LLCs via a letter sent to Raymond Yu on May 28, 2015.

Response to Patrick's Books and Records Request

30. The Yu Family responded to Patrick's decision to exercise his rights as a minority shareholder by doubling down on their oppressive and retaliatory tactics. On or around July 9, 2015—less than six weeks after Patrick submitted his request for books and records from the Yu Family entities in which he had an ownership stake—he received three separate demand letters—two from Yu Family entities and one from his parents.

31. The first letter was from Moklam and demanded repayment of two promissory notes issued to Patrick in 2005 and 2011 in an aggregate amount of \$750,000, plus interest and expenses. As the letter itself noted, the last payment on either note had been made over *four years earlier*, in July of 2011. In fact, Patrick had stopped making payments on the notes in 2011 pursuant to an agreement with his father on behalf of Moklam. Later, he and his father had agreed that Moklam would not call the notes until 2036 at the earliest. Moklam honored that agreement for 4 years and took no action in all that time to call the allegedly defaulted notes—until, that is, the Yu Family found it expedient to ignore this agreement and use the notes to exert pressure on Patrick.

² The “phantom income” attributed to Patrick from his stake in Moklam and other entities has had harmful effects, such as disqualifying him from consideration for affordable housing lotteries despite the fact that his actual income is well within the parameters to qualify.

32. The second letter was from Yuco Equity Corp. (“Yuco Equity”), another entity owned and controlled by the Yu Family, and demanded repayment of two “loans” in the aggregate amount of \$125,000 allegedly provided to Patrick in 1998 and 2004 (neither of which loans was evidenced by a written instrument). Patrick had never made any payment on either of these purported loans, which, according to Defendants, had each been outstanding for *over ten years* at the time Yuco Equity sent its demand. Yet Yuco Equity had made no previous attempt to collect on these alleged debts until it saw fit to do so mere weeks after Patrick’s books and records request.

33. The third letter was a breach notice sent to Patrick from his parents, notifying him that his sale of the Scarsdale house allegedly constituted a breach of a surety agreement executed between Patrick and his parents in 2012 in connection with his refinancing of his mortgage on the property. Bong and May Yu alleged that the surety agreement essentially gave them veto power over any proposed sale of Patrick’s Scarsdale home (as well as over his personal use of funds acquired from the refinancing), and that Patrick’s decision to sell the house had caused them damages in excess of \$750,000.

34. Also on or around July 9, 2015, and of particular relevance to this action, Defendants took additional actions to marginalize and oppress Patrick with respect to his ownership of and participation in the affairs of Guard Hill and East 38th Street. On that date, Patrick’s siblings, Raymond and Catherine Yu, caused the operating agreements of those two entities to be amended such that Patrick was removed as a “managing member”, removing Patrick’s right to perform managerial functions on behalf of those two entities. Prior to these amendments, neither operating agreement had been amended since 2005—again *over 10 years* prior to the July 2015 amendments.

35. The Yu Family's actions against Patrick on July 9, 2015, were transparently an attempt to bring him to heel and get him to accept the lowball offer for Patrick's stake in the family businesses. Just as transparently, the Yu Family, including Defendants, used multiple entities under its ownership and control in a coordinated effort to achieve this end.

36. Despite the threat of over \$1.5 million in personal liability hanging over his head, and his personal income as well as corporate distributions being cut off, Patrick refused to acquiesce and instead continued to press for access to books and records in order to fairly evaluate his interests in the family businesses. But the family basically stonewalled these requests, producing only bare-bones, unaudited financial statements for the relevant entities that, as discussed in more detail below, raised more questions than they answered. Nevertheless, Patrick refused to bend to his family's unfair and oppressive demands.

The Yu Family Ratchets Up the Pressure

37. Sensing that even more pressure was needed to achieve their goal of enriching themselves by forcing Patrick to give up his valuable interests in the family businesses for a fraction of their worth, in early 2016 the Yu family took additional steps to punish Patrick for his refusal to bow to their oppressive tactics. Between January 13 and February 18, 2016, they commenced three lawsuits against Patrick based on the three demand letters sent on July 9, 2015:

- *Moklam Enterprises, Inc. v. Patrick Yu*, Index No. 650162/2016 (N.Y. Cnty.) (the "Moklam Action"), seeking summary judgment in lieu of a complaint with respect to the notes from Moklam allegedly in default and damages in excess of \$500,000.
- *Yuco Equity Corp. v. Patrick Yu*, Index No. 650580/2016 (N.Y. Cnty.) (the "Yuco Equity Action"), alleging one count of breach of contract and seeking a declaratory judgment as to the terms of the "loans" from Yuco, and damages in excess of \$125,000.

