

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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JEFFREY SIMPSON, JJ ARCH LLC, INDEX NO. 158055/2023

Plaintiffs, MOTION DATE 11/03/2023

- v -

JARED CHASSEN, FIRST REPUBLIC BANK, MOTION SEQ. NO. 005

Defendants. AMENDED DECISION +
-----X ORDER ON MOTION

608941 NJ INC

Plaintiff,

- v -

JEFFREY SIMPSON, JJ ARCH LLC, AND ARCH REAL
ESTATE HOLDINGS LLC,

Defendants.

-----X

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 005) 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 321, 322, 323, 324, 325, 329, 330, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 356, 357, 358, 359, 360, 361, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 412, 413, 414, 415, 416

were read on this motion for PRELIMINARY INJUNCTION/RESTRAINING ORDER.

The Court's November 20, 2023 Interim Decision and Order (NYSCEF 412) granting Plaintiff 608941 NJ Inc.'s ("Oak") motion for a preliminary injunction is hereby amended to provide the following details with respect to the terms and scope of the injunction. It is now further:

ORDERED that, during the pendency of this action and subject to further order of the Court, Jeffrey Simpson and JJ Arch LLC are enjoined from:

1. Acting as (or holding themselves out to third parties to be) managing members of Arch Real Estate Holdings LLC (“AREH”), and Oak shall continue to act in their stead as AREH’s sole managing member in accordance with Section 7.1 of the Limited Liability Operating Agreement of AREH (the “Operating Agreement”), owing all applicable duties to AREH and its members;
2. Denying prompt consent to any Major Decision proposed by Oak as Managing Member under Section 7.1.3 of the Operating Agreement unless *both* JJ Arch members (Jeffrey Simpson and Jared Chassen) jointly agree to deny such consent (or alternatively, either JJ Arch member may convey consent);
3. Making any filings with the New York City Department of Buildings or any other similar regulatory authorities in any jurisdictions on behalf of AREH or any of its subsidiary entities; and
4. Otherwise interfering with Oak’s ability to exercise its responsibilities as Managing Member of AREH.

ORDERED that, during the pendency of this action and subject to further order of the Court, Jeffery Simpson is enjoined from entering the offices of AREH except with and upon the terms stated in an advance written consent provided by Oak¹; it is further

¹ Oak proposed adding a provision enjoining Mr. Simpson from contacting employees of AREH or its subsidiaries except through counsel or with the advance written permission of Oak. The Court has not included that proposed language, which seems an excessively broad restriction on what could be legitimate and inoffensive conduct and speech. That said, the Court notes that contacting individuals who are represented by counsel (as current and former employees of AREH may be) during the course of a litigation can raise significant issues. In addition, it should go without saying any actions that could constitute threats to actual or potential witnesses could raise even graver concerns, as Mr. Simpson’s counsel acknowledged during the argument of this motion. For now, the Court will rely on counsel to advise Mr. Simpson on these issues

ORDERED that, during the pendency of this action and subject to further order of the Court, Oak representatives Michael Wiener, Kevin Wiener, and Frank van Biesen shall each be permitted to have online viewing access to the Arch Accounts listed on Exhibit A, attached hereto, and shall each be given authorized signer access to make transactions in the Arch Accounts; and Jeffrey Simpson and Jared Chassen, shall cease to have authorized signer access but shall retain viewing access to the Arch Accounts; and all parties must promptly provide any information or documentation requested by First Republic Bank (or its successor in interest) to implement this Order; and it is further

ORDERED that, pursuant to CPLR 6312(b), Oak shall be required, within 15 days of the filing of notice of entry of this Order, to cause a duly licensed surety to file an undertaking for costs and damages that may be suffered by Jeffrey Simpson and/or JJ Arch should the preliminary injunction herein ordered be found to have been improvidently granted, in the fixed sum of \$250,000.00, failing which the preliminary injunction herein ordered shall dissolve.²

rather than attempting to incorporate these restrictions – which are imposed by law and carry their own independent consequences – in this Order. However, the Court reserves judgment on a future motion for injunctive relief if subsequent events give rise to such a motion.

² The Court considered the competing proposals for an undertaking and believes \$250,000.00 is a reasonable amount in the circumstances. To be clear, however, the undertaking is solely to protect against injury flowing from the preliminary injunction itself (if later found to have been improvidently granted). To the extent harm is claimed to result instead from Managing Member conduct that constitutes an independent breach of contract, fiduciary duty, or other viable claim, the harmed parties are not limited to making claims against the undertaking ordered herein.

This constitutes the Decision and Order of the Court.

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11/22/2023

DATE


JOEL M. COHEN, J.S.C.

