

Meyer v 148 S. Emerson Assoc., LLC

2016 NY Slip Op 33219(U)

April 22, 2016

Supreme Court, Suffolk County

Docket Number: Index No. 068379/2014

Judge: Jerry Garguilo

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E-FILE

SHORT FORM ORDER

INDEX NO. 068379/2014

SUPREME COURT - STATE OF NEW YORK
COMMERCIAL DIVISION IAS PART 48 - SUFFOLK COUNTY

PRESENT:

HON. JERRY GARGUILO
SUPREME COURT JUSTICE

MICHAEL J. MEYER, individually and derivatively on
behalf of 148 SOUTH EMERSON ASSOCIATES, LLC.,

Plaintiff,

and

MICHAEL MEAGHER & STEPHEN SMITH,

Nominal Plaintiffs,

-against-

148 SOUTH EMERSON ASSOCIATES, LLC and DREW
DOSCHER,

Defendants.

Receiver:

CHARLES RUSSO, ESQ.
RUSSO KARL WIDMAIER &
CORDANO, PLLC
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HAUPPAUGE, NY 11788

ORIG. RETURN DATE: 4/6/16
FINAL SUBMITTED DATE: 4/6/16
MOTION SEQ#022, 025(X-MOT.)
MOTION: MOTNDECD

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As far back as July 22, 2015 this Court noted:

Let me say something. I believe human beings have a right to
have their cases resolved. I believe if we get past Labor Day
this case will--I believe this case will get kicked down the road,
like a can, until next season. I'm not going to have that; all
right?

Despite the admonishment, we find ourselves into the "next season."

In connection with the matter captioned hereinabove, the Court convened on April 6, 2016 to address all parties concerning a virtual flood of Petitions, Cross-Petitions, accusations and a potpourri of vituperative dialog inundating this Court. The Court commented:

...The best solution to any problem is always the simplest solution.

Take this case, take this litigation. And with the exception of the latest foray involving Mr. Burrows,¹[FN1] it boils down to three issues that are not difficult.

Issue number one, which was determined by this Court, deals with the title to the real estate.²[FN2] This Court rendered a decision. That decision is up on an appeal. If the Court made a mistake and the Appellate Division sees fit to adjust it, so be it.

Because we all know, everybody in this courtroom who is an attorney, a judge, a stenographer, court officer, clerk, law assistant, knows one thing for damn sure: But for mistakes, none of us have jobs.

So if, in fact, the matter is adjusted, so be it.

Simple issue.

Second issue: Whether or not the LLC known as Associates occupies the premises pursuant to a lease. Right?

Not a hard issue.

...A little, Blumberg document was produced, and we took three

FN1. The Defendant, Drew Doscher, brought an action against Mr. Burrows over a comment made during a chambers conference. Mr. Burrows appears for two (2) parties.

FN2. The LLC "Associates" operates a restaurant-bar which sits on land owned by another LLC "Partners." This Court held that the land upon which "Associates," doing business as, "The Sloppy Tuna" is owned equally by four persons.

days of testimony concerning that simple, two-page document to make a determination as to whether or not that document bestowed occupancy rights upon the LLC known as Associates d/b/a The Sloppy Tuna.

You should all know that decision has been drafted by the Court. It's on my desk. It requires some editing, some rewrites, whatever. That decision should go out shortly.

Either side may appeal that decision.

Once again: but for mistakes, none of have jobs.

Now, there's a third issue that's been brought upon this Court by Judge Bianco.

Judge Bianco, I guess approximately a week ago in the Eastern District, moved--removed a case involving trademark litigation to this Court.³[FN3]

The Court has a feel for that but I don't think it's going to be a difficult case.

Those are three relatively simple issues.

Nonetheless, nonetheless, according to an inventory, as of March 25th, 2016, there have been one thousand one hundred eighty-five (1,185) filings on this case.

As of the date of this Short Form Order, the number on this and related claims has risen to 1,654. A good faith estimate of the page count exceeds 160,000.

It should be noted that the responsibilities of the Receiver in this matter did not occur overnight. Noteworthy is the fact, the Plaintiff, Meyer, a fifty percent (50%) equity holder in Associates d/b/a "The Sloppy Tuna" offers no objection to the appointment of the

FN3. Judge Bianco, Fed. Dist. Ct., Eastern District remanded trademark litigation involving some of the parties to this Court.