- *Bong Yu et al. v. Patrick Yu*, Index No. 51237/2016 (Westchester Cnty.) (the “Surety Action”), alleging two counts of breach of contract and damages in excess of \$750,000.

At that point the family’s strategy had become abundantly clear: force the already cash-strapped Patrick to defend himself in multiple litigations until he had no choice but to succumb to their wishes.

38. The Yu Family also ratcheted up the pressure on Patrick with respect to his ownership stakes in the LLCs. On January 29, 2016, Raymond and Catherine Yu caused a further amendment to the operating agreements of Guard Hill and East 38th Street. These amendments added a “capital call” provision to the operating agreements which essentially provided that the managers of these entities—that is, Raymond and Catherine only, by virtue of their earlier amendment which stripped Patrick’s managerial role—could make a capital call “[i]f the Managers determine that additional Capital Contributions are required.” Furthermore, if any shareholder failed to contribute the requisite amount to a capital call, the other shareholders would have the right to essentially foreclose on the non-payer’s equity.

39. Put simply, this mechanism was intended as a permanent sword of Damocles hanging over Patrick’s head. Knowing that Patrick had no cash to contribute to a capital call, Raymond and Catherine could essentially take away his equity in Guard Hill and East 38th Street at will, subject only to the modest notice provisions included in the amendment. Again, the strategy behind this maneuver was obvious: if Patrick did not succumb to their attempt to divest him of his ownership interests of the family business at their low-ball amount, his family would simply take away his valuable ownership interest in these two entities altogether. The capital call provision was antithetical to the LLCs stated and long-established purposes of passively holding a single piece of property.

Further Retaliatory and Oppressive Actions

40. In August of 2016, seeking to resolve the ongoing costly litigation, Patrick initiated settlement discussions regarding the amounts allegedly outstanding on the promissory notes at issue in the litigation the Yu Family brought against him on behalf of Moklam. Despite the fact that Patrick had colorable defenses to the claims in that action, and despite the fact that his father had promised him he could have until at least 2036 to pay them back, he agreed to pay in full the amounts allegedly outstanding on the notes to resolve the litigation.

41. In response, Moklam made an additional demand that Patrick pay its substantial attorneys' fees. Despite extensive efforts by Patrick, Defendants have refused to meaningfully compromise on the amount of such fees, and instead have opted for further litigation in a transparent attempt to further exacerbate Patrick's financial problems.

42. Also in August of 2016, and again in September, Patrick made additional, detailed requests for books and records from Moklam, Guard Hill, and East 38th Street. In response, *less than a week* after receiving Patrick's renewed books and records requests on September 15, 2016, the Yu Family invoked the capital call provision it had inserted into the operating agreement of Guard Hill. Defendants sent Patrick a letter demanding contributions of approximately \$600,000—purportedly to (1) reimburse Bong and May Yu for upgrades and renovations made to the property held by the Guard Hill entity; and (2) to pay off the outstanding mortgage on the property. No explanation was provided as to the timing of this request. Indeed, none was needed as it is transparently a further effort to retaliate against and oppress Patrick for his temerity in exercising his statutory and common law rights to inspect the books and records of entities in which he holds a significant minority stake. Moreover, the capital call is out-of-step with Guard Hill's purpose as an entity—which is to passively hold the Yu Family's Bedford

country estate. The capital call also renders continued operation of Guard Hill financially unfeasible, as the entity has no revenue generating function yet supposedly requires an immediate cash infusion of over \$1.5 million.³

43. On October 14, 2016, Patrick received another letter from Guard Hill, providing written notice that he was purportedly in default with respect to the capital call. The letter further stated that Raymond and Catherine Yu had supposedly delivered their portion of the capital call and that therefore only Patrick was in default.

44. On December 12, 2016, Patrick received another letter from Guard Hill. The letter stated that Raymond and Catherine Yu had elected to advance Patrick's portion of the capital call to Guard Hill. The letter attached two Promissory Notes, running from Patrick to Raymond and Catherine respectively, purporting to memorialize the "loan" advanced by Raymond and Catherine. The letter also attached two Pledge and Security Agreements, each purporting to encumber half of Patrick's stake in Guard Hill as security for the Promissory Notes. Finally, the letter demanded that Patrick execute these agreements by December 15, 2016, and stated that if he failed to do so, Raymond and Catherine would sign on his behalf, thereby purporting to bind Patrick to various onerous obligations.

