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December 26, 2023

**BY NYSCEF**

Hon. Joel M. Cohen  
Supreme Court of the State of New York  
County of New York  
Commercial Division - Part 3  
60 Centre Street, Courtroom 208  
New York, New York 10007

Re: Jeffrey Simpson, etc. v. Jared Chassen, et al., Index No. 158055/23

Dear Justice Cohen:

I represent the plaintiff Jeffrey Simpson in this action.

I write pursuant to Rule VI.A. of the Court's Individual Practices and Procedures to request leave of Court to file an Order to Show Cause directing defendant Jared Chassen to comply forthwith with the Court's (i) August 21, 2023 Order Regarding Interim Procedures (Motion Seq. 001) (NYSCEF Doc. No. 36), (ii) Decision + Order on Motion entered on September 29, 2023 (NYSCEF Doc. 159), (iii) crystal clear holding and directions to the parties on the record at the hearing on September 29, 2023 with respect to JJ Arch LLC ("JJ Arch"), and (iv) JJ Arch's Operating Agreement.<sup>1</sup>

This action, as the Court knows, began somewhat narrowly as a claim by Mr. Simpson against Mr. Chassen based on his (Mr. Chassen's) unauthorized, ultra vires instruction to First Republic Bank ("FNB") to remove Mr. Simpson as an authorized signer on all accounts he (Mr. Simpson) maintained in either his corporate or individual capacity at FNB, and Mr. Chassen locking Mr. Simpson out of his Arch company email account, all other Arch IT systems and Arch's offices. (NYSCEF Doc. No. 1: Complaint ¶¶ 49, 58, 63) Those matters were gratefully addressed and resolved by the Court previously. Regrettably, however, Mr. Chassen's

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<sup>1</sup> The JJ Arch Operating Agreement is composed of the written agreement dated and made as of December 11, 2017, entitled Limited Liability Company Operating Agreement of JJ Arch LLC (Exh. A), and Amendment No. 1 to Limited Liability Company Agreement of JJ Arch LLC dated May 22, 2021 (Exh. B).

completely unjustified untoward actions directed at Mr. Simpson concerning the Arch companies have not only continued unabated, they have accelerated and some material evidence of Mr. Chassen's prior bad acts was only very recently revealed.

As summarized and explained below, Mr. Simpson seeks leave of Court to file an Order to Show Cause seeking the following relief:

1. Foreclosing on all of Mr. Chassen's interests in JJ Arch LLC ("JJ Arch"), in accordance with Article IV of the JJ Arch Operating Agreement, based on Mr. Chassen's failure to meet the August 31, 2023 Capital Call duly made to him, making unauthorized distributions to himself, and consequent unexcused defaults on the Member Loan made to him;
2. Ordering, in addition and alternatively, that at least one "Cause Event" exists, which specifically authorizes the forced Resignation of Mr. Chassen from JJ Arch under Sections 1.1 and 7.5 of the JJ Arch Operating Agreement;
3. Ordering Mr. Chassen to cease and desist from interfering with Mr. Simpson's "full, exclusive and complete discretion," as provided for and granted to Mr. Simpson in Section 3.1 of the JJ Arch Operating Agreement (as amended), to direct all of "[t]he business, affairs and assets" of JJ Arch, including but not limited to all matters pertaining to the following JJ Arch companies – (a) 225 HPR LLC, (b) 550 Metropolitan Ave Holdings LLC, (c) 1640 Montauk LLC, (d) 1640 Motors LLC, and (e) the companies relating to property at 146 E. 89th Street in Manhattan;
4. Compelling Mr. Chassen to comply in all respects with the JJ Arch Operating Agreement;
5. Restraining and enjoining Mr. Chassen from, directly or indirectly, being involved in any way in the business of Arch Real Estate Holdings LLC ("AREH") and taking any action in concert with Kevin Weiner, Michael Weiner and all other persons acting with them that is in derogation of Mr. Simpson's rights under the JJ Arch Operating Agreement; and
6. Ordering that Mr. Simpson may take expedited discovery from Mr. Chassen concerning any efforts by him to oust Mr. Simpson from the Arch group of companies.

