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

DAVID KENNER, and JEHUDA HERSKOVITS, individually,
and, as Directors, of BAIS YAAKOV OF BROOKLYN,

Plaintiffs,

-against-

MILTON BALKANY, a/k/a YEHOSHUA BALKANY,
SARA BALKANY, TD BANK, N.A.,

Defendants.
X_____X

Index#:

VERIFIED COMPLAINT

PLAINTIFFS, David Kenner and Jehuda Herskovits, individually and as Directors (voting Board Members) of Bais Yaakov of Brooklyn, being fully familiar with the facts of this case, (based on their personal conversations, personal knowledge, and business records of Bais Yaakov of Brooklyn), being duly sworn, as and for their Complaint, against the above captioned Defendants, respectfully allege as follows:

NATURE OF THE ACTION

1. **This Action is commenced by the authority of the New York Not for Profit Corporation Law(ch.6 and ch. 7),** and NY Business Corporation Law, and NY Common Law, (as well as CPLR 3001, and CPLR 6301 and 6313) which allows for aggrieved individual members, and Board Members, to maintain an action in their personal names, for the rights of themselves, and their Non-for-Profit Corp., against other Directors or third parties. This includes disputing meetings and votes and removing or adding members/directors, (declaratory judgments) demand for accounting and inspection of records, and suing for breach of fiduciary duty and return of stolen funds, including injunctive relief to prevent theft or loss of Corporate funds.

2. This is an Action, *inter alia*, for a) a declaratory judgment against Milton Balkany, that he is not a Board Member of Bais Yaakov of Brooklyn (Herein "BY"), b) a judgment that an alleged March 8 meeting of the Board is set aside as a nullity, c) a judgment removing Sara Balkany from the Board of BY for cause (fraud and theft of BY funds; refusing to give accounting or attend board meetings) d) that David Kenner is in fact Secretary and Treasurer on the Board of BY e) and for causes of action for Conversion, and other related causes of action against Milton and Sara Balkany, demanding their restitution of misappropriated and embezzled funds; as well as injunctive relief preventing them from acting as Board members and to freeze their bank accounts.

PARTIES

3. Plaintiff David Kenner, is the Treasurer and Secretary on the board of BY, and resides at 443 E. 5th St. Brooklyn, NY 11218

4. Plaintiff Jehuda Herskovits, is a Board Member of BY, and resides at 5408 15th Ave. Brooklyn, NY 11219. He is also known as Noah Herskovits.

5. Bais Yaakov of Brooklyn, is a Non-for-Profit Corporation, incorporated in Brooklyn, NY in 1971 and currently maintains an address at 3025 Ave. L, Brooklyn, NY 11210

6. Defendant Milton Balkany (also known as Rabbi Yehoshua Balkany) resides at 5402 15th Ave. Brooklyn, NY 11219. He once was, but is no longer, a member, or Board member, or employee, of BY.

7. Defendant Sara Balkany claims to be a Board member of BY, and resides at 5402 15th Ave. Brooklyn, NY 11219.

8. Defendant TD Bank N.A., having a headquarters at 1701 Route 70 East Cherry Hill, NJ 08034; and authorized in doing banking business at various branches in Brooklyn NY (where Milton Balkany unlawfully maintains an account as sole signer in the name of Bais Yaakov of Brooklyn), is made Defendant in this Action solely for purposes of jurisdiction to Order the freezing and turnover of any account (and related relief) held by Defendant Milton Balkany, in the name of Bais Yaakov of Brooklyn. Otherwise, Plaintiffs claim no affirmative wrongdoing against TD Bank N.A.

BACKGROUND FACTS

9. In the latter half of 2018, David Kenner, was introduced to R' Balkany by Jehuda Herskovits. At the time, the Board of Directors of Bais Yaakov of Brooklyn, was filled by R' Balkany as President, and Sara Balkany, (R' Balkany's wife) as a member, and Jehuda Herskovits as a member.

