

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 3M

JEFFREY SIMPSON, individually and derivatively,
as managing member of JJ ARCH LLC, suing
derivatively as managing member of ARCH REAL
ESTATE HOLDINGS LLC, and JJ ARCH LLC,

Plaintiffs,

- against -

JARED CHASSEN and FIRST REPUBLIC BANK,

Defendants

Index No. 158055/2023

Justice Joel M. Cohen

Mot. Seq. 5

**AFFIDAVIT OF JARED CHASSEN IN
SUPPORT OF OAK'S MOTION FOR
PRELIMINARY INJUNCTION AND
TEMPORARY RECEIVER**

STATE OF NEW YORK)
)
) ss.:
COUNTY OF NEW YORK)

Jared Chassen, being duly sworn, deposes and says under penalty of perjury as follows:

1. I am the defendant and counter-claim plaintiff in the above-captioned action. I respectfully submit this affidavit in connection with 608941 NJ Inc.'s ("Oak") motion for a preliminary injunction enforcing Oak's removal of JJ Arch, LLC ("JJ Arch") as managing member of Arch Real Estate Holdings, Inc. and its subsidiary entities ("AREH") and for a temporary receiver over JJ Arch.

I. My Position on Oak's Motion to Replace JJ Arch as Managing Member of AREH

2. Together with Jeffrey Simpson, I am a member of JJ Arch, which has acted as the managing member of AREH since its founding. As I have previously testified, and as documented by Oak in its motion, due to Jeffrey Simpson's malfeasance and disregard for his fiduciaries, he

has destroyed AREH, leading to a situation where without his removal, AREH cannot function.

See NYSCEF No. 62, Sept. 14, 2023 Chassen Aff.; NYSCEF No. 96, Sept. 18, 2023 Chassen Aff.;

NYSCEF No. 186, Oct. 6, 2023 Chassen Aff.; NYSCEF No. 198, Oct. 13, 2023 Chassen Aff.

3. It bears emphasizing that Simpson himself has little of his own capital invested in AREH, and thus he is playing with house money so to speak. He has relatively little to lose for himself if AREH fails, while he believes he can extract personal benefits from Oak as he takes AREH down since Oak has tens of millions of dollars invested and significant personal guaranty exposure.

4. Indeed, on October 30, 2023, mere hours after this Court apparently upset Simpson and issued an Interim Order enforcing Oak's consent rights, (NYSCEF No. 292, Interim Order), Simpson upped the ante and his brinkmanship, furloughing AREH's employees and effectively shutting AREH down, all rather than cooperate with Oak and investors to save AREH.

5. To stop Simpson's sabotage campaign, Oak then removed JJ Arch from managerial control of AREH under the AREH Operating Agreement. On November 6, 2023, this Court granted a temporary restraining order placing Oak in managerial control of AREH. NYSCEF No. 321, OSC. Since being placed in managerial control, Oak brought AREH's employees back to work, ensured that they were paid, and has made herculean efforts to save AREH.

6. Simpson, for his part, has only escalated his dysfunction, including calling the police and having them come to AREH's offices on or about November 8, 2023 in an unsuccessful effort to force his way into AREH's offices in defiance of the Court's TRO.

7. Simpson also continues to send me messages where he asserts dictatorial powers and purports to bar me from helping Oak in any way, again showing that he cares not a whit for the well-being of AREH, only his own prerogatives. For example, on November 13, 2023, he wrote

me “you are to do nothing with JJ or Arch without my consent. You are under my business authority, not Oak’s. I expect a full report by tomorrow morning of what it is you are working on and then who has given you that work to do and for what purpose.” A copy of this email is annexed hereto as Exhibit A. In prior correspondence to my counsel on November 8, 2023, his attorney claimed that I may not “advance AREH business” at all. Of course, not assisting the current managing member of AREH when directly requested, or providing them with information to assist them, would likely constitute a breach of my fiduciary duties.

8. Under the helm of someone less erratic, mercurial, and abusive, removing JJ Arch might not have been necessary, and as a member of JJ Arch, I might not support it. However, under Simpson’s helm, no fiduciary can in good faith support JJ Arch remaining in managerial control of AREH. Such control spells the death-knell for AREH’s survival. Thus, for the sake of AREH and its investors, Simpson cannot be allowed to manage AREH. And Oak, a company with access to substantial capital and real estate experience, and tens of millions invested in AREH, is well-placed to have managerial control of AREH during the pendency of this litigation.

II. There is a Pressing Need for a Temporary Receiver over JJ Arch Regardless of How the Court Decides Oak’s Preliminary Injunction Motion

9. Oak has also sought the appointment of a temporary receiver over JJ Arch, a motion that I joined to the extent that the Court is not otherwise inclined to restore me to managerial control of JJ Arch. *See* NYSCEF No. 270. A temporary receiver over JJ Arch remains necessary even if the Court gives Oak managerial control of AREH during the pendency of this action.

10. In fact, Simpson is already using JJ Arch’s consent rights to stymie and obstruct Oak’s efforts to cut deals with lenders. Leaving JJ Arch’s consent rights with Simpson, rather than myself or a neutral third-party focused on what is best for JJ Arch and AREH, only allows Simpson

to continue to use JJ Arch's contractual rights to extract personal benefits from Oak, rather than act in the best interests of JJ Arch, AREH, and investors.