45. Throughout August, September, and October of 2016, the Yu Family has also repeatedly refused and/or placed onerous conditions on Patrick's access to his own files that are in storage at Moklam's flagship building at 622 Broadway. In so doing, Defendants have offered varying justifications for their intransigence, as well as various unfair and unworkable proposals for permitting Patrick to retrieve his files.

³ As noted above, in addition to this action, Patrick has filed an action for a declaratory judgment that the Guard Hill capital call is invalid.

The Yu Family's Complete Lack of Transparency and Dilatory Tactics

46. In addition to the actions described above, the Yu Family has also consistently refused to provide Patrick with any meaningful access to information about the entities in which he is a significant shareholder. This refusal to grant meaningful access, together with the limited information gleaned from what little access Patrick has managed to obtain, give rise to a reasonable inference that the Yu Family is engaged in misconduct with respect to its operation of Moklam, Guard Hill, and East 38th Street, and that corporate assets are being wasted and/or diverted to the benefit of the Yu Family and at the expense of Patrick.

47. As noted above, in response to Patrick's original books and records requests in May of 2015, the Yu Family provided only bare-bones, unaudited financial information regarding Moklam, Guard Hill and East 38th Street.

48. In response to Patrick's more detailed books and records requests in August of 2016, the Yu Family largely refused to provide the documents requested, and eventually produced only a small set of documents largely consisting of materials that it knew were already in Patrick's possession (such as the amendments to the operating agreements of Guard Hill and East 38th Street that, as described above, were enacted for the purpose of divesting Patrick of his ownership interest in those entities).

49. Nonetheless, even the limited information the Yu Family has provided raises serious questions about the management and operation of these entities, and whether corporate assets are being improperly used to benefit the Yu Family shareholders at Patrick's expense.

50. For example, Moklam's 2015 financial statements show approximately \$15 million of cash on hand, yet Moklam has paid no dividends to Patrick since 2009. Similarly, the

Moklam financials show almost \$18 million in “loans to related companies”, but the Yu Family has refused to provide any information regarding which “related companies” these are, what the loans are for, and on what terms they were given. Moklam’s 2013 and 2015 financial statements show similar numbers. The Yu Family’s refusal to provide any information about these items gives rise to a reasonable inference that the Yu Family is actively managing Moklam to insure that none of the profits generated by the company make their way to Patrick by withholding dividends and diverting Moklam assets to entities in which other family members, but not Patrick, have an interest.⁴

51. Similarly, the tax returns provided for East 38th Street show hundreds of thousands of dollars in “travel and entertainment” expenses incurred during the years 2013-2015, a curious line item given that East 38th Street is an entity created solely to own the townhouse in which Catherine and Raymond Yu live with their families, and has no other business activities. Indeed, over that same period, East 38th Street reported less than \$1500 gross income. These expenses are inconsistent with the passive nature of East 38th Street and, given that the company generates virtually no revenue, render its continued operation financially unfeasible.

52. Also questionable is the Yu Family’s refusal to provide Patrick with the minutes of any shareholder meetings, as he is entitled to under Business Corporation Law § 624 and Limited Liability Company Law § 1102. While Defendants have asserted in correspondence that no such minutes exist, that assertion is inconsistent with the statutory requirement that corporations and LLCs must hold shareholder/member meetings at least annually (*see* BCL § 602; LLCL § 403), as well as the Moklam By-Laws, which also requires at least one annual shareholder meeting.

⁴ This inference is bolstered by the fact that Patrick’s siblings, Raymond and Catherine, live lavish lives including exclusive private schools for their children, luxury cars, and multiple vacations per year, while Patrick is struggling to make ends meet while raising three young children.

53. Defendants' litigation strategy in the Yuco Equity Action provides further evidence of the Yu Family's oppressive conduct and lack of transparency. The complaint in that case alleged that the terms of the promissory notes issued by *Moklam* in favor of Patrick should be imputed to the alleged oral loans parceled out to Patrick by *Yuco*. However, when Patrick sought relevant discovery as to whether either Yuco or Moklam had made similar loans to other members of the Yu Family, Defendants chose to *withdraw their complaint with prejudice* rather than give up a single document or witness in discovery. This conduct—bizarre for a litigant bringing an action in good faith—makes sense for the Yu Family only in light of the following two inferences: first, that the litigations initiated by the Yu Family against Patrick were oppressive measures designed not to further the interests of the entities that brought them, but to punish Patrick and obtain leverage over him; and second, that the Yu Family's categorical refusal to grant Patrick meaningful access to the books and records of the entities he owns means that there is something in those books and records that they do not want him to see.

