

SUPREME COURT STATE OF NEW YORK
COUNTY OF NEW YORK

----- X Hon. Margaret A. Chan, J.S.C.

VISION BIOBANC HOLDINGS, LLC,

Index No. 651706/2024

Plaintiff,

-against-

**AFFIRMATION OF
DEREK TALLER**

DEREK TALLER,

Defendant.

----- X (Motion Sequence No. 002)

DEREK TALLER, affirms that the following is true, under penalty of perjury, in accordance with CPLR § 2106:

1. I am named as the defendant herein. I respectfully submit this affidavit in opposition to the instant Motion seeking a preliminary injunction.

2. I have read the Complaint in this matter and see that it contains all types of allegations of wrongdoing by me in my capacity as chairman of the board of Vision BioBanc Holdings, LLC (the “Company”). My attorneys have advised me that, for the purposes of this Motion, those allegations are neither substantiated nor relevant.

3. Nevertheless, to set the record straight, I forcefully deny that these allegations are true and look forward to the opportunity to conduct discovery with respect to these allegations. I do note, however, that the Court has not been provided with any documents or any evidence whatsoever substantiating these allegations, presumably because none exists.

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4. The Saxe Board (as defined in the accompanying memorandum of law) tried to wrongfully remove me as chairman by written resolution on or about December 20, 2024, but failed to do so in accordance with the requirements of the Company's operating agreement.

5. Since then, they wrongfully accessed and disseminated the Company's intellectual property and emails in an attempt to bolster their false claim of control of the Company.

6. I also understand that the Saxe Board claims that they were legitimized by a meeting of the Unitholders on or about January 26, 2024.

7. I have never seen evidence that this meeting was held at all, much less evidence showing that it was properly noticed and a vote taken in accordance with the Operating Agreement.

8. Based on discussions with the Unitholders during the course of my independent investigation, it appears that the Saxe Board received less than the fifty (50%) percent vote threshold that they needed to oust me and install themselves on the Board of the Company. This is likely why they failed to attach any evidence whatsoever to their moving papers to corroborate their claims concerning the January 26, 2024 meeting.

9. After all, if the Saxe Board did have evidence that I was removed and they were elected in accordance with the Operating Agreement, presumably they would have attached – front and center – such evidence to the Complaint or in support of the instant Motion. They did neither, which speaks volumes.

10. I understand that the Saxe Board is seeking preliminary relief against me in the instant Motion and that one of the reasons they claim such relief is necessary is because the Company is unable to pay its bills or take in receivables.

11. At this point, the Company has limited expenses. A list of current payables is annexed hereto as Exhibit 1.

12. I disagree that the Saxe Board should have control over the Company's assets. Nevertheless, in the best interests of the Company, I agree that the Company's expenses should be paid and receivables collected provided that the following conditions/restrictions are imposed by the Court:

13. *First*, with the exception of the payables listed on Exhibit 1, prior to paying any expenses the Saxe Board should alert me (through counsel) of payments it intends to make and give me the opportunity to object to such payments. Since it is in the best interests of the Company, I agree to act reasonably and make only legitimate objections thereto.

14. *Second*, that the Saxe Board may not use Company funds to pay themselves, whether directly or through an intermediary;

15. *Third* to the extent that the Saxe Board has caused the Company to pay any expenses to date, they must provide me (through counsel) of a ledger indicating the amount of such payments, the date thereof, the recipient thereof, and upon request a description of the goods/services provided by the recipient.

16. *Fourth*, that the Saxe Board may not use Company assets to fund this litigation or in furtherance of their claim that they are the "legitimate" Board or that the Taller Board (as defined in the accompanying memorandum of law) is not the "legitimate" Board.

17. *Fifth*, to the extent that the Saxe Board has used Company assets to fund this litigation, that they promptly reimburse the Company those amounts.

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18. *Sixth*, to the extent that any receivables are collected (or have been collected to date), that I be provided (through counsel) with a ledger indicating the amount of such payments, the date thereof, the payor, and upon request a description of the basis for such payments.

19. *Seventh*, to the extent any receivables are collected or have been collected to date, that they be put in an account belonging to the Company and only used for expenses in the manner outlined above.

20. These are simple and reasonable conditions/0restrictions that will let the Company to continue operating while allowing both the Saxe Board and the Taller Board to monitor the use of the Company's assets and ensure that they are not being misused or misspent.

21. I cannot think of any reason that the Saxe Board would object to these restrictions unless they intend to misuse (or already have misused) the Company's assets.

22. Additionally, I note that the instant Motion seeks, in essence, to declare the Saxe Board as the "legitimate" Board for the foreseeable future. It is respectfully submitted that the Court should decline to do so for the reasons set forth in the accompanying memorandum of law.

23. The Court should also be aware that two members of the Saxe Board, Joseph Taussig and Hugh Hill, are deeply conflicted and actively taking steps to financially harm the Company.

24. Specifically, Taussig Capital, Inc., which is owned and controlled by Joseph Taussig, is currently suing the Company in the action captioned *Taussig Capital Inc. v. Vision Biobanc Holdings, Inc.* et al (Sup Ct N.Y. Cty Index No. 653881/2023). Accordingly, he cannot be trusted to act in the Company's best interests.

25. Additionally, Hugh Hill, who was appointed by the Saxe Board to act as the Company's secretary and general counsel, has been actively helping a different litigant, David

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Lessen, with his employment-based lawsuit against the Company and has submitted an affidavit to assist him in doing so. A copy of that Affidavit is annexed hereto as Exhibit 2.

26. It is respectfully submitted that the Court should not issue a preliminary injunction appointing the Saxe Board – including that these individuals who are adverse to the Company's interests – as the Company's Board.

27. As a result of the foregoing, I respectfully request that the Court deny the instant Motion in its entirety.

28. I affirm this 10th day of May 2024, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

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DEREK TALLER