III. There is a Pressing Need for a Temporary Receiver over JJ Arch to Protect my Interests in the Properties I Own Jointly with Simpson through JJ Arch

11. Without a temporary receiver, there is a grave danger that the properties I own with Simpson through JJ Arch will be materially injured or destroyed by Simpson during the pendency of this litigation, as he seeks to extract all value for himself so that I am left with nothing. JJ Arch owns several properties and businesses that are independent of AREH, and that are owned 50-50 between Simpson and me. We entered these 50-50 investments through JJ Arch only to save expenses, and these were always meant to be a full 50-50 partnership. Even if Oak takes managerial control over AREH, a temporary receiver over JJ Arch is necessary to manage these assets I own together with Simpson via JJ Arch.

12. The danger without a temporary receiver is only heightened by Simpson's repeated disregard of Court orders, which is the subject of my contempt motion. His disobedience of the Court by itself supports the imposition of a temporary receiver over JJ Arch as a remedial measure.

13. The assets held by Simpson and me through JJ Arch are articulated in the following paragraphs.

14. JJ Arch is the sole-member of 225 HPR LLC, which owns a residential property known as 225 Head of Pond Road, Water Mill NY 11976 ("Head of Pond"). Simpson and I purchased Head of Pond in 2022 and renovated the home for several months. Since then, the home has become a permit holding rental property. Simpson has been uninvolved in this business, and I hired the third-party manager who has successfully managed the property for 2 years as an Airbnb property. Head of Pond has been cash flowing and neither of us took distributions.

15. Recently, Simpson decided to stop allowing me to pay the Airbnb property manager for his monthly reimbursements, including his payments to cleaning staff to clean and repair the property. While the property manager has continued to front these expenses, there is a limit to how long he will do this, and Simpson is jeopardizing the property as part of his vendetta against me.

16. In addition to refusing to pay for property upkeep, Simpson has also been taking money without my consent from the House of Pond accounts to pay his own personal expenses. On November 5, 2023, I discovered that has been taking money without my consent from the Head of Pond account and instructed employees to hide it from me. These payments include a \$10,000 payment on October 11, 2023, a \$2,000 payment on October 19, 2023, and a \$3,000 payment on October 31, 2023.

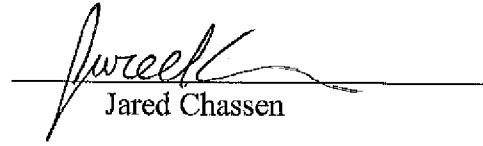
17. JJ Arch is also the sole-member of JJ NY 550 LLC, which owns real property known as 550 Metropolitan Avenue, Brooklyn, New York 11211 (“550 Metropolitan”). 550 Metropolitan is a retail condo, and I was solely responsible for it, dealing with its acquisition, financing, and tenant sourcing. 550 Metropolitan has been cash flow positive, but recently the tenant went out of business, and we need a new tenant. My ability to source a new tenant or sell the asset is being stymied by Simpson, who again is focused on his petty battles rather than the well-being of our assets.

18. JJ Arch is also the sole member of 1640 Montauk LLC, owner of real property known as 1640 Montauk Hwy, Water Mill, NY 11976 (“Rever Property”) and 1640 Motors LLC, the owner of the vintage auto business Rever Motors. Rever Motors is located at the Rever Property. Rever Motors was Simpson’s brainchild, which Simpson sold to me as a simple business where we would each invest \$500,000.00 maximum, hire someone to operate it, and would not need to be involved. I have no visibility into what Simpson is doing at Rever Motors, because

Simpson refuses to provide me with books and records on any JJ Arch business. I am understandably very concerned that Simpson is engaged in illegality and theft of assets. Simpson has already engaged in illegality at Rever Motors, including switching a VIN number on a car in violation of federal laws.

19. To gain more insight into Simpson's actions at Rever, among other of our businesses, I sent a books and records request to Simpson on November 9, 2023. A copy of my books and records demand is annexed hereto as Exhibit B. Simpson immediately rejected the demand in an email to me on November 12, 2023, in his typical abusive manner. He also asserted dictatorial powers to loot the business, based on his own fabricated numbers, saying, "I have the full and exclusive right issue capital calls and you owe \$1.2 million so I can take whatever cash I need without your consent." A true and correct copy of Simpson's email is annexed hereto as Exhibit C.

20. Even if Oak takes managerial control over AREH, the totality of the circumstances supports the appointment of a temporary receiver over JJ Arch as requested by Oak and joined by me. Such a temporary receiver will be able to properly (1) exercise JJ Arch's AREH consent rights in good faith for the benefit of JJ Arch, and all to whom JJ Arch owes fiduciary duties and (2) ensure that the limited JJ Arch assets unconnected to AREH are properly managed by a neutral and not dissipated by Simpson during the pendency of this action.



Jared Chassen

Sworn to before me this
13th day of November, 2023



Lino J. DeMasi

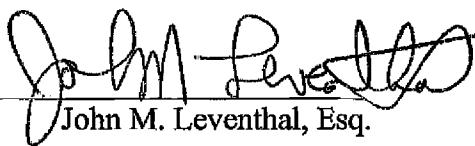
Notary public
Notary ID: #2DE6346731

Commissioned in Queens

Commission Expires: 8/22/2024

Word Count Certification

Allen Schwartz, Esq. hereby certifies that this affidavit contains 1767 words exclusive of the caption, and signature block and complies with applicable word limits. I relied on Microsoft Word to ascertain the word count.



John M. Leventhal, Esq.