

**IN THE UNITED STATES DISTRICT COURT
OR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**JAY S. PATEL, ANIL PATEL,
BHAVESH DESAI,
BRIJESH PATEL,
CHANDRAVADAN PATEL,
DIVYESH DESAI, HIREN PATEL,
MANISH KUMAR DESAI, AND
SHAILESH PATEL**

Plaintiffs,

v.

**ASIAN AMERICAN HOTEL
OWNER'S ASSOCIATION, INC.**

Defendant.

Case No.: _____

**VERIFIED COMPLAINT FOR APPOINTMENT
OF RECEIVER AND INJUNCTIVE RELIEF**

COME NOW Jay S. Patel, Anil Patel, Bhavesh Desai, Brijesh Patel, Chandravadan Patel, Divyesh Desai, Hiren Patel, Manish Kumar Desai, and Shailesh Patel ("Plaintiffs"), by and through their attorneys, and for their Complaint show the Court as follows:

PARTIES

1.

Plaintiff Jay S. Patel is a citizen of Florida and the United States and resides at 3020 Knotty Pine Drive, Pensacola, Florida 32505. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

2.

Plaintiff Anil Patel is a citizen of New Jersey and the United States and resides at 263 North River Drive, Pennsville, New Jersey 08070. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

3.

Plaintiff Bhavesh Desai is a citizen of Ohio and the United States and resides at 330 Columbus Road, Athens, Ohio 45701. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

4.

Plaintiff Brijesh Patel is a citizen of Michigan and the United States and resides at 6939 Telegraph Road, Temperance, Michigan 48182. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

5.

Plaintiff Chandravadan Patel is a citizen of New Jersey and the United States and resides at 963 Wood Avenue, Edison, New Jersey 08820. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

6.

Plaintiff Divyesh Desai is a citizen of Washington and the United States and resides at 7221 SE Middle Way, Vancouver, Washington 98664. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

7.

Plaintiff Hiren Patel is a citizen of Oregon and the United States and resides at 8247 NE Sandy Boulevard, Portland, Oregon 97220. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

8.

Plaintiff Manish Kumar Desai is a citizen of Michigan and the United States and resides at 2211 West Grand Boulevard, Detroit, Michigan 48208. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

9.

Plaintiff Shailesh Patel is a citizen of Pennsylvania and the United States and resides at 22 Arverne Court, Timonium, Maryland 21093. Plaintiff is a member in good standing of the Asian American Hotel Owner's Association.

10.

Defendant, Asian American Hotel Owner's Association, Inc. ("AAHOA") is a Georgia non-profit corporation with its headquarters at 1100 Abernathy Road, Suite 1100, Atlanta, Fulton County, Georgia 30328. AAHOA may be served through its registered agent as follows: Fred Schwartz, 440 Spring Ridge Drive, Roswell, Fulton County, Georgia 30076. In an abundance of caution, service will also be made upon the AAHOA office in addition to the registered agent.

11.

AAHOA is named herein as Defendant only in an effort to protect AAHOA and its assets for the benefit of its members. Plaintiffs herein seek only to maintain the safety of AAHOA's assets and allow an independent receiver to evaluate the propriety of the actions taken by AAHOA's recent leadership.

JURISDICTION AND VENUE

12.

Jurisdiction is proper under 28 U.S.C. § 1332, because complete diversity exists between the parties and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

13.

Pursuant to 28 U.S.C. § 1391 (b), venue is proper in this Court because the Defendant resides in the Northern District of Georgia. Pursuant to L.R. 3.1(B)(1)(a), venue is proper in the Atlanta Division of this District because AAHOA's registered office is in Fulton County, Georgia.

FACTUAL ALLEGATIONS

AAHOA

14.

AAHOA is a non-profit corporation formed under the Georgia Non-Profit Corporation Code. Attached hereto as Exhibit A is a true and correct copy of the current AAHOA Bylaws (hereinafter referred to as "the Bylaws").

15.

AAHOA has a yearly budget of approximately ten million dollars (\$10,000,000.00) and over seven million dollars (\$7,000,000.00) in assets. These assets are in jeopardy.

16.

The assets are in jeopardy under current leadership due to rampant violations of AAHOA's internal policies and governance procedures, as well as self-dealing and corporate waste.

17.

The Bylaws provide a detailed scheme for the governance of AAHOA including, *inter alia*, the elections of officers, qualifications for committees, the scheduling of membership meetings, and the procedure for voting in membership meetings.

18.

The current leadership is acting in violation of the Bylaws, for their own benefit, and in violation of their fiduciary duties.

PRIOR EFFORT TO USURP ASSETS AND CONTROL

19.

In or around 2003, a group in leadership positions attempted to seize control over AAHOA by manipulating elections and seeking to deny the members their voting rights as provided by the Bylaws and governance rules.

20.