CHECK ONE:

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CASE DISPOSED

DENIED

X NON-FINAL DISPOSITION

OTHER

APPLICATION:

GRANTED

SETTLE ORDER

GRANTED IN PART

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE

EXHIBIT A

CHECKING XXXXXX5334 5952 BENNER MANAGER LLC
CHECKING XXXXXX5342 ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX5367 5952 BENNER INVESTOR LLC
CHECKING XXXXXX1395 ARCH 11 GREENE ST MM LLC
CHECKING XXXXXX1577 ARCH BUILDERS LLC A DISREGARDED ENTITY OF
ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX1809 ARCH 11 GREENE ST BUILDERS LLC A DISREGARDED
ENTITY OF ARCH REAL ESTATE
HOLDINGS LLC
CHECKING XXXXXX8449 5401 CALIFORNIA ASSOCIATES LLC
CHECKING XXXXXX1160 TDRT 11 GREENE STREET LLC
CHECKING XXXXXX2013 ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX1825 ARCH 45 SAVINGS INVESTORS LLC
CHECKING XXXXXX1874 ARCH 45 SAVINGS LLC
CHECKING XXXXXX1924 ARCH 45 SAVINGS MM LLC
CHECKING XXXXXX1932 45 SAVINGS STREET JV LLC
CHECKING XXXXXX1973 45 SAVINGS STREET MM LLC
CHECKING XXXXXX5952 CAMBRIDGE ACQUISITIONS LLC
CHECKING XXXXXX6075 CAMBRIDGE MEZZ LLC
CHECKING XXXXXX4165 CAMBRIDGE ACQUISITIONS LLC
CHECKING XXXXXX4181 CAMBRIDGE ACQUISITIONS LLC
MONEY MARKET CHECKING XXXXXX3763 CAMBRIDGE ACQUISITIONS LLC
CHECKING XXXXXX4013 ARCH CAMBRIDGE INVESTORS LLC
CHECKING XXXXXX4154 ARCH ADVISORS LLC
CHECKING XXXXXX5160 ARCH ASSET MANAGEMENT LLC
CHECKING XXXXXX7952 ARCH ADVISORS LLC
CHECKING XXXXXX6568 MIDTOWN OAKS JV LLC
CHECKING XXXXXX6626 MIDTOWN OAKS MM JV LLC
CHECKING XXXXXX9491 CAMELOT CLASS B JV LLC
CHECKING XXXXXX9509 CAMELOT JV LLC
CHECKING XXXXXX9525 CAMELOT MM JV LLC
CHECKING XXXXXX0673 ARCH PROPERTY MANAGEMENT LLC
CHECKING XXXXXX0764 MMSS LLC
CHECKING XXXXXX7456 NCSC JV LLC
CHECKING XXXXXX7464 NCSC MM JV LLC
MONEY MARKET CHECKING XXXXXX9197 FRANCISCAN PROPERTY OWNER LLC
MONEY MARKET CHECKING XXXXXX9346 ABNER PROPERTY OWNER LLC
MONEY MARKET CHECKING XXXXXX8508 OAK GROVE PROPERTY OWNER LLC
CHECKING XXXXXX5724 LAKESTAR CAMBRIDGE LLC
CHECKING XXXXXX5799 ARCH SLOPE CAMBRIDGE LLC
CHECKING XXXXXX5823 ARCH SLOPE CAMBRIDGE MM LLC
CHECKING XXXXXX5872 ARCH CAMBRIDGE MM LLC
CHECKING XXXXXX5948 102-02 PARTNERS CAMBRIDGE LLC

CHECKING XXXXXX6003 4690 ORACLE INVESTORS LLC
CHECKING XXXXXX0122 ARCH BUILDERS LLC A DISREGARDED ENTITY OF
ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX6194 ARCH PROPERTY MANAGEMENT LLC
CHECKING XXXXXX2411 ONE BROWN JV LLC
CHECKING XXXXXX2429 ONE BROWN MM JV LLC
CHECKING XXXXXX6016 1 BROWN STREET ASSOCIATES LP AND 1 BROWN
STREET OWNER LLC (DACA)
CHECKING XXXXXX6024 1 BROWN STREET ASSOCIATES LP
CHECKING XXXXXX6032 1 BROWN STREET ASSOCIATES LP
CHECKING XXXXXX4607 RIDGEWOOD TOWER LLC
CHECKING XXXXXX4110 MYRTLE POINT CM LLC
CHECKING XXXXXX4243 MYRTLE POINT JV LLC
CHECKING XXXXXX4458 MYRTLE POINT MM JV LLC
CHECKING XXXXXX5413 DRAKE ARCH BIRMINGHAM 1 LLC
CHECKING XXXXXX5470 PEBBLE CREEK BORROWER LLC
CHECKING XXXXXX5553 PEBBLE CREEK MM JV LLC
CHECKING XXXXXX0862 PEBBLE CREEK BORROWER LLC
CHECKING XXXXXX0896 PEBBLE CREEK BORROWER LLC
CHECKING XXXXXX4826 2501 VENTURES OP CO I LLC
CHECKING XXXXXX1846 HAMR BORROWER 3 LLC
CHECKING XXXXXX0744 HAMR BORROWER 3 LLC
CHECKING XXXXXX0785 HAMR BORROWER 3 LLC
CHECKING XXXXXX0793 HAMR BORROWER 3 LLC
CHECKING XXXXXX0801 HAMR BORROWER 3 LLC
CHECKING XXXXXX0843 HAMR BORROWER 3 LLC
CHECKING XXXXXX0884 HAMR BORROWER 3 LLC
CHECKING XXXXXX0918 HAMR BORROWER 3 LLC
CHECKING XXXXXX0942 HAMR BORROWER 3 LLC (DEPOSIT ACCOUNT
CONTROL AGREEMENT)
CHECKING XXXXXX2326 ARCH DEVELOPERS LLC
CHECKING XXXXXX3294 2501 ARCH LLC
CHECKING XXXXXX3351 2501 JV LLC
CHECKING XXXXXX1005 3820 1ST OWNER LLC
CHECKING XXXXXX1044 3820 1ST OWNER LLC
CHECKING XXXXXX1336 3504 12TH OWNER LLC
CHECKING XXXXXX5987 3504 12TH OWNER LLC (DEPOSIT ACCOUNT CONTROL
AGREEMENT)
CHECKING XXXXXX5995 3504 12TH OWNER LLC
CHECKING XXXXXX1203 235 JAMES OWNER LLC
CHECKING XXXXXX1810 235 JAMES OWNER LLC
CHECKING XXXXXX1054 DRAKE ARCH TUSCALOOSA 1 LLC
CHECKING XXXXXX0019 ARCH TUSCALOOSA MM LLC
CHECKING XXXXXX7278 2501 BISCAYNE PROPERTY OWNER LLC
CHECKING XXXXXX2373 ARCH PROPERTY HOLDINGS 2 LLC

