

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

VISION BIOBANC HOLDINGS LLC,

Plaintiff,

v.

DEREK R. TALLER,

Defendant.

Index No. 651706/2024

**AFFIDAVIT OF BARRY SAXE
IN SUPPORT OF PLAINTIFF'S
ORDER TO SHOW CAUSE**

Motion Sequence: #002

I, Barry Saxe, being duly sworn, depose and state as follows.

1. I am a resident of the Bronx, New York, and I am the Chairman of the Board of Managers of Plaintiff Vision BioBanc Holdings LLC (“Vision” or the “Company”). I have been an investor in the Company since 2021 and currently am its largest investor, owning over 16.6% of its outstanding membership interests. I have personal knowledge of the matters stated herein.

A. The Company’s Operating Agreement and Governance Structure

2. Pursuant to the Company’s LLC Operating Agreement (the “Operating Agreement”), a copy of which is attached as Exhibit A, the Company is managed by a Board of Managers (the “Board”), which is vested with “all management powers over the business and affairs of the Company” and which “conduct[s], direct[s] and exercise[s] full control over all activities of the Company.” *See* Operating Agreement (Ex. A) § 5.1.

3. The members of the Board (the “Managers”) are elected by the Company’s members (*i.e.*, its investors) annually and serve for one-year terms, unless they resign or are removed from the Board by the members before expiration of their term. *See id.* §§ 5.3, 5.4.

4. One Manager shall be designated by the Board to serve as Chairperson of the Board. *See id.* § 5.3.

B. The Members Become Concerned About Defendant Taller's Misconduct

5. Defendant Derek R. Taller ("Defendant" or "Taller") was the Company's founder, Chief Executive Officer and Chairperson and exercised sole control over the Company and its assets until he was removed from those positions by Vision's members as of January 1, 2024.

6. Over the course of 2023, I became increasingly concerned with the actions, statements, and general course of conduct of Taller. He was consistently derelict in providing the Company's members with business and financial updates, as well as requisite tax filing documentation. After Vision was denied a banking license by regulators in Puerto Rico in the spring of 2023, Taller's behavior became increasingly alarming, making outlandish claims and unfulfilled promises of get-rich-quick schemes completely unrelated to the Company's stated purpose (making convertible loans to pre-IPO healthcare companies).

7. While Taller publicly professed to the Company's members that the banking license was denied due to turmoil in the US regional banking market, I later learned that Puerto Rican regulators denied the license because of Taller's dishonesty and questionable conduct, stating in its denial letter that: "*Mr. Taller is incompetent and unable to conduct his own financial affairs nor stand to the standards required by banking practices that are required by the financial institutions and the depositary institutions and regulated under strict requirements.*"

8. In the fall of 2023, Taller attempted to enlist me in gathering support amongst the Company's members to allow him to move the Company and all of its assets to Dubai in the United Arab Emirates. It was clear that he was actively pursuing this course of action, regardless of the members' rights or wishes.

9. Around this time, I also learned that, of the five Managers elected to the Company's Board at the Company's 2023 Annual Meeting in the spring of 2023, three had resigned by the

summer of 2023, and one had filed a complaint against Taller with the SEC alleging that he had misled investors.

10. We also suspected that Taller was engaged in fraudulent self-dealing. Those suspicions were confirmed when we later discovered that Taller had looted \$1.3 million from the Company in December of 2023 through a fraudulent loan ostensibly to a Yorkshire, England frozen seafood company and orchestrated through a bank in Beirut, Lebanon as payment for a purported shipment of “Mauritanian frozen grouper” to Nigeria.

C. The Members Act Decisively to Terminate Taller

11. Concerned by Taller’s conduct, in late 2023, I began to discuss with the Company’s other members whether it would be advisable and in the best interest of the Company to remove Taller. Other members shared my concerns regarding Taller and supported his removal.

12. In December 2023, I circulated a Member Resolution (attached hereto as Exhibit B). Pursuant to the Operating Agreement, the Resolution would allow a majority of the Members to: (i) act as if at a meeting of the Members, (ii) waive notice and consent of such meeting, (iii) remove all existing Managers, including Taller and his confederates, and (iv) appoint new Managers. The new Managers were: (1) myself, who would act as Chair; (2) Donald Garlikov; (3) Stormy Adams; (4) Joseph Taussig; and (5) Ruben Neftali Gety Rodriguez (collectively, the “Current Board”).

13. After consultation with counsel who reviewed the Operating Agreement, we decided to exercise our right under the Operating Agreement to act as if at a meeting of members, and to affirmatively waive notice of such meeting. We and our counsel believed that this was the only way to remove Taller without him attempting to illegally thwart the efforts to remove him

and/or drain the Company's accounts and remove its remaining assets to Dubai given his sole signatory authority (which is precisely what Taller tried to do as soon as he learned of his removal).

14. By January 1, 2024, a majority of Vision's members signed the Resolution, and by the end of the first week of January, members holding over 75% of the membership interests had signed it.

15. We subsequently held a meeting of all the Company's members on January 26, 2024. At this meeting, members holding more than 70% of the Company's outstanding membership interests voted directly or by proxy to affirm the removal of Taller and the establishment of the Current Board, and to ratify and affirm the actions of the Current Board since January 1, 2024.

