

SUPREME COURT FOR THE STATE OF NEW YORK
NEW YORK COUNTY

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KERISON & WILLOUGHBY CAPITAL, LTD.

Index No. 603525/2008

PETITIONER,

-AGAINST-

VERIFIED PETITION
PURSUANT TO
CPLR §5227

ROYALE ETENIA, LLC, MORTIMER SINGER,
RACHEL ROY, AND DAMON DASH

RESPONDENTS.
-----X

The Petitioner, by its attorney, Martin S. Rapaport, P.C., respectfully
alleges and complains of the Respondents as follows:

1. At all times relevant hereto the Petitioner ("Petitioner") was a corporation
doing business in the State of New York and having an office for business located
at 325 East 41st Street, New York, New York 10017.

2. At all times relevant hereto the Respondent Royale Etenia LLC ("Royale
Etenia") was a limited liability company formed under the laws of the State of
Delaware but having its main office and conducting its business either at c/o
CBIZ, 10th Floor 1065 Avenue of the Americas, New York, New York 10018 or at

c/o Traub 9th Floor, 410 Park Avenue, New York, New York 10017.

3. At all times relevant hereto the Respondent Mortimer Singer ("Mortimer Singer") was a resident of the State of New York, City of New York and County of New York and maintained a residence at Apt. 3, 150 East 74th Street, New York, New York 10021 and an office c/o Traub, 9th Floor, 410 Park Avenue, New York, New York 10017. Mortimer Singer is a co-manager of Royale Etenia as shown by answer to Question 6 in Exhibit 4 hereto.

4. At all times relevant hereto the Respondent Rachel Roy ("Rachel Roy") was a resident of the State of New York, City of New York and County of New York and maintained a residence at Apt. 11A, 200 West 24th Street, New York, New York 10011. Rachel Roy is a co-manager of Royale Etenia as shown by the answer to Question 6 in Exhibit 4 hereto.

5. At all times relevant hereto the Respondent and Judgment Debtor Damon Dash ("Damon Dash") was a resident of the State of New York, and City of New York and upon information and belief maintained a business office at the Poppington Gallery, 60 Orchard Street, New York, New York 10002, a residence at 110 Green Street, Brooklyn, New York 11222-1588 and a special office for the receipt of process established, declared to this Court, and maintained by one of Damon Dash's attorneys and agent c/o Seidman Legal Services &

Consulting, P.C., Suite 2030, 244 5th Avenue, New York, New York 10001.

6. On or about July 26, 2011, the Petitioner obtained a judgment in the amount of \$330,038.28 in its favor against Damon Dash and Damon Dash Enterprises, LLC. A copy of said judgment appears at Exhibit 1 hereto the "Judgment"). No part of the Judgment has ever been satisfied notwithstanding repeated demands upon Damon Dash to pay the Judgment.

7. Thereafter, in an effort to locate assets of Damon Dash and to enforce the Judgment, Petitioner served certain subpoenas and made certain investigations from which it was ascertained that Damon Dash was a member of Royale Etenia as shown by the copy of the Limited Liability Company Operating Agreement Of Royale Etenia LLC attached at Exhibit 2 hereto.

8. The members of Royale Etenia, as shown by Exhibit 2 are Damon Dash, Rachel Roy and Artmis, Inc.

9. As shown by Schedule A to the said operating agreement of Royale Etenia, set out at Exhibit 3, Damon Dash holds a 46.53% Membership Interest in Royale Etenia. Said membership interest of Damon Dash is corroborated by the Answer to Question 8 of the "Examination Of Third Party Witness" sent to us by CBIZ Mahoney Cohen & Company, CPA, P.C., the accountants for Royale Etenia, in response to an Information Subpoena served upon said accountants as shown by

Exhibit 4 hereto. Please see also the 2012 Schedule K-1 of Damon Dash which is an attachment to said Exhibit 4.

10. Royale Etenia is a member of a joint venture known as Rachel Roy IP Company, LLC. The members of Rachel Roy IP Company, LLC are: Royale Etenia, Jones Investment Co., Inc. as shown by a copy of the Limited Liability Company Operating Agreement Of Rachel Roy IP Company LLC at Exhibit 5 hereto. This joint venture company was formed to exploit certain trademarks relating to Rachel Roy's design and fashion business and did so by licensing such trademarks to Jones Apparel Group USA, Inc. (now Jones Group, Inc.) in June, 2008. Jones Group, Inc. is a major and successful company in the garment and apparel industry who since obtaining such trademarks in June, 2008 has sold products bearing the "Rachel Roy" trademarks and regularly paid license fees to Rachel Roy IP LLC on a quarterly basis. These license fees are then shared on a 50%-50% basis by Royale Etenia and Jones Investment Co.. Please see Schedule B to the said joint venture agreement at Exhibit 6 hereto. Please see the schedule of Payments To RRIPCO & Payments from RRIPCO to Royale Etenia for 2012 and 2013 sent to us by Ira Dansky, Esq., general counsel to Jones Group, Inc., in response to an Information Subpoena at Exhibit 7 hereto. Revenues received by Royale Etenia from the said joint venture on a quarterly basis are then distributed

to the members of Royale Etenia including Damon Dash.