10. David Kenner started working on behalf of R' Balkany for matters personal to him, and also towards matters involving BY. After some initial time transpired, Kenner was asked by the Board to become a Board member and to actively pursue securing a mortgage loan for BY on their only property at 3025 Ave. L Brooklyn, NY 11210 (a/k/a 1192 E. 31st St.). The purpose of the mortgage (as claimed by R' Balkany), was to provide needed money to BY for the purposes of paying "back salaries" and debt to old teachers, etc. and to revive our religious programs somewhat while we eventually sold our building.

11. David Kenner agreed, and was duly appointed as Secretary and Treasurer, and as a voting Board Member, of BY in or about the last quarter of 2018.

12. At about the same time or shortly afterwards, the Balkany's grand-daughter, Chaya Wagner, was also appointed by the Board, to be a voting Board member of BY.

13. On February 15, 2019 from about 9:00 A.M. until about 12:00 P.M., at the home of R' Balkany at 5402 15th Ave., Brooklyn, NY 11219, a Board meeting took place for BY. The meeting took place shortly before the scheduled closing of the mortgage loan, later that day at 12:30PM.

14. During the meeting, each Board member agreed to unanimously appoint and extend each other member for a continued term of office with their current respective titles as stated above.

15. Also, the By-Laws of BY were updated and re-affirmed. David Kenner was also given authority to attend the closing on behalf of BY, and to disperse the proceeds as he saw fit, on behalf of BY.

16. All the Board members unanimously signed the minutes papers, and other additional loan documents, in order that BY should have a clearly agreed upon path, and to satisfy the lender and title company who requested our meeting and papers as an inducement to close the loan.

17. In addition, each member gave copies of their government ID cards to assure the lender and title company of their identity. In addition, David Kenner signed a personal guarantee.

18. The loan successfully closed that day by about 3:00PM. $501,000.00 of proceeds were later wired to a Bais Yaakov account at Northfield Bank, at the request of R' Balkany. The account was under the sole signatory of R' Balkany.

19. In 2014, way before the above recited events took place, R' Balkany authorized a sale of the property at 3025 Ave L, belonging to BY, to Yeshiva Torah Vodaath, another school.

20. R' Balkany had signed the contract of sale with no Corporate resolution, and without an attorney for BY. In addition, R' Balkany sold the building for less than its value on the market at that time, and also allowed the attorney for Torah Vodaath, to make all contract decisions for both sides. R' Balkany at the time also served on the Board of Torah Vodaath.

21. In late 2018 – early 2019, BY sent a request to the attorney general of NY about selling the building to Torah Vodaath. The AG rejected the petition based mostly on the reasons which came to light, mentioned in Paragraph 20 above.

22. Thereafter, in about May – Sept. 2019, BY led by David Kenner, as the Board spokesman, contacted Torah Vodaath in an attempt to resolve the matter of the rejected sale.

23. R' Balkany, fearing the ramifications of the situation unfolding, decided that it would be very dangerous and uncomfortable for him to be involved in the upcoming legal storm predicted between the AG, Civil Court, and Torah Vodaath.

24. R' Balkany then in August of 2019, signed a letter of resignation removing himself permanently form any membership, Board membership, or employment title, having to do any longer with Bais Yaakov of Brooklyn. He delivered the letter to David Kenner, and officially told him that he had permanently resigned, and asked David Kenner to accept the letter and resignation, on behalf of BY. David Kenner accepted the letter on behalf of BY, effecting R' Balkany's official and total resignation.

25. The Board of BY, now with only four members and a vacancy, and led by the senior member, David Kenner, as Treasurer and Secretary, went forward with attempted negotiations.

26. Torah Vodaath would not return phone calls or e-mails, and went so far as to summon R' Balkany to arbitration. R' Balkany in an official answer to the arbitration board, in writing, refused to be under their jurisdiction, because he was no longer on the board of BY.