D. Taller Retaliates and Attempts to Disrupt the Company's Operations

16. Notices of the change in control began to be sent to third-party vendors and counterparties on January 2, 2024, and Taller learned of our actions on or around January 10, 2024. On that day, he attempted to withdraw approximately \$550,000 from the Company's main custody account at Millennium Trust Company (the "Millennium Account").

17. Taller has pointedly refused to honor his obligations as a former Board member under the Operating Agreement to assist in the new Board. *See* Operating Agreement § 5.4 ("The removed Manager shall cooperate in the orderly transition of affairs to the Manager's successor."). Instead, he has actively attempted to thwart the actions of myself and the other members of the Board to manage the Company and its assets.

18. Taller has made numerous false representations denying his removal and falsely maintaining his prior authority. He has threatened financial institutions holding the Company's

assets, including Millennium Trust, and service providers essential to the operation of the Company with liability if they follow the instructions of the Current Board.

19. Directly and through his agents, Taller has harassed the Company's members, often impersonating major financial institution personnel claiming to represent Taller's interests, in an effort to force the members to revoke their support of the Current Board and support Taller's return, which they have refused to do.

20. Taller also interfered with the Company's information technology and systems. He first hijacked the Company's internet domain (vbiobanc.com) to a server in Switzerland, necessitating the creation of a new domain (vbiobancllc.com). He then launched, from Dubai, numerous hacking attempts on the Company's systems and email accounts, and on March 1, 2024, he successfully hijacked the Company's core Microsoft server account, cutting our access to our main file and email systems. While we have been actively working with the FBI Cybercrimes division here in New York, as of the date hereof we have not been able to resume complete control.

21. Taller purportedly caused the Company to sue me, one of the other new Board members, and the Company's Secretary. *See Vision BioBanc Holdings, LLC v. Barry Saxe, et al.*, Index No. 650288/2024 (filed Jan. 19, 2024). In this action, Taller's attorneys demanded immediate return of exclusive control of the Company. The Court denied such relief, and the lawyers (who had previously been paid for by the Company to defend Taller in the SEC action against him for misappropriation of investor monies from Vision and other regulated entities), eventually dropped their suit in February after we satisfied them that the removal of Taller and the establishment of the Current Board was legitimate.

E. Taller's Actions Threaten Irreparable Harm to the Company

22. Taller's actions are currently damaging the Company's assets, impeding its operations and threatening its viability as a going concern.

23. The Company cannot access its bank account, the Millennium Account, because of Taller's continuing threats to Millennium Trust. Millennium Trust's counsel has advised me that they will not even provide the Current Board with account statements until Taller signs a document acknowledging his removal or there is a court order affirming the Current Board's authority. The Company's inability to access its bank account has caused great damage to the Company, as we are unable to conduct basic operations or pay the vendors essential to the Company's operations and survival. Taller has issued similar threats to other parties that owe the Company money, causing them to similarly sit on their hands and not make requisite payments to the Company.

24. In addition, the Company's transfer agent, which records all of its members' interests, recently quit, citing threats and interference from Taller and the non-payment of bills by the Company from well prior to the Current Board taking control. Because of this, members cannot transfer their interests in the Company and, while we are still trying to determine the full extent, there may be additional tax consequences as the transfer agent may have zeroed out the value of a number of member accounts.

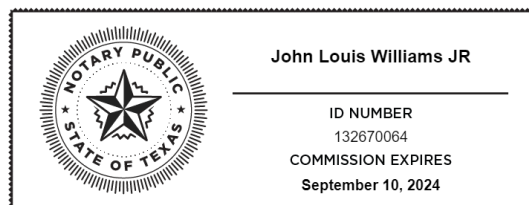
25. Because of Taller's interference and the aforementioned hijacking of the Company's Microsoft account by Taller, the Company is now in technical violation of a SEC subpoena to provide documents relating to Taller's misdeeds. While the SEC is aware of this and is currently not pursuing penalties for non-compliance with these missed deadlines, the fact remains that, but for Taller's actions, the Company would not be in violation.

26. The Company is also facing demands for payment and threats of suit from other service providers and counterparties based on unpaid obligations, many of which date from prior to the Current Board taking control, but which cannot be paid because of the freezes created by Taller's threats to Millenium Trust. Some of these creditor parties have begun collection proceedings, and there is a very real risk that, if the amounts remain unpaid, they could attempt to put the Company into an involuntary bankruptcy proceeding.

27. Similarly, the Company's ability to pursue sums owed to it and protect, maintain and monetize its assets is similarly severely obstructed by Taller's threats to those parties and his demands that they transfer those monies and assets to accounts controlled by Taller in the United Arab Emirates.

28. Every day brings more waste of Company assets, more time for Taller to move the assets he has looted further away from US jurisdiction, and increased liability and debt to third parties. Absent a court order affirming our authority as a Board, this will only continue.

I hereby affirm that the foregoing statements are true and correct to the best of my knowledge and belief.



Barry Saxe

Barry Saxe

Sworn to before me on this 12th day of April, 2024

John Louis Williams JR. County of Harris

Notary Public, State of Texas

Electronically signed and notarized online using the Proof platform.