Attached hereto as Exhibit B is a true and correct copy of the Complaint styled as *Mulji v. AAHOA, Superior Court of Fulton County, State of Georgia*, Civil Action No. 2004CV83882. Attached hereto as Exhibit C is a true and correct copy of the Hearing Transcript and the Final Order in that first case.

RENEWED EFFORT TO SEIZE ASSETS AND CONTROL

21.

Recently, a new group, including some of the original bad actors, has again seized control of AAHOA in violation of the Bylaws and governance rules.

22.

In pursuit of their own selfish agenda, the leadership is endangering AAHOA by, *inter alia*, firing the general counsel and other critical staff members who protected AAHOA from self-interested and self-dealing members.

23.

Upon information and belief, the bad actors are failing to adhere to AAHOA's duly established rules and procedures including, *inter alia*, violations of the sealed bid process, bid rigging, interferences with ongoing ethics investigations, and violations of AAHOA's charitable contribution policy. These actions jeopardize AAHOA's status as a Georgia 501(c)(3) organization.

24.

Upon information and belief, the bad actors are now endangering, embezzling, and wasting the substantial assets of AAHOA. Numerous other violations, breaches of fiduciary duty, and instances of wrongful conduct exist, and will be proven at trial.

25.

Absent intervention by this Court, the bad actors will continue to endanger and waste AAHOA's assets and cripple its reputation as an important organization among hoteliers.

26.

Absent intervention by this Court, the current leadership will continue to ignore and abuse ethics and governance rules for their own selfish purposes.

27.

Absent intervention by this Court, AAHOA members will be deprived of their membership rights.

28.

Absent intervention by this Court, AAHOA will be crippled, its governance and ethics procedures left in shambles, and its former honest and highly qualified staff forever lost to the organization.

29.

A Receiver is needed to take charge of AAHOA, and AAHOA's assets, to preserve the same and protect all members as well as the organization itself.

VIOLATIONS OF BYLAWS AND GOVERNANCE RULES

30.

Recent AAHOA Directors and Officers, and as a result through them AAHOA, have increasingly disregarded the established Bylaws and governance rules. Violations include, *inter alia*, misuse and embezzlement of AAHOA funds for personal gain of certain officers, unauthorized alteration of the minutes of Board Meetings, and failure to adhere to established rules and procedures.

31.

In or around March 2010, current AAHOA Chairman, Pratik Patel, was responsible for the expenditure of approximately fifteen thousand dollars (\$15,000.00) of AAHOA funds funneled to his business partner's company and used to support his campaign for an officer position within AAHOA. Proper approval was neither sought nor granted regarding the unauthorized expenditures of AAHOA funds.

32.

Such expenditures are not authorized by AAHOA bylaws.

33.

In or around June 2012, AAHOA's committees were selected pursuant to the Governance Model of 2012.

34.

Following the meeting, the Secretary and Treasurer, Jimmy Patel and Pratik Patel, intentionally, without authority, and for improper purposes, altered the minutes of the meeting and the terms of the committees.

35.

In or around November 2012, in violation of the Bylaws, and without approval, Officers Mehul Patel, Pratik Patel, Jimmy “Jay” Patel, and others, traveled to London with their wives using AAHOA funds. Each individual was reimbursed for approximately one thousand two hundred dollars (\$1,200.00) in violation of the Bylaws and governance rules.

36.

In or around November 2012, Current Chairman and ex-Board member Nimesh Zaver manipulated the closed bid process to award a contract for food services to a personal friend.

37.

In or around 2012, Pratik Patel, without authorization and in violation of the Bylaws and governance rules, misdirected a substantial portion of a fifty thousand dollar charitable donation (\$50,000.00).

38.

In or around February 2013, Pratik Patel, without authority and for improper purposes, modified the previously approved minutes for the Audit Committee.

Further, the meeting was held without quorum in express violation of the Bylaws and governance rules.

39.

In or around October 2013, Pratik Patel, without authorization and in violation of the Bylaws and governance rules, awarded an AAHOA entertainment contract to a personal friend who then was paid two hundred and ninety thousand dollars (\$290,000), fifty thousand dollars (\$50,000.00) in excess of the approved contract ceiling.

40.

In or around October 2013, without authorization and in violation of the Bylaws and governance rules, the annual convention budget was set in excess of several million dollars, grossly exceeding the typical convention budget.

41.

On or around March 18, 2014, Pratik Patel permitted Hitesh Bhakta to be a member of the Past Chairman's Council in violation of the Bylaws and governance rules for the sole and improper purpose of bolstering his control and creating a voting-block within this important committee.

42.

On or around March 22, 2014, Pratik Patel physically assaulted and battered Alkesh Patel in retaliation for Alkesh Patel's objection to Pratik Patel's blatant disregard for AAHOA's Bylaws and governance rules. Consequently, Alkesh Patel was brought to the hospital and diagnosed with a concussion.

43.

In or around March 2014, Pratik Patel, intentionally, without authority, and for improper purposes, destroyed the minutes from the Past Chairman's Council meeting.

44.