54. In addition to their general refusal to provide the information necessary for Patrick to fairly value his stake in the Yu Family entities, Defendants have also done everything in their power to delay, obfuscate, and hinder Patrick's attempts to assert his rights as a shareholder. From their shifting justifications for why they could not allow Patrick to retrieve *his own files* from 622 Broadway, to their refusal to engage in discovery in a litigation that *they initiated*, Defendants actions have been carefully designed to frustrate and antagonize a member of their family whom they view as weak and vulnerable.

55. As noted above with respect to the Yuco Equity Action, there are two possible justifications for Defendants general lack of transparency and dilatory tactics. The first possibility is that they are part and parcel of Defendants broader oppressive scheme—they know

that Patrick is financially vulnerable, and the longer they can keep him in the dark and prolong their maltreatment of him, the better chance there is that he will eventually crack and accept whatever buyout they offer. The second possibility is that the Yu Family is loath to release any information about their business because it would reveal fraudulent or illegal activities in their management and operation of those businesses.

FIRST CLAIM FOR RELIEF

(Dissolution of Guard Hill Pursuant to New York Limited Liability Company Law § 702)

56. Plaintiff repeats and re-alleges the allegations set forth in Paragraphs 1-55 above as if set forth fully herein.

57. As a result of the allegations above, in particular allegations regarding the actions of Raymond and Catherine Yu on behalf of Guard Hill, Defendants have demonstrated that they are unable or unwilling to reasonably permit or promote the stated purpose of Guard Hill to be realized or achieved. Instead, they are using Guard Hill as a weapon to exert pressure on and oppress a minority owner.

58. The allegations above further demonstrate that continuing Guard Hill is financially unfeasible.

59. Consequently, it is not reasonably practicable to carry on the business of Guard Hill in conformity with its Operating Agreement.

60. Dissolution of Guard Hill is therefore warranted pursuant to New York Limited Liability Company Law § 702.

SECOND CLAIM FOR RELIEF
**(Dissolution of East 38th Street Pursuant to
New York Limited Liability Company Law § 702)**

61. Plaintiff repeats and re-alleges the allegations set forth in Paragraphs 1-60 above as if set forth fully herein.

62. As a result of the allegations above, in particular allegations regarding the actions of Raymond and Catherine Yu on behalf of 38th Street, Defendants have demonstrated that they are unable or unwilling to reasonably permit or promote the stated purpose of 38th Street to be realized or achieved. Instead, they are using 38th Street as a weapon to exert pressure on and oppress a minority owner.

63. The allegations above further demonstrate that continuing 38th Street is financially unfeasible.

64. Consequently, it is not reasonably practicable to carry on the business of 38th Street in conformity with its Operating Agreement.

65. Dissolution of 38th Street is therefore warranted pursuant to New York Limited Liability Company Law § 702.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Patrick K. Yu respectfully requests the Court issue an Order granting the following relief:

1. Dissolving Guard Hill pursuant to Limited Liability Company Law § 702;
2. Liquidating and distributing Guard Hill's assets pursuant to Limited Liability Company Law § 704;
3. In the alternative, compelling Defendants to buy-out Plaintiff's 33 1/3% interest in Guard Hill at fair value as determined at the trial of this matter.

4. Dissolving East 38th Street pursuant to Limited Liability Company Law § 702;
5. Liquidating and distributing Guard Hill's assets pursuant to Limited Liability Company Law § 704;
6. In the alternative, compelling Defendants to buy-out Plaintiff's 20% interest in Guard Hill at fair value as determined at the trial of this matter.

Dated: December 15, 2016
New York, New York

KOBRE & KIM LLP

By: 

Jonathan D. Cogan

Joseph W. Slaughter

Kelly J. Spatola

800 Third Avenue

New York, New York 10022

Tel.: +1 212 488 1200

Fax: +1 212 488 1220

Jonathan.Cogan@kobrekim.com

Joe.Slaughter@kobrekim.com

Kelly.Spatola@kobrekim.com