Receiver. Those responsibilities were augmented, much as an evolution, occasioned by the acts of omission and acts of commission. At the genesis of this case, it was determined that the Defendant, Drew Doscher, the admitted owner on premises, had avoided filing tax returns for years and was hoarding, without distribution, several million dollars. Also, there arose a question concerning the everyday operations of the business known as The Sloppy Tuna.⁴[FN4] In order to minimize the impact of a Receiver's intervention, the Court brokered an arrangement between Mr. Doscher and Mr. Meyer, owners of The Sloppy Tuna. Mr. Meyer would hire a manager (Jessica Brantly) to be employed by The Sloppy Tuna with access to all financial matters as well as day to day operations. What occurred hereafter is worthy of remark. Mr. Doscher was heard, on audio tape, harassing, intimidating and otherwise frightening Mr. Meyer's manager, Ms. Brantly. His words wreaked of misogynistic, sexist remarks. His hostility was compellingly offensive. That audio tape (Court Exhibit II, July 22, 2015) was played in open court and Mr. Doscher acknowledged an understanding of the Court's displeasure. The Court noted:

The Court is satisfied that certainly its second directive involving Ms. Brantly has not been complied with.

I heard the tape. We all heard the tape. I had a conference with Mr. Devereaux and I explained to Mr. Devereaux that moving forward, from this moment in time, if there is one one-thousandth, one one-thousandth of the conduct I heard on that tape, all right, I will remove Mr. Doscher from those premises immediately and I will bar him from those premises until this case is resolved or a higher court tells me otherwise.

I want to be very specific about this. Ms. Brantly will be on the job now. The Court is directing that nobody in that place, Mr. Doscher, managers, waitresses, waiters, busboys, porters--if there's valet parking, valet parking person, nobody harass, intimidate or in any way impede with Ms. Brantly.

I will assume--the Court will assume that any such interference by anybody in the food chain was instigated improperly by Mr. Doscher.

FN4. The Plaintiff, Michael J. Meyer, a 50% owner of "Associates" with the Defendant Doscher was being denied transparency regarding all operations of The Sloppy Tuna.

Mr. Doscher put himself in this position today. The audacity, to know he was being taped, to know that litigation is the middle name of all these human beings involved in this case, to make the comment made about the Court is--it's an insult.

Twenty-two days later (August 13, 2015) Mr. Doscher's attorney, Michael Devereaux, wrote the Court:

We recognize the court's long-standing relationship with the herein receiver, having been partners; however, that should not be a *de facto* license for Mr. Russo's partisan rancor against my client.

It was also alleged that Mr. Doscher was funding his litigation against his purported partners, in both LLCs, with LLC money. Additionally, allegations claimed Mr. Doscher funded the prosecution of the trademark (The Sloppy Tuna) with LLC money and, thereafter claimed full proprietary rights of a trademark. Parties adverse to Mr. Doscher, allege he arranged the execution of a contract with Montauk USA (the purported owner of the trademark known as The Sloppy Tuna)⁵[FN5] and the LLC (d/b/a The Sloppy Tuna) and now claims the LLCs involved before the Court owe Eight Hundred Thousand Dollars (\$800,000.00) in royalties to his company, Montauk U.S.A.⁶[FN6]

At this point, the Court must pause. This veritable hurricane of litigation could have been avoided. On day one, a revelation of all the books to all the parties would, perhaps, have led to some adjustments, reimbursements and credits. For instance, once it was determined that Mr. Doscher paid a retainer, to defend his claim to his first lawyer (Mr. Lester) from LLC funds, it was returned. The point being, an object of any lawsuit is finding the truth. The truth in this case is in the books.

On March 30, 2016 the Court issued the following:

ORDERED, that pending further order, CHARLES C. RUSSO, ESQ., as the Court-appointed Temporary Receiver, is

FN5. The Defendant, Drew Doscher, is a 100% equity holder of Montauk U.S.A.

FN6. The Court verily believes this is the litigation remanded by Judge Bianco. That file has yet to be delivered to this Court.

hereby granted authority to take immediate control over the management of and authority over the daily operations and financial management of 148 South Emerson Associates, LLC until further Order of this Court; and it is further

ORDERED, that pending further order, the Defendant, DREW DOSCHER, shall immediately surrender control over and access to the daily operations and financial management of 148 South Emerson Associates, LLC to the Court-appointed Temporary Receiver, CHARLES C. RUSSO, ESQ., including but not limited to any/all keys to the premises, financial books and records, all usernames, passwords, and account numbers connected to any/all bank accounts associated with the company along with the name and location of the bank, all tax records for the company, employment agreements, current and/or pending contracts, leases, and litigation involving the company, and any other documents requested by the Court appointed Temporary Receiver for the operation of the company; and it is further