27. About that same time, David Kenner in late August, instructed BY's Corporate counsel, Mr. Yisroel Schulman, to commence an Action in Supreme Court, *inter alia*, to effectively rule the contract of sale with Torah Vodaath, null and void. (Index# 518985/2019)

28. Torah Vodaath did not like that and did not want to deal with the Board of BY, so they used whatever influence they had and convinced that religious arbitration board (a Bes Din called Tzedek U'mishpot) to issue a "siruv" or form of excommunication against Rabbi Balkany in order to press him to withdraw the Civil Court Action, and submit to arbitration instead.

29. R' Balkany replied that he would be happy to submit to appearing in front of the arbitration board, but he emphatically, (verbally and in writing) denied the ability to withdraw the Court Action, because he was no longer a Board member of BY.

30. The arbitration board excommunicated him anyway, in early Sept. 2019, and R' Balkany commenced an Action for slander and violation of his civil rights, against Torah Vodaath, by Order to Show Cause. In the Action, R' Balkany swore that he had no power to withdraw the Action filed by the Board of BY (echoing his previous position that he in fact resigned).

31. R' Balkany received a partial TRO in his favor and since then Torah Vodaath has not acted against R' Balkany with the excommunication, in deference to the TRO and Court Action. (See Index # 519549/2019)

32. So, as of August 2019, the membership of BY was now David Kenner, Jehuda Herskovits, Sara Balkany, and Chaya Wagner. (with a Board vacancy)

33. After October of 2019, R' Balkany started to ask David Kenner about the whereabouts of imagined extra money still available from the proceeds of the mortgage loan. David Kenner initially just told him that he already knew, that part of it was put in a reserve fund to pay the mortgage and part was invested in the name of BY. When he continued to ask, I just told him that since he was no longer a member of BY, he had no right to know.

34. By about January of 2020, R' Balkany `intensely tried to ask for David Kenner to not just tell him where any money was invested, but to hand the money over to him. He was claiming that BY owed him and his wife, personally, any and all assets in its possession. David Kenner refused.

35. Jehuda Herskovits and David Kenner were asked by R' and Mrs. Balkany in additional conversation, to hand over any money to R' Balkany. These demands continued into February and March of 2020.

36. We realized at first, that the Balkanys, thought we, as co-religionists, would accept that the funds and property of BY belonged to them. We explained to them that they were wrong. We also asked them what happened to the $501,000.00 of proceeds from the loan? The Balkanys responded to us and made admissions to us, "that they had spent it on their own lifestyle and personal bills because all of the money of BY was theirs to do with as they pleased, since they were founders and worked for 50 years!"

37. As far as we know, no debt of BY or ongoing expenses were ever paid remotely near the figure of $501,000.00 since Feb. 2019 when the loan closed. BY has very little expenses, no new programs, and a litigation about our sole building. We have seen no records at all which would explain R' Balkany, even theoretically paying debt on behalf of BY.

38. We as Board members, asked him and his wife to please show us what they did with the money, but they refused. They also refused access to their BY accounts and history.

39. David Kenner and Jehuda Herskovits realized, that the Balkanys intended to sell the BY building, and pocket the money as their own. They would despoil any other cash belonging to BY that they had not already taken, and then simply shut down BY. R' Milton Yehoshua Balkany and Mrs. Sara Balkany, actually said that this was their exact plan in verbal admissions to David Kenner and Jehuda Herskovits, in personal conversation.

40. Another alarm at that time, was that David Kenner was approached by a local Real Estate Investment group called Skyline Capital Group, from 2329 Nostrand Ave. Brooklyn, NY. Samuel Kahan, claiming to me to be an agent of R' Balkany, asked permission that I should OK the contract for selling the BY building at 3025 Ave. L. He revealed that R' Balkany is actively seeking to sell the BY building, (even though he has no attorney general approval and even though he is no longer on the Board of BY).

41. The terms offered by the potential buyers, included a stipulation that the buyer release $250,000.00 as a non-refundable down payment to R' Balkany's pocket personally!