**EXPEDITED RELIEF IS BEING SOUGHT AND IS WARRANTED NOW AGAINST MR. CHASSEN BECAUSE HE IS WRONGFULLY - IN CONTRAVENTION OF THE COURT'S ORDERS AND THE JJ ARCH OPERATING AGREEMENT - (1) INTERFERING WITH MR. SIMPSON'S MANAGEMENT OF JJ ARCH, AND (2) ALLOWING OAK TO SUMMARILY DISMANTLE THE \$500-PLUS MILLION ARCH PORTFOLIO OF REAL ESTATE ASSETS FOR THE SOLE BENEFIT OF OAK'S PRINCIPAL KEVIN AND MICHAEL WIENER.**

**Mr. Chassen's Undeniable Collusion with Oak**

While no direct claims against intervening plaintiff 608941 Inc. (which the parties uniformly refer to as “Oak”) are presently contemplated on the proposed application, as shown below, some of Mr. Simpson’s current claims against Mr. Chassen are based on irrefutable specific actions he took and continues to take in concert with Oak in violation of the JJ Arch Operating Agreement and the Court’s Orders.

On November 29, 2023, we represented to the Court that the evidence will show that the genesis of the disputes between the parties is (1) Oak’s breach of its agreement to fund the ongoing operations of AREH; (2) Oak’s affirmative decision not to invest any more money in AREH; and (3) Oak’s attempt to hide its actions by conspiring with Mr. Chassen to oust Mr. Simpson; and (4) Oak’s false claims that AREH’s financial difficulties were not based on the recent and significant downturn in real estate market conditions but were somehow solely attributable to alleged mismanagement of AREH about which Oak feigns to have been unaware.<sup>2</sup>

**i. Oak’s Promise To and Then Failure to Fund AREH in Breach of its Contractual Obligations**

In December 2022, as the result of general economic and depressed real estate market conditions, AREH needed additional money to meet general and administrative expenses and fund its continuing operations. So Mr. Simpson asked Oak for additional capital contributions to meet those needs as was specifically contemplated by and authorized in Section 3.2 of the AREH Operating Agreement. That request was based on detailed forecasts Mr. Simpson prepared with respect to all of the Arch portfolio properties. Initially, Oak agreed to provide that additional funding and more.

On December 20, 2022, Frank van Beisen, Oak’s CFO, specifically stated and represented to Mr. Simpson (and Mr. Chassen) as follows: “I expect we could have as much as \$15-\$20 million available over the coming year” to fund AREH continuing operations. (Exh. C: 12/20/22 email to Messrs. Simpson and Chassen on which Michael Weiner and Bill Weiner were copied) But sometime thereafter Oak’s principals changed their minds, and Oak failed to make good on that promise by Mr. van Biesen.

Consequently, in accordance with the terms of Section 3.2 of the AREH Operating Agreement, numerous capital calls were made to Oak (see, e.g., Exh. D: Capital Calls dated 7/18/23 and 7/28/23), and monies were specifically requested from Oak to fund payroll and otherwise pay bills in the ordinary course (see, e.g., Exh. E: 6/13/23 email from Mr. Simpson to Mr. van Biesen and Michael Wiener). While some modest amounts of money were provided, Oak has not made good on Mr. van Biesen’s December 2022 promise (in breach of the AREH

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<sup>2</sup> Mr. Simpson’s claims against Mr. Chassen based on his wrongful collusive efforts with Oak in an effort to oust Mr. Simpson have not yet been, but will be, memorialized in Mr. Simpson’s Reply to Mr. Chassen’s Amended Counterclaim and his Answer to Oak’s Complaint, which will be filed shortly.

Operating Agreement), and the Wieners have made clear they do not intend to cause Oak to invest any more money in AREH. These are the facts and they are not disputable.

The reason for Oak's change in position and refusal to invest further in AREH was and is simple – its principals, the Wiener family, know that under the AREH Operating Agreement it would be difficult if not impossible for them to recoup those monies given the current economic environment. The Wieners' preference was to do what they have done and are doing; that is, breach their agreements, improperly seize control of AREH, shut it down, sell off the assets, and take whatever steps may be necessary to reduce the individual exposure on personal guarantees they have provided on several of the AREH portfolio company projects to the detriment of Mr. Simpson and approximately 200 other limited partners. The Wieners have admitted to Mr. Simpson and others that is what they have done and these are their continuing intentions.