ORDERED, that pending further order, the Defendant, DREW DOSCHER, shall further be restrained from participating in daily operations and financial management of, entering into contracts on behalf of, or entering the premises of the business operated by 148 South Emerson Associates, LLC, and shall be further restrained from interfering in any way with the Court-appointed Temporary Receiver in his operation and management of the company; and it is further

Thereafter, despite direction not to interfere with the Receiver's commission to maintain the business, an on-line and media campaign began:

Facebook Post by Drew Doscher-3/28/16

"Tuna will not open in the same location...due to...back room politics."

"The court appointed a 'receiver' who just happened to be the Judge's ex-law partner and good buddy and granted him over

\$800,000.00 in fees..."⁷[FN7].

Facebook Posts from "The Sloppy Tuna"

"Long Island politics and corruption..."

"Corruption in Long Island politics, judges and lawyers"

"It's time the Long Island Corruption in the Courts is brought to its knees"

Certain Judges, Receivers, and people in government out in Long Island need to be looked at by the Justice Dept."

"The politics and the corruption needs to be investigated by the Justice Dept."

East Hampton Star- "Tuna's Messy Breakup"- 3/30/16

Reporter T.E. McMorrow repeats the Facebook Post: "...granted him over \$8000,000.00 in fees..." See FN7

27East (online) - Tuna Could Change Hands - 4/4/16

Reporter Laura Weir quotes Defendant's Counsel:

"...saying that a 40-year relationship between the judge, Jerry Garguilo, and Mr. Russo was never disclosed. He said the move is an attempt to steal his client's business." (emphasis added)

"Businesses in Suffolk County should be in great fear."

"Mr. Russo will benefit from fees paid for operating the business, leaving little profit for its rightful owners. "The receiver will take all the money. It's a very slick tactic."

As noted above, on August 13, 2015, Mr. Devereaux wrote the Court acknowledging Judge/Receiver relationship without objection. This letter contradicts the statement that the relationship was never disclosed as the letter of August 13, 2015 states:

We recognize the Court's long-standing relationship with the

FN7. The actual fee earned by the Receiver is \$115,935.80 (Index No. 068379/2014 CEF Doc. Nos. 211, 643, 644, and 694). The Receiver and the presiding Justice terminated a partnership in 1989.

herein receiver, having been partners; however, that should not be a *de facto* license for Mr. Russo's partisan rancor against my client.

27East (online)-"Tuna Owner Faces Contempt"-4/12/16
Reporter Laura Weir quotes Mr. Devereaux again:

The contempt order is "frivolous and faceless."
"It's and outrage...This court is out of control."⁸[FN8]

Other actions were commenced in the Federal District Court of Northern Georgia concerning the trademark and in the Georgia State Court. As noted hereinafter, the Receiver through an Order To Show Cause suggested multiple transactions consistent with self dealing between Mr. Doscher and the accounts of the LLC "Associates" d/b/a The Sloppy Tuna. It is alleged that Mr. Doscher withheld banking information and in the face of the allegations raised by the Receiver, engaged an accountant to go back into the books and records and "adjust" the transactions questioned by the Receiver.

Mr. Doscher, the Defendant herein, petitions the Court to relieve itself, claiming inappropriate connections between the Court and the Receiver, Charles C. Russo. At one point, Mr. Devereaux, counsel to Mr. Doscher, declared on the record (April 6, 2016) that Mr. Russo has received ten (10) receiverships from this Court. As noted by Mr. Russo, on the record (April 6, 2016), during his thirty eight (38) years at the Bar, he has been appointed a Receiver once. That one (1) time is the matter before this Court. Further, Mr. Devereaux, in a memorandum of law delivered to the Appellate Division, Second Department, on Tuesday, April 12, 2016 affirmed the following:

An empire built on doing favors is the crux of Mario Puzo's novel entitled, *The Godfather*, and Francis Ford Coppola's movie also entitled, *The Godfather*, based on the novel. The Chambers of the Court Below is adorned with memorabilia honoring *The Godfather* novel and *The Godfather* movie. The message evidenced by honoring the empire built on favors is certainly, at the very minimum, an appearance of impropriety, particularly, with respect to the appointment of one of the very best friends of the Court Below as the receiver then favoring the

FN8. Pending before the Court is an application seeking contempt. To date, no finding of contempt has been made.