42. David Kenner immediately told them that the building cannot be sold.

43. David Kenner, told R' Balkany that he must stop trying to sell the building, and stop using the BY account and needs to close it, and hand over any money left over , to the Board. He must also stop holding himself out in public as President and/or Dean of BY. However, R' Balkany refused, and claimed that there was no money in the account anyway.

44. On or about March 6, 2020, Chaya Wagner resigned from the Board of Bais Yaakov of Brooklyn, leaving Mrs. Sara Balkany, Jehuda Herskovits, and David Kenner, as members of the Board of BY (and 2 vacancies).

45. Sometime shortly before that, Mrs. Balkany asked Jehuda Herskovits, to help find new people to fill the vacancies on the board. Mr. Herskovits spoke to Jacob and Joseph Neuman, with the intention of introducing them (first) to Mrs. Balkany, and then to David Kenner.

46. On March 8, 2020, Jehuda Herskovits came to the Balkany home in the evening with Jacob and Joseph Neuman as guests to talk about them joining the board.

47. Instead, the Balkanys tried to throw an instant impromptu board meeting with no notice.

48. After the Balkanys tried to start the meeting, I Jehuda Herskovits went over to R' Balkany and Mrs. Balkany and asked them "Where is David Kenner?" They responded: "Please, don't tell Kenner!!" "We did not tell him about this meeting."

49. Jehuda Herskovits told them that this whole thing was not a valid board meeting and he would not vote or legitimize the meeting. He protested that it was not properly called or noticed to either Mr. Kenner nor to Mr. Herskovits.

50. Chaya Wagner was present, but she admitted to Mr. Herskovits that she had already resigned.

51. The Balkanys went on with their meeting anyway, and declared that R' Balkany was reinstated as President, and that David Kenner was removed.

52. In addition, Mr. Herskovits saw that R' and Mrs. Balkany, presented each of the Newmans with a 1,000.00 dollar check written on the Bais Yaakov account, which was still under R' Balkany's and Mrs. Balkany's control. Jehuda Herskovits asked Mrs. Balkany what the checks to the Neumans were for? Mrs. Balkany replied that it was for them agreeing to be Board Members for BY and to

testify about the meeting. Then they smiled and laughed at Mr. Herskovits. Jehuda Herskovits left the Balkany home, in disgust at what went on there.

53. Obviously, the meeting was a nullity.

54. During early 2020, David Kenner and Jehuda Herskovits, became increasingly worried about their legal obligation to report R' Balkany and Mrs. Balkany, but because their wrongs could not be fully proven, we did not know what to do yet.

55. After March 8, it became clear to us that the problem was getting bigger and would not go away. However, the world had then plunged into the Covid-19 problem and the Passover holiday was coming. We decided that since the world was frozen, we could wait. The Courts also seemed like they would not think we had a good case to interrupt Covid-19.

56. So, eventually, on or about April 13, 2020, we sent a demand letter to R' and Mrs. Balkany to account for the $501,000.00 and to turn over their accounts for inspection. We also called a Board Meeting with notice to all real members, for April 24, 2020, to go through BY's finances.

57. The Balkanys reacted to this, by launching a frivolous Order to Show Cause against David Kenner on April 23, 2020, during the Covid-19 emergency time. (See Index# 507107/2020)

58. The Court issued a TRO against Mr. Kenner acting as a board member, but allowed him to continue to act as a board member as long as what he was doing was in the normal course of BY business.

59. The Court then invited Mr. Kenner to also respond with an Order to Show Cause if he felt it was appropriate.

60. During the month of May, David Kenner and Jehuda Herskovits consulted with more than one attorney to learn the proper way to file the right lawsuit and ask the Court for relief.

61. In addition, David Kenner called Northfield Bank and TD Bank N.A. to ask them about the activity in the Bais Yaakov accounts that were under the Balkanys' control.

62. Both banks explained that they would not provide statements or much information on direct request, because they only answer to Rabbi Balkany as signer, and would be loyal just to him, regardless that the accounts were under a Corporate name.