**ii. Evidence of Mr. Chassen's Nefarious Conspiracy With Oak**

The evidence of Mr. Chassen's complicity with Oak in the Wiener's efforts to oust Mr. Simpson from Arch and JJ Arch is also indisputable, and when fully presented to the Court will be overwhelming. Here is what Mr. Simpson knows already based on his and counsel's investigation to date.

Totally unbeknownst to Mr. Simpson, beginning in July 2023 (and perhaps earlier), Mr. Chassen was plotting and planning with Oak to take over Arch and throw him out. Secret meetings were held between Mr. Chassen and the Wieners at Mr. Chassen's cousin's business offices and Mr. Chassen instructed AREH employees not to tell Mr. Simpson about them.

By email dated July 19, 2023, counsel for Oak sent counsel for Mr. Chassen a proposal that required Mr. Simpson to "immediately step[] away from active day-to-day management of Arch and its subsidiaries and relinquish[] authority to act on behalf of Arch and its subsidiaries" and require an amendment of the JJ Arch Operating Agreement "such that Jared [Chassen] has sole control over JJ [Arch]." (Exh. F: 7/19/23 email from Andrew Silverstein, Esq. at Haynes and Boone, LLP to Len Breslow, Esq. at Breslow & Walker, LLP) Mr. Chassen shared that proposal with his cousin David Berg, who is a principal at the Infinity Collective which is an investor in some of the Arch projects, and Mr. Berg commented on it. (Id.: 7/20/23 email from David Berg to Mr. Chassen)

By early August 2023, a deal between Mr. Chassen and the Wieners was apparently struck and they were working together to dream up supposed justifications to remove Mr. Simpson. One example of this is the email dated August 7, 2023, Mr. Chassen wrote to the Wieners in which stated:

Boys, need to speak in morning, need to work on cause event  
backup together.

(Exh. G: 8/7/23 email from Mr. Chassen to Kevin Weiner and Michael Wiener)

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The following day, Mr. Chassen asked the Wieners for “some guidance” on how to deal with questions being raised by Mr. Simpson’s personal accountant “so it does not subject me with a damage claim that somehow I messed up those properties or businesses.” (Exh. H: 8/8/23 email from Mr. Chassen to Kevin and Michael Wiener)

In an email to Mr. Chassen on August 9, 2023, Michael Wiener brazenly instructed Mr. Chassen that “**directions from Jeff [Simpson] should be ignored, as he lacks any and all authority to act on behalf of JJ Arch and the Arch companies.**” (Exh. I: August 9, 2023 email) (emphasis added) Mr. Wiener of course had absolutely no right to give such a direction to Mr. Chassen.

The Wieners and Oak do not and have never had any ownership or economic interest in JJ Arch. The JJ Arch Operating Agreement does not permit the transfer of JJ Arch Company Interests by its Members. (See Exh. A: JJ Arch Operating Agreement § 1.1, definition of “Members” “Permitted Transfers” and “Person”) We understand, however, that Mr. Chassen may likely have entered into an agreement in which he transferred all or a portion of his rights in JJ Arch and AREH to the Wieners and Oak.

Mr. Chassen even enlisted AREH’s Director of Human Resources, Karolina Bortko, in his (and the Wieners’) disloyal plans asking her to “please provide all the emails you have implicating Jeff into the dropbox.” (Exh. J: 8/9/23 email from Mr. Chassen to Ms. Bortko) Not surprisingly, Ms. Bortko asked Mr. Chassen and the Wieners for “formal assurance of protection” and an affirmation “that the Company will assume full responsibility for any liabilities” including any legal fees she may incur if she cooperated with them, which Oak has provided. (Exh. K: 8/9/23 email from Ms. Bortko to Mr. Chassen and Kevin and Michael Wiener)