receiver throughout the litigation and awarding the receiver fees in excess of \$600,000.00, in less than six months ...⁹[FN9]

Once, again, on August 13, 2015, Mr. Doscher's attorney wrote the Court:

We recognize the Court's long-standing relationship with the herein receiver, having been partners; however, that should not be a *de facto* license for Mr. Russo's partisan rancor against my client.¹⁰[FN10]

The ethnic slur and presumptions stemming therefrom are misplaced.¹¹[FN11] An inspection of the Court's chambers will reveal not even a postage stamp of memorabilia honoring, referring to, depicting or attached to "The Godfather." To suggest otherwise is a mistake. Furthermore, suggesting that a former business relationship with Mr. Russo ending almost three (3) decades ago (1989) with no connection, business or otherwise, since then was ignored by Mr. Devereaux. Any suggestion that Mr. Russo and the Court are "bosom buddies" is mistaken. In the past twenty eight years, the Court noted on April 6, 2016, Mr. Russo and the Court may have socialized on ten (10) occasions. In the seven (7) years of this Court's tenure, Mr. Russo and the Court enjoyed one (1) lunch together. That lunch pre-dates Mr. Russo's appointment. The Court does acknowledge a great deal of respect for the stature Mr. Russo has earned as a transactional lawyer and humanitarian. The Court does consider him a friend.

The Court denies the application seeking its recusal and will continue to preside dispassionately and objectively.

The Court considers the actions of the Defendant and his attorney as a continuing effort to paralyze the Court with a deluge of repetitive papers. That deluge may represent a self inflicted wound. The Defendant complains of exorbitant receiver related expenses.

FN9. Mr. Russo, the Receiver, noted on the record that his compensation was slightly more than \$100,000.00. Fees have been incurred as a result of the countless duplicative motions filed by the Defendant. Each had to be considered by Receiver's counsel.

FN10. In addition, there were no objections despite disclosure from Defendant's first and second counsel, Brian Lester and Brian Doyle.

FN11. Presumptions may be looked on as the bats of the law, flitting in the twilight, but disappearing in the suns hint of actual facts. *In re Fischer's Will*, 183 Misc. 792 (1944).

There is a remedy the Court will engage to consider the various grievances concerning the fees. This Court intends to schedule a hearing, in the absence of an accord, to determine the presence or absence of culpable conduct of any and all parties which have compelled the Court to expand the commission of the Receiver and cause the incurring of fees of all kinds and variety. Should the Court find that excessive fees were incurred as a result of frivolous, vindictive, acrimony and /or calumny, the responsible parties will be made to reimburse the LLC (Associates) all such fees.

By way of Order To Show Cause, the duly appointed Receiver, Charles C. Russo, Esq., petitions the Court for an Order allowing him to take immediate control over the management of and authority over the daily operations, and financial management of 148 South Emerson Associates, LLC d/b/a The Sloppy Tuna, thereby granting him the authority to do so in his duties as the Court-Appointed Temporary Receiver. The Petition is opposed by the Defendant, Drew Doscher, in all respects. In making its determination, the Court reviewed the following submitted by the various parties:

1. Court Appointed Receiver's Order To Show Cause for the Expansion of Powers, Affirmation of Charles C. Russo, inclusive of Exhibits A through K;
2. Counsel for Drew Doscher's Notice of Cross-Motion with supporting documents, inclusive of Exhibits A through X and Memorandum of Law In Support and Memorandum of Law in Opposition To Temporary Receiver's Order To Show Cause; and
3. Reply Affirmation In Further Support of Receiver's Application for Expansion of Powers.

On April 4, 2016, the Court signed an order albeit on a temporary basis, granting the Receiver the authority of the following powers:

1. Authority to take immediate control over the management of and authority over the daily operations of financial management of 148 South Emerson Associates, LLC;
2. Ordering the Defendant, Drew Doscher, to immediately surrender control over and access to the daily operations and financial management of 148 South Emerson Associates, LLC to the Court-Appointed Temporary Receiver, Charles C. Russo, Esq., including but not limited to any/all keys to the premises, financial books and records, all user names, passwords, and account numbers connected to any/all bank accounts associated with the company,

- along with the name and location of the bank, all tax records for the company, employment agreements, current and/or pending contracts, leases, and litigation involving the company, and any and all documents requested by the Receiver relevant to the operation of the company;
3. Ordering that the Defendant, Drew Doscher, be restrained from participating in daily operations and financial management of, entering into contracts on behalf of, or entering the premises of the business operated by 148 South Emerson Associates, LLC, and he be further restrained from interfering in any way with the Court-Appointed Temporary Receiver in his operation and management of the company.