63. I David Kenner called Northfield Bank Headquarters recently and asked about our old account. This was the account that I wired the loan proceeds of $501k into. Northfield told me that on about Feb 20, 2019, the balance was revived from near zero to over $501k. Then from Feb 20,

until March 25, 2020, the account spent $331,000.00 in 36 transactions averaging over $9,000.00 each.

64. Again, both of us say that there is no reason on Earth that BY at the time should have spent all of that money so fast. There are no debts or bills that could have been paid on behalf of BY to our knowledge. Our corporate records also show nothing in accounts payable at that time of that magnitude at all. We have now asked R' Balkany and Mrs. Balkany to explain it, but they refused. Upon information and belief, just as they used the account before for themselves, they quickly dissipated the funds on themselves and/or secreted it away in their own pockets.

65. R' Balkany, without telling the board and without approval, closed the old account and opened a new account at TD Bank. Northfield confirmed for us that the remaining $170,000.00 was wired to TD Bank. Northfield would not send us statements as they have a policy that only the local branch has access to the statements. Upon calling the local branch, they told us that the policy was to protect the signer of the account and not the corporation. They refused to give us statements.

66. However, David Kenenr was able to use Bais Yaakov records on file, to access limited information from TD Bank on the BY account held there now active under R' Balkany.

67. The bank record automated system at TD Bank, revealed, that in the past few months, since about, March 1, 2020, (The records by phone were not available beyond Feb, 28, 2020.)R' Balkany and Mrs Balkany, have spent from the Bais Yaakov account, about $200,000.00. There is currently still available in the account in the name of BY, about $25,000.00.

68. A very interesting note, is that on or Friday, April 17, when David Kenner and Jehuda Herskovits made written demand by mail (a couple days beforehand) upon the Balkanys, R' Balkany had just deposited 40,000.00 into the account. On Monday the 20th of April, R' Balkany rushed into the closest TD Bank and made an emergency withdrawal of $38,000.00 in cash, and other withdrawals that day and the next, for an additional, $11,000.00+. Then, until May 7-8, 2020 R' Balkany kept the balance in the account very low. But, on May 7-8, seeing as we did not react against him quickly, he fell into what appears to be a sense of renewed security and re-deposited about $60,000.00.

69. The truth is, that we do not have any idea how or why these proceeds would enter the account or be paid out from the account with such fury, because BY does not have any bills or debt to pay that could account for this. R' Balkany never once paid a penny towards the mortgage.

70. We conclude that Rabbi Balkany and his wife are robbing BY on a daily basis. We have already made demand in the past upon R' Balkany and Mrs. Balkany to confess what they took, give an accounting of funds, and return any money to BY, but they ignore any request.

71. We also asked the Balkanys to voluntarily set aside the March 8, meeting and that R' Balkany stop representing himself as a Board member or employee of BY, and to close his account and turn over any funds, but they refuse.

72. Finally, Mrs. Balkany has refused to attend any board meeting and avoids the will of the board. It would be futile to think Mrs. Balkany would agree to grant a quorum to our meeting for the purpose of removing her from office or getting permission to use the Corporate name as Plaintiff against her or her husband. Therefore, we bring the Instant Derivative Board Member Action For the following relief against Defendants:

AS AND FOR A FIRST CAUSE OF ACTION AGAINST
DEFENDANTS MILTON BALKANY AND SARA BALKANY
JOINTLY AND SEVERALLY

CONVERSION

73. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-72, inclusive, as though set forth fully herein.

74. R' Milton and Mrs. Sara Balkany, are not entitled to make personal use of the funds in a BY account as a personal loan to themselves or to pay for their own living expenses and luxuries on a daily basis.

75. Without BY's consent or authorization, R' and Mrs. Balkany, exercised dominion and control over BY funds and spent the funds on themselves.

76. Consequently, Defendants have wrongly converted BY's funds.

77. As a direct and proximate result of the wrongful conversion by Defendants, BY has been damaged in an amount to be exactly determined at trial, but which is no less than $700,000.00, with interest thereon.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANTS MILTON BALKANY AND SARA BALKANY
JOINTLY AND SEVERALLY

UNJUST ENRICHMENT

78. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-77, inclusive, as though set forth fully herein.