Further evidence of the Chassen/Oak conspiracy is an email dated August 10, 2023, in which Mr. Chassen asked Oak’s lawyers, the Wieners and yet another AREH employee, Michelle Miller, for “a company line and what I am saying when backup questions arise.” (Exh. L: 8/10/23 email from Mr. Chassen to Jeffrey Dayon, Esq., Brad Lavender, Esq., the Wieners and Ms. Miller)

While Mr. Chassen and the Wieners have gone to great lengths in this litigation to cast aspersions against Mr. Simpson concerning the manner in which he speaks to and about people and the Wieners have attempted to portray themselves as gentlemanly, they are far from it. In an email sent to Mr. Chassen and Michael Wiener on August 11, 2023, Kevin Wiener referred to predecessor counsel for Mr. Simpson, Adam Leitman Bailey, and his colleague Colin Kaufman in the following derogatory terms:

Lol what a fucking dick.

His decrepit former prosecutor law partner does not have the ability to magically summon criminal charges from the ether.

(Exh. M: 8/11/23 email from K. Wiener to Mr. Chassen and M. Wiener)<sup>3</sup>

Perhaps the most damning evidence of the collusion between Mr. Chassen and Oak, however, is the email dated August 13, 2023, Mr. Chassen sent to van Biesen, on which the Wieners were copied, in which Mr. Chassen requested asked that Oak pay \$250,000 in legal fees to his (Mr. Chassen's) lawyers:

Hey, we need to fund retainers please

Jeff Dayon's firm requesting \$50,000  
Fried Frank requesting \$200,000

I[']ll send retainers and wire instructions under separate cover.

(Exh. N: 8/13/23 email from Mr. Chassen to Mr. van Biesen and the Wieners)<sup>4</sup>

Mr. van Biesen agreed to pay those legal fees for Mr. Chassen, but inquired "who is Fried Frank" to which Mr. Chassen responded: "Litigation firm for me. Brad [Lavender, Esq. of Haynes Boone]'s recommendation." (Exh. O: 8/13/23 email from Mr. Chassen to Mr. van Biesen) And it cannot be disputed that thereafter Mr. Chassen's lawyers at Fried Frank were conversing openly with the Wieners, of course without Mr. Simpson's knowledge at the time. (Exh. P: 8/17/23 email from Emily Cooper, Esq. to Kevin Wiener)

Mr. Chassen's collusion with the Wieners in support of their efforts to oust Mr. Simpson from AREH and JJ Arch provides the basis for prima facie claims by Mr. Simpson against Mr. Chassen for breaches of the JJ Arch Operating Agreement and breach of fiduciary duty, as Mr. Simpson will show in support of his proposed Order to Show Cause application and at trial in this action.

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<sup>3</sup> Mr. Chassen may contend that he entered into a joint defense agreement with the Wieners and Oak and that consequently some of the referenced correspondence is privileged. Mr. Simpson has repeatedly requested a copy of any such agreement (both formally through counsel and directly between and among the parties), and we understand the Court indicated that Mr. Chassen was required to provide it to Mr. Simpson. But, to date, none has been produced and the existence or not of any such agreement has not been confirmed. So on the current record the referenced emails are to be sure not protected by the attorney-client privilege, attorney work product doctrine or any other legal principle.

<sup>4</sup> How these law firms were able to accept the engagements is mystifying given their apparent conflicts of interest. Mr. Dayon previously represented AREH on multiple matters while Mr. Simpson was running the company, as did lawyers at Fried Frank on corporate matters. And, astonishingly, Fried Frank was – contemporaneously with its representation of Mr. Chassen – seeking to foreclose on one of the AREH properties on behalf of another client.

**The JJ Arch Controlling LLC Documents  
And the Court's Orders Concerning Them**

JJ Arch is a New York limited liability company. It has at all times had two members, Messrs. Simpson and Chassen. The rights and obligations as between them concerning JJ Arch are governed by the December 11, 2017 Limited Liability Company Operating Agreement of JJ Arch LLC (Exh. A, Sec. 2.1, p. 6), as amended in Amendment No. 1 to Limited Liability Company Agreement of JJ Arch LLC dated May 22, 2021 (Exh. B).

Mr. Simpson is and has always been the Managing Member of JJ Arch. Pursuant to and in accordance with the JJ Arch Operating Agreement, at all times Mr. Simpson had complete autonomy over all of the company's business affairs and activities.