As noted hereinabove, the Defendant, Drew Doscher, opposes the application and in his notice of cross-motion sets forth eleven (11) separate claims for relief. Items designated 2 through 11 in the cross-motion are repetitive of prior petitions submitted on behalf of the Defendant, Drew Doscher. In the present matter, item 2 by the Defendant Doscher seeks an order vacating the prior order of this Court expanding and/or otherwise relating to the powers of the Temporary Receiver; ordering and holding a hearing/trial; and granting leave to sue the Temporary Receiver. Those Petitions are **DENIED**...again.

The demands for relief sought in the cross-motion have been filed in contravention of this Court's Order of September 14, 2015 (NYSCEF DOC. # 598) which contains a standing directive prohibiting the filing of any motions without prior approval of the Court. More particularly, the cross-motion is in essence Mr. Doscher's third petition seeking similar relief within a three (3) week period. His two (2) previous petitions were filed on March 18, 2016 and March 22, 2016. Mr. Doscher's most recent filing contains two thousand six hundred twenty seven pages (2,627) pages and sixty eight (68) docket entries. This third petition, now before the Court, seeks relief previously requested in the two (2) prior applications. (See Court's decision and Order of March 29, 2016).

The Receiver points out disturbing irregularities concerning financial transactions discovered during his appointment. For instance, at ¶19 of the Receiver's Affirmation, it is noted:

Additionally, there currently exists over Six Hundred Eight Thousand Dollars (\$680,000.00) in "legal fees" and other payments made by Associates for which I have not received adequate supporting documentation. This includes significant disbursements to the Defendant [Doscher], himself, as well as his father, multiple trips to Las Vegas, and charitable

contributions on behalf of the Defendant, all paid by Associates. These questionable disbursements, which are detailed in the AVZ¹²[FN12] Memorandum entitled "Summary of Critical Amounts in Question" are enclosed herein and marked as exhibit I, includes the following:

1.	Legal fees	\$ 160,063.28
2.	Cathy Hunt	\$ 19,515.00
3.	Drew Doscher	\$ 355,661.95
4.	U.S.A. Rugby Trust	\$ 20,000.00
5.	Arthur V. Doscher	\$ 41,306.96
6.	Xavier High School	\$ 3,000.00
7.	Las Vegas Trips	\$ 84,245.53

The Receiver notes his deep concern over the "legal fees" and other disbursements made from Associates's funds totaling over Six Hundred Eight Thousand Dollars (\$680,000.00) for which he has yet to receive adequate explanations and/or supporting documentation as to why this money was spent, what it was spent for, and why it was paid from Associates's funds. Furthermore, included in these "legal fees" are found a series of invoices from Ryan and Conlon, LLP containing significant discrepancies, which are of particular concern to AVZ.

Of concern to the Court, is the confirmed fact that many of the transactions of a questionable nature previously input into the company's QuickBooks from prior years have been changed, modified or adjusted. These "back dated adjustments" present serious concerns to the Court as well as to the Receiver.

The Receiver notes:

This practice is of particular concern when taking into account its effect on the partnership tax returns. The Receiver is in receipt of draft partnership returns for the years 2012, 2013, and 2014. The Receiver notes that the fact that these returns have yet to be filed is a significant concern, in itself, but the fact that many of the adjustments detailed in the "Changes to Prior Year Information" Memorandum were entered well after the preparation of the draft partnership returns, raises significant red

FN12. AVZ is the independent accounting firm retained by the Receiver to aid in the auditing process.

flags as to the company's bookkeeping practices.¹³[FN13]

The Receiver notes that adjustments have been posted to remove what appears to be the companies patents/trademarks and related expenses, record and adjustments due to/from 148 South Emerson Partners, LLC, and adjust "buyout arrangements" and "return on capital" that may be related to former members of the company.

In addition, the Receiver has become aware of many violations of law pending against Associates, and incurred during the Defendant's tenure. As noted by the Receiver during a recent appearance, there are approximately fifteen (15) State Liquor Authority violations outstanding, town ordinance violations, noise violations, requiring a local court to issue a warrant for the arrest of a key person employed by the Defendant, Doscher.