CHECKING XXXXXX2418 DRAKE ARCH COLUMBIA 1 LLC
CHECKING XXXXXX2475 COLUMBIA MM JV LLC
CHECKING XXXXXX8438 9 VANDAM JV LLC
CHECKING XXXXXX8776 9 VANDAM OWNER LLC
CHECKING XXXXXX6402 HAMR BORROWER 3 LLC
CHECKING XXXXXX0347 3504 12TH OWNER LLC
CHECKING XXXXXX8537 9 VANDAM MM JV LLC
CHECKING XXXXXX2060 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2102 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2128 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2151 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2169 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2177 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2185 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2201 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2235 ARCH BUILDERS LLC DISREGARDED ENTITY OF ARCH REAL ESTATE HOLDINGS LLC
CHECKING XXXXXX2045 1700 ARCH LLC
CHECKING XXXXXX9537 CENTER POINT BORROWER 1 LLC
CHECKING XXXXXX1409 CENTER POINT BORROWER 1 LLC (OPERATING - CAPEX)
CHECKING XXXXXX1417 CENTER POINT BORROWER 1 LLC (OPERATING - RENT)
CHECKING XXXXXX1540 CENTER POINT BORROWER 1 LLC (SECURITY DEPOSIT)
CHECKING XXXXXX9636 CENTER POINT BORROWER 2 LLC
CHECKING XXXXXX0154 CENTER POINT BORROWER 2 LLC (SECURITY DEPOSIT ACCOUNT)
CHECKING XXXXXX0188 CENTER POINT BORROWER 2 LLC (OPERATING - RENT)
CHECKING XXXXXX0220 CENTER POINT BORROWER 3 LLC
CHECKING XXXXXX6215 CENTER POINT BORROWER 3 LLC (OPERATING ACCOUNT - RENT)
CHECKING XXXXXX6223 CENTER POINT BORROWER 3 LLC (SECURITY DEPOSIT ACCOUNT)
CHECKING XXXXXX5922 CAMELOT 3 LLC
CHECKING XXXXXX5930 CAMELOT HOLDINGS JV 2 LLC
CHECKING XXXXXX5948 CAMELOT JV 2 LLC

CHECKING XXXXXX5963 CAMELOT MM JV 2 LLC
CHECKING XXXXXX5971 CAMELOT MM JV 3 LLC
CHECKING XXXXXX5989 NCSC JV 2 LLC
CHECKING XXXXXX5997 NCSC MM JV 2 LLC
CHECKING XXXXXX6003 MIDTOWN OAKS MM JV 2 LLC
CHECKING XXXXXX6011 MIDTOWN OAKS JV 2 LLC
CHECKING XXXXXX4703 9 VANDAM BORROWER 2 LLC
CHECKING XXXXXX6583 88 ARCH LLC
CHECKING XXXXXX2053 9 VANDAM LP JV LLC
CHECKING XXXXXX2460 1580 NOSTRAND LLC
CHECKING XXXXXX1303 ARCH NOSTRAND MM LLC
CHECKING XXXXXX8400 88 TOWER LLC
CHECKING XXXXXX0767 88 TOWER LLC
CHECKING XXXXXX0495 CONSTRUCTION SERVICES AND SOLUTIONS LLC
CHECKING XXXXXX5316 88 TOWER LLC (DACA ACCOUNT)
CHECKING XXXXXX0751 TOWER OWNER TWO LLC
CHECKING XXXXXX7223 ORE LIVING II LLC
CHECKING XXXXXX6075 ARCH NOSTRAND LLC
CHECKING XXXXXX6688 3200 N HAVERHILL BORROWER LLC
CHECKING XXXXXX3516 3200 N HAVERHILL BORROWER LLC