As to Mr. Simpson's and Mr. Chassen's respective roles in and at JJ Arch, the Court's August 21, 2023 Order Regarding Interim Procedures provides plainly and clearly as follows:

**Specifically, the business, affairs, and assets of JJ Arch shall be managed by Simpson, subject to the limitations set forth in Section 3.2 of the JJ Arch Operating Agreement**, which provides among other things that any Company Major Decision, as defined in the JJ Arch Operating Agreement, shall be undertaken only with the prior written consent of Chassen. **Simpson and Chassen shall cooperate with each other in good faith to facilitate the effective exercise of their respective roles and responsibilities under the JJ Arch Operating Agreement and related agreements**

(Exh. Q: Order p. 2, ¶3) (emphasis added) Pursuant to the Decision + Order on Motion dated September 29, 2023 (Exh. R), the Court's August 21, 2023 Interim Order remains in full force and effect.

As the Court expressly noted on the record during the proceedings on September 29, 2023:

THE COURT: **Well, look unless and until this partnership [JJ Arch] is broken up, Mr. Chassen is a 49 percent member without managerial control. \* \* \* But I think the way the contract works, you know substantive decisions are up to Mr. Simpson.**

(Exh. S: Transcript of Proceedings - 9/29/23 Tr. 54, lines 6-17) (emphasis added)

The Court further specifically held that day, **"the [JJ Arch] Operating Agreement does put Mr. Simpson in charge of the business. So, Mr. Chassen does not have**

**independent authority to spend corporate funds on anything without Mr. Simpson's approval.**" (*Id.*: Tr. 52, lines 3-7) (emphasis added)

**Evidence and Specific Facts of Mr. Chassen's Additional Bad Acts**

**1. Mr. Chassen's Default on His Member Loan**

As of August 1, 2023, Mr. Chassen confirmed that there was an imbalance of \$670,730.93 in the JJ Arch Capital Accounts in favor of Mr. Simpson, and that his (Mr. Chassen's account needed to be replenished. (Exh. T) That imbalance was created by business transacted in JJ Arch companies that own the real property at 225 Head of Pond Road in Water Mill, 550 Metropolitan Avenue in Brooklyn, 1640 Montauk Highway in Southampton, and 146 E. 89th Street in Manhattan, and was later increased to \$1.2 million when Mr. Chassen was unable to repay his portion of a \$1 million credit line.<sup>5</sup>

Article IV, Section 4.2 of the JJ Arch Operating Agreement governs Capital Contributions concerning the Capital Accounts as between Mr. Simpson and Mr. Chassen in JJ Arch. As to Capital Contributions, Section 4.2(b) specifically provides that:

(b) If, at any time or from time to time, (i) Simpson determines that additional funds are required by the Company to meet its general and administrative expenses or (ii) the Company is required to make a capital contribution to an Investment Entity, Simpson shall deliver a written notice to Chassen (a "Capital Call Notice") setting forth the total amount of capital required (the "Capital Call Amount") and the purpose of such Capital Call.

(Exh. A: JJ Arch Operating Agreement §4.2(b), p.10)

Section 4.2(b) of the JJ Arch Operating Agreement further provides that "[e]ach of Simpson and Chassen shall be obligated to make an additional Capital Contribution to the Company in immediately available funds within five (5) Business Days of receipt of the Capital Call Notice." (*Id.*)

Pursuant to Section 4.2(c) of the JJ Arch Operating Agreement, if a Capital Call is made and not met for any reason for two business days following written notice of default, the non-defaulting party has the right to deem the non-paying party's Capital Contribution as a "Default Loan:"

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<sup>5</sup> JJ Arch solely owns and controls these properties through a number of subsidiary companies, including but not limited to (a) 225 HPR LLC, (b) 550 Metropolitan Ave Holdings LLC, (c) 1640 Montauk LLC, (d) 1640 Motors LLC, and (e) the LLCs that relate to 146 E. 89th Street in Manhattan. Oak and the Wieners have no ownership interest in these companies whatsoever, directly or indirectly. Matters involving these companies and properties solely involve Mr. Simpson and Mr. Chassen.