79. Defendants were not allowed to keep and dispose of BY's funds for themselves, but that is what they did.

80. It would be against equity and good conscience to allow Defendants to retain what they spent from the BY account.

81. Defendants have therefore been unjustly enriched.

82. As a direct result of the actions of Defendants, BY has been damaged in an amount to be exactly determined at trial, but which is no less than $700,000.00, with interest thereon.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST
DEFENDANTS MILTON BALKANY AND SARA BALKANY
JOINTLY AND SEVERALLY

MONEY HAD AND RECEIVED

83. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-82, inclusive, as though set forth fully herein.

84. Defendants have wrongfully received and benefitted from BY funds, to which in all fairness, equity, and good conscience they are not entitled.

85. Under the principles of equity and good conscience, Defendants should not be allowed to retain the money they took.

86. As a direct result of the actions of Defendants, BY has been damaged in an amount to be exactly determined at trial, but which is no less than $700,000.00, with interest thereon.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST
DEFENDANTS MILTON BALKANY AND SARA BALKANY
JOINTLY AND SEVERALLY

FRAUD

87. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-86, inclusive, as though set forth fully herein.

88. Defendants at all times knew that they were not allowed to use BY funds for their own purposes and personal expenses.

89. Despite that knowledge, Defendants intentionally engaged in a course of action to continually and completely spend any funds belonging to BY for their own use.

90. As a direct result of the fraudulent conduct of Defendants, BY has been damaged in an amount to be exactly determined at trial, but which is no less than $700,000.00, with interest thereon.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST
DEFENDANTS MILTON BALKANY AND SARA BALKANY
JOINTLY AND SEVERALLY

PRIMA FACIE TORT

91. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-90, inclusive, as though set forth fully herein.

92. Even if the Court were to discard each and every cause of action stated against Defendants, there is no doubt that the conduct of Defendants was intentional and wrongful, and that such conduct has harmed BY.

93. As a direct result of the prima facie tortious conduct of Defendants, BY has been damaged in an amount to be exactly determined at trial, but which is no less than $700,000.00, with interest thereon.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST
DEFENDANTS MILTON BALKANY AND SARA BALKANY
JOINTLY AND SEVERALLY

BREACH OF FIDUCIARY DUTY

94. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-93, inclusive, as though set forth fully herein.

95. At all times when Defendants were on the Board of BY, they owed a duty of care, honesty, and loyalty to BY.

96. By constantly and intentionally stealing money from the BY account and spending the funds on themselves, Defendants are guilty of misconduct and have breached their duty of care, honesty, and loyalty to BY and also breached same to David Kenner and Jehuda Herskovits as members.

97. This misconduct, directly damaged BY. BY has been damaged in an amount to be exactly determined at trial, but which is no less than $700,000.00, with interest thereon.

AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS MILTON BALKANY AND SARA BALKANY

REMOVAL OF DIRECTOR FOR CAUSE

98. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-97, inclusive, as though set forth fully herein.

99. Pursuant to NY Not-for-Profit Corporation Law 706(d), due to the `financial misconduct, fraudulent conduct, (as shown above), refusing to give an accounting or attend meetings, and wrong attitude of Mrs. Sara Balkany, Plaintiffs ask the Court to remove her from the Board (and membership) of BY and ban her from ever serving again as a BY fiduciary.

100. If for some reason, the Court does not grant a certain declaratory judgment against R' Balkany in that he surely resigned and is no longer on the Board of BY, then we ask that due to the `financial misconduct, fraudulent conduct, refusing to give an accounting, and wrong attitude of R' Milton Balkany, Plaintiffs ask the Court to remove him from the Board (and membership) of BY and ban him from ever serving again as a BY fiduciary.