11. As monies are received by Royale Etenia the amount which becomes due to be distributed to Damon Dash constitutes a debt by Royale Etenia to Damon Dash.

12. The monies which Royale Etenia may become obliged to pay to Damon Dash consist of regular distributions, special distributions and payments of interest on account of a so-called "Preference Amount" to which Damon Dash was said to be entitled.

13. To date in 2013, Royale Etenia has set aside a monies received from the said joint venture in the amount of \$146,255.73 which Royale Etenia owes to Damon Dash. This money is being held by Royale Etenia in account #1501011866 in Signature Bank, 261 Madison Avenue, New York, New York. Please see Exhibit 4 – Answers 12, 13 and 14. The money is being held in response to an execution delivered by the Petitioner to New York City Marshal Martin Bienstock (Badge No. 75) a copy of which is attached at Exhibit 8 hereto which was thereafter served upon Royale Etenia by Marshal Martin Beinstock.

14. A second quarterly payment is scheduled to be sent by Rachel Roy IP Company, LLC in July, 2013 to Royale Etenia, 46.53% of which will then become

a debt owed by Royale Etenia to Damon Dash. In addition to the said \$146,255.73 being held by Royale Etenia and given the continuing success of Rachel Roy brand sales in the marketplace, the expected distributions from the Rachel Roy II Company LLC joint venture over the next two quarters should be sufficient or more than sufficient to satisfy the Judgment in full.

15. The Petitioner is entitled to the face amount of the Judgment of \$330,038.28 plus interest at the legal rate of 9% up to the date of satisfaction in full on the remaining unpaid portion of the face amount of the Judgment plus the Marshal's fees (which are equal to 5% of the total value of the monies obtained to satisfy the Judgment). As of the filing of the Petition, the amount necessary to satisfy the Judgment, interest payable thereupon and the Marshal's Fee is \$406,354.23 as shown by the attached computation at Exhibit 9.

16. The Petitioner, as a Judgment Creditor, is entitled to be paid monies owed as a debt to Damon Dash pursuant to CPLR §5227. Your Deponent has been made to understand that the said monies being held by Royale Etenia for Damon Dash will not be paid over to the Petitioner without the direction and order of this Court. Your Deponent respectfully requests and needs the order of this Court to obtain a payment over of said monies being held and is entitled to such an order

under CPLR §5227.

17. Finally, because the Petitioner may be obliged to issue a new execution to the New York City Marshal to be served upon Royale Etenia as each new quarterly payment is made by Rachel Roy I P Company, LLC to Royale Etenia, and Damon Dash has other known judgments outstanding against him, there is a danger to the Petitioner that the Petitioner's priority to enforce its judgment upon the future but highly predictable debts of Royale Etenia to Damon Dash will be lost or that Damon Dash might induce one or both of the managers of Royale Etenia to make a distribution to him to the great prejudice and loss of the Petitioner. It is believed that any such loss to the Petitioner will be irreparable if the Judgment is not satisfied from the present and future Royale Etenia distributions to Damon Dash because notwithstanding substantial efforts to find the assets of Damon Dash, the Petitioner's and the Petitioner's attorney have only been able to locate one substantial asset of Damon Dash, to wit, the Royale Etenia membership interest and distributions. If Damon Dash has other substantial assets they are concealed by Mr. Dash or held outside the jurisdiction of this Court. From court records, news reports and the internet, Petitioner has learned that many of Damon Dash's formerly large assets – residences and businesses – have been lost or frittered away by Damon Dash. Mr. Dash himself has stated in the course of

recent and unsuccessful efforts to attack the Judgment that he has little in the way of assets. Mr. Dash is presently involved in several substantial litigations and has other unsatisfied judgments against him and/or his business entities. Damon Dash has apparently attempted for some time now to obscure or hide his home address out of concern for his creditors. Upon the recent traverse hearing before Hon. Ira Gammernan of this Court, Mr. Dash intentionally gave two different home addresses as being his home address, neither of which actually existed. And then shortly thereafter, the Daily News reported a different address in Westchester at which Mr. Dash had been living which he was apparently forced to vacate. The Petitioner, having learned that a second quarterly distribution to Damon Dash by Royale Etenia will become available within the next few weeks, respectfully asks this Court to issue a temporary restraining notice barring and prohibiting the distribution of any pending or future monies from Royale Etenia to Damon Dash unless and until the Judgment (and the interest due thereupon and Marshal's fees payable) is first satisfied in full.