(c) If a Member (a “Non-Contributing Member”) shall fail to make a required Capital Contribution, as and when due, for any reason, and such failure continues for two (2) Business Days following written notice of such default, then the Member who made its required Capital Contribution (the “Contributing Member”) shall have the right to contribute the amount of the Non-Contributing Member’s capital contribution requested by the applicable Capital Call Notice, which contribution shall not be deemed a capital contribution but rather a loan (a “Default Loan”) to the Non-Contributing Member in an amount equal to the unfunded capital Contribution.

(Exh. A: JJ Arch Operating Agreement §4.2(c), pp. 10-11)

Under and pursuant to Section 4.2(d) of the JJ Arch Operating Agreement, a “Default Loan” is secured by the all of the non-paying members Membership Interests in the company:

A Default Loan shall be prepayable, in whole or in part, at any time or from time to time without penalty. Any such Default Loans shall be with full recourse to the Non-Contributing Member and shall be secured by the Non-Contributing Member’s Company Interest including, without limitation, the Non-Contributing Member’s right to distributions hereunder. In furtherance thereof, upon the making of such Default Loan, the Non-Contributing Member hereby pledges, assigns and grants a security interest in its Company Interest to the Contributing Member and agrees to execute such documents and statements as are reasonably requested by the Contributing Member to further evidence and secure such security interest interest; provided, however, that such security interest may be foreclosed upon only in the event that during the period in which a Default Loan is outstanding, distributions are paid to the Non-Contributing Member prior to payment in full of all amounts (including interest) owed under the Default Loan.

(Exh. A: JJ Arch Operating Agreement §4.2(d), p. 11)

Mr. Chassen cannot deny that all of these conditions exist and were met. Mr. Simpson made a Capital Call to him pursuant to Section 4.2(b) of the JJ Arch Operating Agreement (Exh. U: 8/31/23 JJ Arch LLC - Capital Call for Ongoing Operations and Demand Letter) Mr. Chassen failed to meet that Capital Call at all, let alone within the time periods proscribed. By operation of Section 4.2(c) of the JJ Arch Operating Agreement, the unpaid Capital Call was deemed to be a Member Default Loan, and Mr. Chassen defaulted on that loan by making distributions to himself while the Default Loan was outstanding.

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As Mr. Simpson specifically stated in his August 31, 2023 Capital Call and Demand Letter, Mr. Chassen made the following unauthorized distributions to himself from JJ Arch owned and controlled accounts at First Republic Bank:

8/1/23 - \$70,500  
8/4/23 - \$9,400  
8/9/23 - \$25,000

(Exh. U: JJ Arch 8/31/23 Capital Call and Demand Letter)

Since then, Mr. Chassen has continued to make unauthorized distributions to himself, including but not limited to using JJ Arch funds to pay his personal cell phone bills and car insurance. (See Exhs. V-a and V-b: excerpts of JJ Arch bank records for the periods August 1, 2023 to September, 24, 2023 and September 29, 2023 to December 23, 2023)

Accordingly, Mr. Simpson is entitled under the clear terms of Section 4.2(d) of the JJ Arch Operating Agreement to foreclose on Mr. Chassen's Membership Interests in JJ Arch, which he intends to do.

## **2. Clear Cause Events Justifying Mr. Chassen's Forced Resignation from JJ Arch**

"Cause Event[s]" as that term is defined in Section 1.1 of the JJ Arch Operating Agreement also exist that entitle Mr. Simpson to cause Mr. Chassen's forced "Resignation" under Section 7.5 of that agreement.

A "Cause Event" is defined in Section 1.1 as:

Cause Event: With respect to a Member, the occurrence of a Cause Event (as defined in the AREH Operating Agreement) with respect to such Member.