AS AND FOR AN EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS MILTON BALKANY AND SARA BALKANY

DECLARATORY JUDGMENT

101. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-100, inclusive, as though set forth fully herein.

102. Although Rabbi Balkany formally resigned from the membership, board, and employ of BY in August of 2019, and was never voted back on any level, he still holds himself out as President and Dean of Bais Yaakov.

103. Although there is ample proof in writing that David Kenner was duly appointed as a board member of BY, still, R' Balkany and Mrs. Balkany deny this to be true.

104. Although the March 8, 2020 alleged Board meeting was not called by a member of BY, and was not noticed, had no quorum, and no vote, still, R' Balkany and Mrs. Balkany stubbornly declare that the March 8 meeting voted back R' Balkany as President and removed David Kenner (as well as perhaps other issues requiring votes).

105. Therefore, an actual and justiciable controversy exists with respect to the status of the above issues of Board membership and the nullity of the March 8, 2020 meeting.

106. Therefore, Plaintiffs seek a declaration from the Court pursuant to CPLR 3001, declaring that David Kenner is in fact the Secretary and treasurer and board member of BY, and that R' Milton Balkany is no longer a member, Board member, President or Dean or employee of BY since August of 2019, and that the March 8, meeting is set aside as null and void, disqualifying any corporate act based upon that meeting or relying on that meeting for validity.

AS AND FOR AN NINTH CAUSE OF ACTION AGAINST DEFENDANTS MILTON BALKANY, AND SARA BALKANY, AND TD BANK N.A.

JUDGMENT AND INJUNCTIVE RELIEF

107. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-106, inclusive, as though set forth fully herein.

108. Plaintiffs , will continue to be irreparably harmed by R' Milton Balkany, if he were to be allowed to continue to hold himself out to the public as a member, board member, or employee of BY. He would cause loss of reputation, continued theft of BY funds, enter into unauthorized transactions on behalf of BY to unknowing third parties, and may even be laundering money through the BY account. This includes a real fear that he will sell By's only property just for the release of a down payment because he is desperate for cash. His illegal actions would only serve to cause BY to fall into random legal trouble of unknown ferocity. He is a loose cannon.

109. The same holds true for Mrs. Sara Balkany.

110. Based upon all of the above and admissions of Defendant parties and evidence, it is highly likely that Plaintiffs will succeed on the merits of the Complaint.

111. The balance of the equities are in favor of Plaintiffs because the small harm of an injunction is outweighed by the incredible and constant losses listed above.

112. Plaintiffs have no adequate remedy at law to stop the incredible and constant unfair risks, and losses listed above.

113. Therefore Plaintiffs seek temporarily, preliminarily and permanently, an injunction against R' Milton Balkany and Mrs. Sara Balkany, enjoining and restraining them, in that they may not hold themselves out as board members, members, or employees of BY, and they may not have access to bank accounts of BY, nor sign checks, enter agreements, call meetings, attend meetings, vote, or do anything in a capacity on behalf of, or with the authority of, BY.

114. In addition, Plaintiffs seek a judgment and temporarily, preliminarily and permanently, an injunction against TD Bank, N.A., to immediately freeze BY's Bank accounts with TD Bank, and be restrained and enjoined from transferring or distributing BY funds towards any payment presented. Then to have the account closed and all remaining funds sent to a lawful BY account under the control of Mr. Kenner or Mr. Herskovits.

AS AND FOR A TENTH CAUSE OF ACTION AGAINST DEFENDANTS MILTON BALKANY, AND SARA BALKANY,

DEMAND FOR AN ACCOUNTING

115. Plaintiffs repeat, re-allege, and incorporate by reference, each and every allegation contained in paragraphs 1-114, inclusive, as though set forth fully herein.

116. Pursuant to NY NPCL Ch. 6 and Ch. 7 (including article 720) Plaintiffs have the right to demand inspection of the records in R' Balkany and Mrs. Balkany's control. Such demand was made in writing to the Balkanys by David Kenenr and Jehuda Herskovits but was ignored.