In consideration of all submissions, the Court concurs with the Receiver,

"given the resistance I have faced and the foregoing matters, I am not in the position to currently report the financial condition of Associates and how it is being managed without being judicially mandated to manage and operate the company. This will serve the dual purpose of putting me in a position to have direct access to Associates's finances and being in a position to ensure the company is being managed properly and it's finances are being correctly accounted for. I have attempted throughout this litigation to obtain this information without requiring management and operation of Associates, but those attempts have been met with significant resistance."

The Court remains mindful that the object of the appointment of a Receiver is to secure property pending litigation, so that it may be appropriated in accordance with the rights of the parties, as they may be determined by the judgment in the action. *In re Section 14, Block 4367, Lot 1, Borough of Brooklyn, City of New York*, 117 N.Y.S.2d 36, 39.

It is further noteworthy that the propriety of the contested appointment is the subject of some of the Defendant's appeals currently pending before the Appellate Division, Second Department (App 2d., No. 2015-07051, 2015-07159, where the Court addressed its rationale for appointing the Receiver in February of 2015. The Court noting that "a Receiver should be appointed where there is a clear evidentiary showing of necessity for the conservation of

FN13. Issues involving tampering with evidence as well as spoliation remain to be investigated.

the property at issue and the need to protect a party's interest in the property. *Citing Quick v. Quick*, 69 A.D.3d 828, 829 (2nd Dept. 2010).

The Court is further aware that the Temporary Receiver's statutory enumerated powers may be expanded and may include the authority to operate the subject property. To the extent that these powers are discretionary, the motion must affirmatively confer each power in its orders. CPLR § 6401 entitled "Powers of A Temporary Receiver" provides as follows:

The court appointing a receiver may authorize him to take and hold real and personal property, and sue for, collect and sell debts or claims, upon such conditions and for such purposes as the court shall direct. Upon motion of the receiver or a party, powers granted to a temporary receiver may be extended or limited or the receivership may be extended to another action involving the property.

The Court recognizes it is well within the Court's discretion and inherent authority to expand the powers of the Receiver to allow the Receiver to take control of the operations of Associates. The circumstances presented compel the Court to grant the Receiver the relief he seeks.

No one may debate that it was within the Court's inherent power and discretion to have appointed the Receiver to operate The Sloppy Tuna in the very first instance. The Court did not do so. Instead, what has expanded the Receiver's power on "as needed basis" was dictated in large measure by the conduct of the Defendant, Drew Doscher. Despite this Court's Order not to interfere with duty and operations of the Receiver, Mr. Doscher has chose to do so. Rather than seek appropriate Judicial Review of the Court's orders, Mr. Doscher caused the publication of Press releases declaring his intentions to close the business, impugning the integrity of the Court and the Receiver.¹⁴[FN14] The intention to close the business is in direct violation of this Court's Order.

The facts as set forth in the Receiver's Affirmation make it abundantly clear to this Court that a further expansion of the Receiver's powers are in order. The Receiver has been attempting to examine the books and records of Associates with the assistance of Court appointed accounting firm. The Court finds credible the Receiver's conclusions that:

(1) Mr. Doscher has failed to provide satisfactory explanations

FN14. Those actions are to be addressed in a Petition seeking contempt of Court findings.

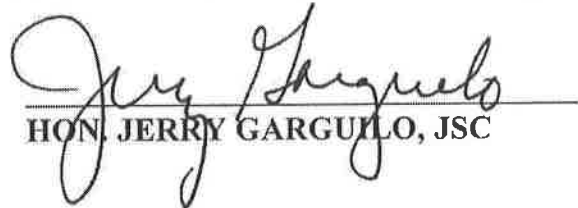
for a number of distributions made from Associates's bank accounts totaling over Six Hundred Thousand Dollars (\$600,00.00); (2) their corporate tax returns have not been filed for Associates for a number of years; (3) certain book keeping entries relevant to the on going litigation between the individual members of Associates have been retroactively changed in Associates's bookkeeping software without explanation.

As part of this Order, the Defendant Doscher is directed to cause the return to original form, all entries in the QuickBooks program that were "adjusted" by anyone.

The Receiver's Petition is **GRANTED** in all respects. The Receiver is directed to submit an order consistent with this Short Form Order upon notice.

The foregoing constitutes the decision and **ORDER** of this Court. All petitions for sanctions and costs are reserved. All Prayers for relief not addressed herein are **DENIED**. The parties are **ORDERED** to provide a copy of this Short Form Order to all courts within or without the State of New York where any related actions are pending and/or are brought.

Dated: April 22, 2016


HON. JERRY GARGUILO, JSC