In or around April 2014, the current leadership was advised by AAHOA's in-house counsel of its repeated violations of the Bylaws and governance rules. Consequently, AAHOA's in-house legal counsel was terminated by the current leadership for refusing to affirm the current leadership's blatant disregard for AAHOA Bylaws and governance rules and her freedom to exercise her religious beliefs.

45.

In or around April 2014, Chairman Pratik Patel and former Board Member Nimesh Zaver interfered with an ongoing ethics investigation with blatant disregard for the Bylaws and governance rules.

46.

In or around April 2014, Pratik Patel, without authorization, for improper purposes, and in violation of the Bylaws and governance rules, ordered AAHOA staff to forward all incoming/outgoing communications to the current leadership for review, resulting in a complete usurpation of AAHOA members' rights.

47.

On or around July 11, 2014, in anticipation of the instant litigation, the current leadership made an attempt to increase AAHOA's legal budget from twenty thousand dollars (\$20,000.00) to one hundred thousand dollars (\$100,000.00) to be used at the officers' discretion.

COUNT ONE

Injunctive Relief

48.

Plaintiff incorporates and re-alleges the allegations of paragraphs 1 through 49 above as if set forth fully verbatim herein.

49.

Plaintiff should be granted an Emergency Temporary Restraining Order and Interlocutory Injunctive Relief requiring Defendants to cease and desist any and all violations of the duly established AAHOA Bylaws and governance rules, requiring Defendants to cease and desist all spending, hiring, firing, formation and execution of contracts, all communications appearing to emanate from or be endorsed by AAHOA to members and outsiders, and requiring Defendants to preserve all computer files, letters, and other assets of AAHOA.

50.

Plaintiff is entitled to injunctive relief because AAHOA will be irreparably harmed unless it is granted, there is a substantial likelihood that the Plaintiff will prevail on the merits, the potential damage from not granting the injunction is greater than the potential damage to AAHOA if the injunction is granted, and granting the interlocutory injunction is consistent with the public interest.

51.

Plaintiffs, as members of AAHOA, will suffer immediate and irreparable harm absent injunctive relief.

COUNT TWO

Appointment of Receiver

52.

Plaintiff incorporates and re-alleges the allegations of paragraphs 1 through 53 above as if set forth fully verbatim herein.

53.

Plaintiff is entitled to the appointment of a receiver over the business operations and assets of AAHOA. The appointment of a receiver is critical and necessary to ensure the mitigation of damages and the cessation of theft, embezzlement, and corruption within AAHOA.

54.

Plaintiffs are entitled to the appointment of a receiver because Plaintiffs have a valid claim for injunctive relief and a Receiver may further determine that AAHOA has valid claims against the bad actors, which could be added via third party practice at a later time.

55.

Plaintiffs are entitled to the appointment of a receiver because the current leadership of AAHOA has engaged in fraudulent conduct by manipulating

AAHOA's budget and corporate minutes, allowing the unauthorized spending of AAHOA funds, and failing to follow AAHOA's established rules and procedures, among other things.

56.

Plaintiffs are entitled to the appointment of a receiver because the assets of AAHOA, worth over \$7 million, are in imminent danger of being lost, concealed, injured, diminished in value, and squandered.

57.

Plaintiffs are entitled to the appointment of a receiver because Plaintiffs have no adequate remedy at law.

58.

Plaintiffs are entitled to the appointment of a receiver because the harm to Plaintiff by denial of the appointment of a receiver would outweigh any potential injury to AAHOA.

59.

Plaintiffs are entitled to the appointment of a receiver because Plaintiffs have a high likelihood of success in the action and there exists the possibility of

irreparable injury to Plaintiffs' interests in AAHOA's business operations and assets.

60.

Plaintiffs are entitled to the appointment of a receiver because Plaintiffs' interests in AAHOA's business operations and assets will in fact be well-served by receivership.

61.

As such, Plaintiff is entitled to the appointment of a receiver to provide immediate protection for the business operations and assets of AAHOA and to ensure the mitigation of damages and the cessation of theft, embezzlement, and corruption. Additionally, the Receiver can recommend appropriate procedures for restoration of control of AAHOA to the membership and its duly elected representatives

WHEREFORE, Plaintiffs pray:

- (1) That process issue as required by law;
- (2) That an Emergency Temporary Restraining Order and Interlocutory Injunctive Relief issue requiring Defendants to cease and desist any and all violations of the duly established AAHOA Bylaws and

governance rules, requiring Defendants to cease and desist all spending, hiring, firing, formation and execution of contracts, all communications appearing to emanate from or be endorsed by AAHOA to members and outsiders, and requiring Defendants to preserve all computer files, letters, and other assets of AAHOA.

- (3) That the Court appoint a receiver to protect the business operations and assets of AAHOA and to recommend procedures for restoration of AAHOA to its ;
- (4) For such other and further relief that the Court may deem just and proper under the circumstances.

Respectfully submitted this 12th day of August, 2014.

FRIED & BONDER LLC

/s/ Scott L. Bonder
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