117. Plaintiffs ask for an Order commanding Milton Balkany and Sara Balkany go to each bank including, TD Bank, and Northfield Bank, (at which they have ever had an account in the name of BY,) and immediately request a copy of all bank statements for the BY accounts since it was opened, (even concerning currently closed accounts) including check images, for the past five years, and give them to Noah Herskovits or David Kenner.

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PRAYER FOR RELIEF

Wherefor, Plaintiffs respectfully request that this Court enter judgment in its favor and against Defendants as follows:

A.) On causes of action One through SIX, As a direct result of the above mentioned conduct of Defendants, BY has been damaged in an amount to be exactly determined at trial, but which is no less than $700,000.00, with interest

B.) On cause of action Seven, A Judgment Removing R' Balkany and Mrs balkany from membership and from the board of Bais Yaakov.

C.) On cause of action Eight, a declaratory judgment that David Kenner is a true board member, but R'Balkany is not a member, and setting aside the March 8, 2020 meeting.

D.) On cause of action Nine, Judgment and Injunction restraining R' Milton and Sara Balkany as explained above, enjoining them from acting as Board members of BY, or controlling a bank account in BY's name, and for TD Bank to have their BY accounts frozen and the money eventually turned over to lawful BY members.

E.) On cause of action Ten, An Order commanding Milton Balkany and Sara Balkany go to each bank including, TD Bank, and Northfield Bank, (at which they have ever had an account in the name of BY,) and immediately request a copy of all bank statements for the BY accounts since it was opened, (even concerning currently closed accounts) including check images, for the past 5 years, to Noah Herskovits or David Kenner

F.) An award of any costs and fees commencing this Action

G.) And for what other and further relief that to this Court seems just and proper.

Dated: Brooklyn, NY

June, ____, 2020

[Signatures on the Next Page]

x_____
David Kenner - Plaintiff
443 E. 5th St. Brooklyn, NY 11218
(718) 755-0032

x_____
Jehuda Herskovits – Plaintiff
5408 15th Ave. Brooklyn, NY 11219
(718) 490-8003

David Kenner, has sworn to

The above before me this

5 day of June, 2020

x_____: NOTARY

GENE ROBERTS
Notary Public, State of New York
No. 01RO4767364
Qualified in Kings County
Commission Expires Sept. 30, 2022

Jehuda Herskovits, has sworn to

The above before me this

5 day of June, 2020

x_____:NOTARY

GENE ROBERTS
Notary Public, State of New York
No. 01RO4767364
Qualified in Kings County
Commission Expires Sept. 30, 2022

VERIFICATION

State of New York)

S.S.)

County of Kings)

David Kenner, and Jehuda Herskovits, having been duly sworn say together: I am a Plaintiff in this action, and that the foregoing Verified Complaint is true to my knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.

By:_____
David Kenner

Sworn to before me this 5 day

Of June, 2020

X_____
NOTARY PUBLIC

GENE ROBERTS
Notary Public, State of New York
No. 01RO4767364
Qualified in Kings County
Commission Expires Sept. 30, 2022

By:_____
Jehuda Herskovits

Sworn to before me this 5 day

Of June, 2020

X_____
NOTARY PUBLIC

GENE ROBERTS
Notary Public, State of New York
No. 01RO4767364
Qualified in Kings County
Commission Expires Sept. 30, 2022

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

DAVID KENNER, and JEHUDA HERSKOVITS, individually,
and, as Directors, of BAIS YAAKOV OF BROOKLYN,

Index#:

Plaintiffs,

-against-

MILTON BALKANY, a/k/a YEHOSHUA BALKANY,
SARA BALKANY, TD BANK, N.A.,

Defendants.

X_____X

VERIFIED COMPLAINT

X_____X

Date: June 5, 2020

x_____

David Kenner - Plaintiff

443 E. 5th St. Brooklyn, NY 11218

(718) 755-0032

x_____

Jehuda Herskovits – Plaintiff

5408 15th Ave. Brooklyn, NY 11219

(718) 490-8003