WHEREFORE, Petitioner respectfully requests that an order be made:

a) Declaring that Respondent Royale Etenia, LLC now owes a debt to the Respondent Damon Dash in the amount of \$146,255.73 and has possession and/or

control over such monies; and

b) Declaring that the Petitioner Kerison & Willoughby Capital Ltd. is legally entitled pursuant to CPLR §5227 to be paid said \$146,255.73 in partial satisfaction of the Judgment entered against Damon Dash on July 26, 2011 (and interest, costs and New York City Marshal's fees thereupon);

c) Declaring and directing pursuant to CPLR §5227 that the sum of \$146,255.73 now being held by Royale Etenia, LLC for Respondent Damon Dash shall be forthwith paid over by the Respondent Royale Etenia, LLC to the Petitioner Kerison & Willoughby Capital, Ltd., in partial satisfaction of the outstanding Judgment entered against Damon Dash on July 26, 2011 (and interest, costs and New York City Marshal's fees thereupon); and

d) Declaring and directing that any and all further and future monies which are received by Respondent Royale Etenia, LLC which would in ordinary course be payable over to Respondent Damon Dash shall be forthwith paid over by Respondent Royale Etenia LLC to the Petitioner Kerison & Willoughby Capital, Ltd. upon receipt by Respondent Royale Etenia, LLC until the total amount of money required to satisfy the said Judgment, including interest, costs and New York City Marshal's fees and entitlements thereupon (as fixed in the said Order of this Court) is paid in full; and

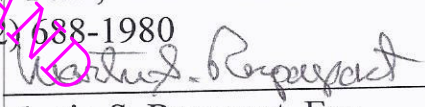
e) Directing Respondent Mortimer Singer, Respondent Rachel Roy and Respondent Royal Etenia, LLC to give written notice by certified mail to Martin S. Rapaport, Esq., as attorney for the Petitioner Kerison & Willoughby Capital, Ltd. upon the receipt of monies from the joint venture known as Rachel Roy IP Company, LLC and/or from any other source of which the Respondent Damon Dash would be entitled to a portion by virtue of his having a membership interest in Royale Etenia LLC.

New York, New York
July 27, 2013

MARTIN S. RAPAPORT, P.C.
Attorney for Petitioner/Judgment
Creditor

6th Floor
18 East 48th Street
New York, New York 10017
(212) 688-1980

By:


Martin S. Rapaport, Esq.

VERIFICATION

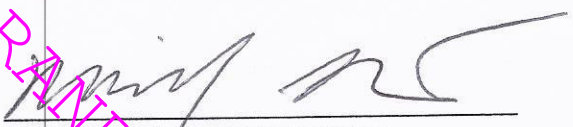
STATE OF NEW YORK)
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NEW YORK COUNTY)

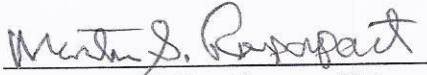
MICHAEL J. DEUTSCH, being duly sworn, deposes and says:

1. I am an officer of Kerison & Willoughby Capital, Ltd., the Petitioner
in this special proceeding.

2. Your Deponent has made the foregoing Petition and the statements
made therein are true except for those made upon information and belief which
your Deponent believes to be true.

Sworn to before me this 27th day of
June, 2013


MICHAEL J. DEUTSCH


Notary Public, State of New York
No. 02RA6038253
Qualified in New York County
Commission Expires 3-6-14.

To:

Respondent Royale Etenia LLC
c/o CBIZ
10th Floor
1065 Avenue of the Americas
New York, New York 10018

&

c/o Mortimer Singer
Apt. 3
150 East 74th Street
New York, New York 10021

Respondent Mortimer Singer
Apt. 3
150 East 74th Street
New York, New York 10021

&

c/o Traub
9th Floor
410 Park Avenue
New York, New York 10017

Respondent Damon Dash
Judgment Debtor
c/o Poppington Gallery
60 Orchard Street
New York, New York 10002

&

c/o Seidman Legal Services & Consulting, P.C.

Suite 2030
244 5th Avenue
New York, New York 10001

&

110 Green Street
Brooklyn, New York 11222-1588

Respondent Rachel Roy
Apt. 11A
200 West 24th Street
New York, New York 10011