

Hacohen v Grontas

2025 NY Slip Op 34460(U)

November 21, 2025

Supreme Court, New York County

Docket Number: Index No. 652150/2022

Judge: Lori S. Sattler

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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. LORI S. SATTLER PART 02M

Justice

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MOSHE HACOHEN,

Plaintiff,

- v -

PETER GRONTAS,

Defendant.

-----X

INDEX NO. 652150/2022

MOTION DATE 07/31/2025,
08/15/2025

MOTION SEQ. NO. 002 004

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 51, 52, 53, 54, 55, 56, 57, 58, 94, 95, 96, 97, 98

were read on this motion to/for DISMISS.

The following e-filed documents, listed by NYSCEF document number (Motion 004) 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 107, 108, 109, 110

were read on this motion to/for DISCOVERY.

In this action involving the purported breach of a contract, Defendant Peter Grontas (“Defendant”) moves to dismiss pursuant to CPLR 32211 (a)(1) (Motion Seq. 002). In Motion Seq. 004, Plaintiff Moshe Hacoheh (“Plaintiff”) moves to compel discovery and impose sanctions on Defendant for failure to comply with the Court’s discovery order dated April 29, 2025. Both motions are opposed and are hereby consolidated for disposition. Motion Seq. 003, another discovery motion, was previously withdrawn.

Plaintiff and Defendant were partners in six New York companies: Flora Systems, Inc., Peony Flowers Inc., Greenthorn Ltd., Pro-Flora Inc., Intelligent Lighting LLC, and Fantasy Flowers Inc (“Companies”), with each of the parties holding a 50% shareholding or membership in each of the Companies (NYSCEF Doc. No. 97, Complaint ¶ 2). On June 27, 2012, the parties entered into a purchase agreement whereby Plaintiff sold to Defendant his entire interest in the Companies (*id.* ¶ 3; NYSCEF Doc. No. 95, “Purchase Agreement”), for the price of \$1,750,000

(Purchase Agreement ¶ 1.2). The Purchase Agreement set forth the terms of payment and provided for a non-recourse promissory note in the amount of \$1.5 million to be delivered at closing (NYSCEF Doc. No. 55, “Promissory Note”). The Agreement also contained provisions prohibiting Defendant from negatively impacting the Companies by encumbering their interests, paying out dividends beyond a specified limit, or receiving an annual compensation beyond a specified limit, without Plaintiff’s prior consent. In the event of default in the performance of any of the obligations under the Purchase Agreement, the affected party could exercise their rights and remedies available at law or in equity. This included the right to specific performance (*id.* ¶ 7.9).

Plaintiff alleges that it suffered damage due to Defendant breaching the Purchase Agreement and Promissory Note by defaulting on the payment under the Promissory Note, failing to preserve the Companies’ good standing and breaching the covenant prohibiting negatively affecting their financial condition and operations (Complaint ¶¶ 13-15). Defendant argues that he cannot be held personally liable for claims pursued by Plaintiff, as the Promissory Note excludes such personal liability, and allows recourse only against the collateral (Promissory Note ¶ 3).

“Dismissal of a complaint pursuant to CPLR 3211 (a) (1) “is warranted where documentary evidence utterly refutes plaintiff’s allegations and conclusively establishes a defense as a matter of law” (*Salamone v Deily & Glastetter, LLP*, 241 AD3d 1078 [1st Dept 2025]). If the documentary evidence is a written agreement, its terms must unambiguously and conclusively contradict plaintiff’s allegations for the cause of action to be dismissed (see *150 Broadway N.Y. Assoc., L.P. v Bodner*, 14 AD3d 1, 5 [1st Dept 2004] [internal citation omitted]; see *Domen Holding Co. v Sanders*, 238 AD3d 510, 511 [1st Dept 2025]). At the same time, the Court is “required to accept all of the allegations in the complaint as true, and to draw all inferences from those allegations in the light most favorable to the plaintiff, unless the documentary evidence conclusively disproves

an alleged fact” (*Devash LLC v German Am. Capital Corp.*, 104 AD3d 71, 77 [1st Dept 2013] [internal citation omitted]).

Viewing Plaintiff’s asserted cause of action in the most favorable light, the Court concludes that Defendant failed to meet the heavy burden of conclusively establishing a defense based on the wording of the Purchase Agreement and the Promissory Note. Paragraph 7.9 of the Purchase Agreement provides that Plaintiff shall have the right to exercise all of his rights and remedies available at law or in equity. It does not explicitly limit the recourse to only some of the assets or persons, nor does it state that the Purchase Agreement is subordinate to the Promissory Note. The Promissory Note does provide that “anything to the contrary notwithstanding, [Plaintiff] agrees . . . that neither [Defendant] nor his representatives, . . . shall be personally liable on this Note” and that Plaintiff shall “not make any claim or institute any action or proceeding against [Defendant]” (Promissory Note ¶ 3), however, it also allows Plaintiff to exercise any rights it may have under the Purchase Agreement, under statutory law, common law or in equity (Promissory Note ¶ 5). This wording does not conclusively demonstrate that the parties intended for Defendant to not be personally liable in case of any breach of the Purchase Agreement in any circumstances. Accordingly, as the documentary evidence relied upon by Defendant does not utterly refute Plaintiff’s claim, and viewing the alleged facts in the light most favorable to Plaintiff, Defendant’s motion to dismiss is denied.

As for Plaintiff’s motion to compel discovery and impose sanctions on Defendant, the motion is granted to the extent of directing that Defendant shall comply with the Court’s April 29, 2025 Order directing production of corporate tax returns for the Companies and produce these documents by December 15, 2025. Should Defendant fail to comply with this order, Plaintiff may renew its request for sanctions.

Accordingly, it is hereby

ORDERED that Defendant’s motion to dismiss is denied; and it is further

ORDERED that Plaintiff’s motion to compel discovery is granted to the extent of directing that Defendant shall produce the full and complete copies of the corporate tax returns for the period from June 1, 2012 to date for the Companies, that is: Flora Systems, Inc., Peony Flowers Inc., Greenthorn Ltd., Pro-Flora Inc., Intelligent Lighting LLC, and Fantasy Flowers Inc. on or before December 15, 2025; and it is further

ORDERED that the parties shall appear for a status conference on January 13, 2026 at 9.30 a.m. at 60 Centre Street, Room 212.

All further relief sought is denied. This constitutes the Decision and Order of the Court.

11/21/2025

DATE



LORI S. SATTLER, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE