

**Matter of Golan Floors, Inc.**

2024 NY Slip Op 32807(U)

August 8, 2024

Supreme Court, New York County

Docket Number: Index No. 655063/2019

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

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

**PRESENT: HON. ARLENE P. BLUTH PART 14**

*Justice*

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**INDEX NO. 655063/2019**

IN THE MATTER OF THE PETITION FOR DISSOLUTION  
PURSUANT TO BCL SEC. 1104 OF GOLAN FLOORS,  
INC. D/B/A NORWEGIAN WOOD,

**MOTION DATE N/A**

**MOTION SEQ. NO. 006**

DANIEL HODAK AS A FIFTY PERCENT SHAREHOLDER  
OF THE CORPORATION,

Petitioner,

**DECISION + ORDER ON  
MOTION**

- v -

GADI RUHAM AS A FIFTY PERCENT SHAREHOLDER OF  
EACH CORPORATION,

Respondent .

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The following e-filed documents, listed by NYSCEF document number (Motion 006) 116, 117, 118, 119,  
120, 121, 122, 123, 124, 125, 126, 127, 139, 140, 143, 145, 146, 147, 148

were read on this motion to/for ATTORNEY - ASSIGN.

The receiver’s motion to appoint counsel is decided as described below.

**Background**

In this disposed corporate dissolution proceeding, the Court previously ordered the dissolution of the subject entity and appointed a receiver to oversee the winding up of the entity’s assets. The receiver previously moved for permission to appoint an attorney and the Court granted that application on February 28, 2022 (NYSCEF Doc. No. 77). Respondent, who did not initially oppose that motion, later sought to vacate that decision. The Court considered the application on the merits and denied the motion, finding that the receiver stated sufficient grounds to appoint a counsel (NYSCEF Doc. No. 102).

Now, the receiver moves again to appoint counsel. He asks that he be permitted to appoint a counsel from among four specific names. The receiver admits that each of the four potential attorneys are capped-out. That means they have already received the maximum amount of compensation permitted under the Part 36 rules. In the alternative, the receiver requests an order appointing an attorney from the Part 36 list or an attorney not listed in Part 36.

After the Court signed the receiver's order to show cause, but before the time to file opposition had passed, the receiver uploaded a supplemental affirmation in support in which he admitted that he had actually "received some bank statements from Petitioner and Respondent" but had not received other documents (NYSCEF Doc. No. 139, ¶ 2). Previously, the receiver had asserted that he had not received any documents from respondent.

In opposition, respondent details the records he has turned over to the receiver and emphasizes that his attorney sent an email to the receiver on June 19, 2024 in which he inquired as to what other documents were outstanding. Respondent claims that the receiver responded by asserting that he wanted to wait until he had counsel appointed before addressing this question. This application followed two days later. Respondent takes issue with the receiver's assertion that respondent has not provided documents when the record shows documents were provided.

### **Discussion**

As an initial matter, the Court observes that it has already granted the receiver permission to appoint counsel. Therefore, it views the instant motion as simply a request to appoint attorneys who are already capped out. The Court declines that request as the receiver did not meet his burden to explain why this Court should overlook the compensation limits in 22 NYCRR 36.2(d). This is not a situation in which the proposed attorneys possess wholly unique expertise that would justify ignoring the compensation limits. In this Court's view, the receiver

wants an attorney to pursue straightforward discovery requests. Many, many attorneys, including many who are eligible and on the Part 36 list, can perform that function. Therefore, the receiver may appoint an eligible attorney from the relevant Part 36 list.


To the extent that the receiver asks this Court to identify an attorney from that list for the receiver, the Court declines to do so. The receiver is more than capable of performing that task as the receiver is entrusted to act as a representative of the Court. Moreover, the receiver will be working closely with the appointed counsel and so it makes little sense to have the Court pick that person.

The Court also denies the receiver's request to pick someone from outside the Part 36 list. A review of this database reveals that there are many eligible attorneys who could adequately represent the receiver in the limited matters at issue here. As noted above, there is nothing about this dispute that requires the Court to consider someone outside the Part 36 list nor did the receiver make such an argument.

And, finally, the Court recognizes that respondent claims that documents have already been provided. Of course, this Court has already granted the receiver's request for leave to appoint an attorney in a prior motion and so the current status of these post-disposition disclosure disputes is not a basis to revisit a prior order. However, the Court cautions the receiver that appointing an attorney will obviously generate attorneys' fees. As discussed at oral argument, the receiver must appoint an attorney on or before December 31, 2024 but he might consider waiting until after the parties have engaged in mediation in a separate action. That way he can ensure that hiring an attorney is necessary and that the appointed attorney will get paid.

Accordingly, it is hereby

ORDERED that the receiver's motion to appoint counsel is granted, again, only to the extent that he may appoint an eligible attorney under the relevant Part 36 list.

<u>8/8/2024</u> DATE					 ARLENE P. BLUTH, J.S.C.			
CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED		<input type="checkbox"/>	NON-FINAL DISPOSITION			
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	SUBMIT ORDER		<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	FIDUCIARY APPOINTMENT		<input type="checkbox"/>	REFERENCE