(Exh. A: JJ Arch Operating Agreement §1.1, p. 3) The AREH Operating Agreement defines a "Cause Event" as follows:

"Cause Event" means with respect to Managing Member (unless otherwise indicated) (i) willful misconduct in relation to the business or affairs of the Company or a Subsidiary, (ii) breach of fiduciary duty in relation to the business or affairs of the Company or a Subsidiary, (iii) gross negligence in relation to the business or affairs of the Company or a Subsidiary which results in a material loss to the Company or a Subsidiary or its Members as such, (iv) a final non-appealable finding of fraud by a court of competent jurisdiction in any relation to any business of its affairs, (v) misappropriation of Company or Subsidiary funds or property, (vi) conviction, or a plea of nolo contendere, of Jeffrey Simpson any felony, (vii) any wrongful act or omission which results in an

acceleration of any loan encumbering the Property, or (viii) any breach of a material provision of this Agreement which is not cured within 30 days of notice of such breach.

(Exh. W: AREH Operating Agreement §1.1, pp. 4-5)

Mr. Chassen's collusion with Oak in an effort to take over AREH, failure to meet Capital Calls duly delivered to him, and making distributions to himself while failing to pay his Member Default Loan clearly constitute:

- (a) "willful misconduct in relation to the business or affairs of" JJ Arch under item (i) of the definition of "Cause Event" in the AREH Operating Agreement;
- (b) "breach of fiduciary duty in relation to the business or affairs" of JJ Arch under item (ii) of the definition of "Cause Event" in the AREH Operating Agreement; and
- (c) "misappropriation of [JJ Arch] funds or property" under item (v) of the definition of "Cause Event" in the AREH Operating Agreement.

Mr. Simpson intends to give Mr. Chassen formal notice, pursuant to Sections 1.1 and 7.5 of the JJ Arch Operating Agreement, compelling Mr. Chassen's immediate Resignation from JJ Arch on these grounds and those listed in the next Section.

### **3. Mr. Chassen's Brazen Violation of the Court's Orders As to JJ Arch's Non-AREH Assets**

As noted previously and the Court specifically held in its August 21, 2023 Order Regarding Interim Procedures, under the JJ Arch Operating Agreement the business, affairs, and assets of JJ Arch are to be managed by Mr. Simpson. (Exh. Q: 8/21/23 Order) Despite that very clear ruling by the Court and its admonition on the record on September 29, 2023 that the JJ Arch Operating Agreement puts Mr. Simpson in charge of JJ Arch's business and Mr. Chassen does not have independent authority to spend corporate funds on anything without Mr. Simpson's approval (Exh. S: 9/29/23 Transcript, p. 54), Mr. Chassen has, among other violative acts:

- Barred Mr. Simpson from entering the house at 225 Head of Pond Road, changing the locks and refusing to allow Mr. Simpson to gain access to the house;
- Threatened to call the police when Mr. Simpson visited and sought to enter 225 Head of Pond Road;
- Rented 225 Head of Pond on AirBNB and otherwise;
- Pocketed for himself the monies received from his rental of 225 Head of Pond Road;

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- Refused to allow 225 Head of Pond Road to be marketed for prospective sale;
- Sought to extort Mr. Simpson by demanding that Mr. Chassen's wife receive a brokerage fee in connection with any sale of 146 E. 89th Street, regardless of whether or not she participates in the sale of the property;
- Allowed Arch employees to reside rent free at 146 E. 89th Street; and
- Numerous other wrongful acts that Mr. Simpson will detail in his intended application.

All of these actions were taken by Mr. Chassen without Mr. Simpson's consent or approval. Each is an independent violation of the JJ Arch Operating Agreement and the Court's August 21, 2023 and September 29, 2023 Orders, and a "Cause Event" under the JJ Arch Operating Agreement that provide additional bases for Mr. Chassen's Resignation from JJ Arch.

### **Conclusion**

It is never counsel's preference to seek court intervention during the holiday season. This application is therefore made with apologies in advance for any inconvenience that may be caused by it. I assure the Court and its staff that it was prepared, assembled and filed as soon as possible, given my recent entry into the case.

We nevertheless submit that expedited relief is warranted based on Mr. Chassen's numerous continuing wilful misconduct, which is cataloged above and will be further detailed in Mr. Simpson's proposed application. We welcome a conference with the Court to further elaborate on these matters at its earliest convenience.

Respectfully submitted,

***Steven Altman***

Steven Altman

cc: All Counsel of Record (**BY NYSCEF**)