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By File & ServeXpress

Senior Magistrate Selena E. Molina
Court Of Chancery of The State of Delaware
Leonard L. Williams Justice Center
500 N. King Street, Suite 11400
Wilmington, Delaware 19801-3734

Re: Gupta v. Safko and Harvey, C.A. No. 2024-1296-SEM

Dear Senior Magistrate Molina:

On September 4, 2025, the Court issued a minute order directing the parties to meet and confer about the defendants' motion to dismiss and the plaintiff's response thereto in an attempt to resolve or narrow the contested issues in this action. The Court also directed the parties to submit a joint status report on their efforts within one week, which would include each side's proposal on how this action should move forward. The parties have met and conferred and respectfully submit this joint status report.

Defendants have today filed their opening brief in support of their motion to dismiss this *pro se* books and records action under Section 220 of the Delaware

General Corporation Law. Plaintiff will review the brief once it is filed and will submit an answering brief within 7 days. Once Plaintiff files an answering brief, Defendants will file a reply brief within seven days after the answering brief is filed.

Plaintiff's Proposal on How this Action Should Move Forward

Plaintiff acknowledges the Court's directive to meet and confer. The central issue is not whether inspection should occur, but whether Defendants can continue to block production through procedural gamesmanship. Delaware law favors **substance over form**, and Defendants' attempt to hide behind semantics and titles cannot excuse their duties of care, candor, and loyalty.

At the meet and confer, Defendants refused to discuss inspection scope or the merits. Their only topic was removing themselves as parties. This was not a good-faith effort to narrow issues. Had Defendants engaged on substance, Plaintiff could have considered limited concessions on sequencing or confidentiality. But absent such engagement, Plaintiff views their approach as stonewalling designed to defer disclosure.

To avoid distraction over caption and to **prioritize substance over form**, Plaintiff is prepared—if it advances resolution—to amend within seven (7) days to add **Solfice Research, Inc.** as a **nominal defendant** under 8 Del. C. §§ 220 and 278. Defendants **Safko and Harvey** would remain identified as custodians of Solfice's

books and records. Plaintiff will separately brief (i) why resignation does not absolve fiduciary custodianship, and (ii) why tolling attaches to the September 19, 2022 demand letter. Plaintiff will also file one further affidavit substantiating custodianship and inspection categories.

Inspection should proceed under a staged, tailored protocol as referenced in Exhibit A of the Opposition Brief:

- **Stage 1 (Day 14):** board minutes, resolutions, and countersigned inducement or release papers in Defendants' possession, with sworn search certifications.
- **Stage 2 (Day 21):** executed counterparts requested from Luminar, produced with a declaration of request and response.
- **Stage 3:** limited third-party subpoenas if material gaps remain.

This structure mirrors *AmerisourceBergen*, *KT4*, and *Wal-Mart*, which authorize inspection of necessary and essential materials beyond minutes where inducements and conflicts are credibly shown. Confidentiality can be managed with a two-tier order consistent with *Tiger*.

Plaintiff also requests equitable tolling from December 13, 2024 (and alternatively from September 19, 2022) until substantial completion, and that under § 278 Solfice's survival be extended for 365 days after completion of inspection and related enforcement. Plaintiff will submit a fee affidavit within fourteen (14) days; fee-shifting and sanctions remain appropriate remedies for continued obstruction.

Defendants' proposal—to dismiss outright—is contrary to Delaware law and the Court's instruction to narrow disputes. It would eliminate inspection entirely, not advance it.

Defendants' Proposal on How this Action Should Move Forward

Plaintiff refuses to address the issue before the Court—whether the action commenced against the two individual Defendants, neither of whom has possession, custody, or control of the books and records of Solfice, should be dismissed. That is the issue presented by Defendants' motion to dismiss. Plaintiff has prematurely filed two oppositions to Defendants' motion, hoping to address the merits of his claim before the Court decides whether he has stated a claim against these Defendants upon which relief can be granted. Once briefing on Defendants' motion to dismiss

is completed, the Court should decide the motion and should dismiss Defendants as parties to this books and records action.

The parties remain available should the Court have any questions.

Respectfully,

/s/ Anuj Gupta

Anuj Gupta

Pro-se Plaintiff

Respectfully,

/s/ James G. McMillan, III

James G. McMillan, III (Bar No. 3979)
Halloran Farkas + Kittila LLP

Counsel for Defendants

Words: 677 | Limit 1,000

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