



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ROGER MASON,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 2018-____-____
)	
BIG3 BASKETBALL, LLC,)	
)	
Defendant.)	

VERIFIED COMPLAINT FOR INSPECTION OF BOOKS AND RECORDS

Plaintiff, Roger Mason (“Mason”), by and through his undersigned counsel, alleges his Verified Complaint for Inspection of Books and Records against defendant BIG3 Basketball, LLC (the “Company” or “BIG3”) as follows:

Nature of the Action

1. This is an action under 6 *Del. C.* § 18-305 (“Section 18-305”) to compel the Company to provide Mason certain books and records.
2. On March 21, 2018, Mason, a member of the Company, delivered a written demand (the “Demand”) to the Company seeking to inspect certain books and records of the Company. Indeed, the Company did not even respond to Mason’s Demand. A true and correct copy of the Demand is attached hereto as Exhibit 1.

3. The Company has failed to comply with its obligations and has refused to allow Mason to inspect the requested books and records. Mason therefore requires this Court's assistance.

The Parties

4. Mason, a New Jersey resident, has been a member of the Company at all relevant times.

5. The Company is a limited liability company organized under the laws of the State of Delaware, with its principal place of business in California. The Company operates a 3-on-3 basketball league, BIG3 Basketball (the "League"), from June through August, featuring numerous retired National Basketball Association ("NBA") players.

6. Non-parties Jeffrey Kwatinetz ("Kwatinetz") and O'Shea Jackson a/k/a Ice Cube ("Jackson") serve on the Company's Board of Managers ("Board") and are co-founders and members of the Company.

Introduction

7. This action arises in the context of a dispute between Kwatinetz and Mason related to Kwatinetz's mismanagement of the Company and his scheme to make Mason the scapegoat for his alleged fraud on the largest investor in the

Company, breaches of his fiduciary duties of loyalty and care, mismanagement of the Company's operations, willful violations of the Company's operating agreement and Delaware law, intentional participation in improper related-party transactions, usurpation of the authority of the Company's carefully hired management team, and creation of a hostile work environment at the Company, as confirmed by several employees, by, among other things, using horrible racial slurs to disparage the League's African-American players and the Company's investors from the Middle East. Kwatinetz's actions have caused the departure of the Company's President, Chief Financial Officer, and Chief Creative Officer, amongst others, and are subjecting the Company to potential damages in excess of a hundred million dollars in pending and likely-to-be-filed actions, including for fraud, breach of contract and the defamation of Mason, a former NBA player and Players' Association executive, whose substantial future prospects have been materially and irrevocably injured by Kwatinetz's scheme and lies.

8. As more fully explained below, as part of that scheme Kwatinetz and his longtime lawyer Mark Geragos, himself a member of and advisor to the Company, manufactured a sham "independent investigation" to be conducted by an associate of Geragos's. Kwatinetz and Gergaos then relied on Mason's fictitious refusal to cooperate with the investigation to terminate Mason as

President of the Company and Commissioner of the League. In doing so, Kwatinetz sought to make Mason the scapegoat for his own wrongdoing, outrageously blaming Mason for jeopardizing the League's financial success and ability to enter into professional relationships. As a result of this scurrilous, unjustified attack, Mason, whose record as a staunch, dedicated player advocate is well established, promptly filed an action for defamation and breach of contract against Kwatinetz and the Company seeking in excess of one hundred million dollars for damage to his reputation and future prospects.

9. In commencing this action, Mason seeks to enforce his rights as a member of the Company to review the books and records appropriately demanded pursuant to Section 18-305.

Factual Background

10. In 2016, Mason, Kwatinetz and Jackson commenced working together to establish the League, which had its first season in 2017.

A. League Hires Former NBA Player and Deputy Executive Director of the NBPA, Roger Mason, Jr., as President and Commissioner to Establish Credibility

11. As a highly respected member of the basketball community, Mason's involvement was critical to the establishment and development of the League.

12. In addition to playing in the NBA for 11 years, he is the former Deputy Executive Director of the NBA players' union, the National Basketball Players Association ("NBPA"). Mason is the first former player to achieve such a high ranking position with the NBPA.

13. In his capacity as Deputy Executive Director of the NBPA, Mason played an integral role in negotiations between players, owners and league executives in two collective bargaining agreements. Among his major accomplishments in that role was securing lifetime healthcare for all retired players.

14. As a former player and NBPA executive, Mason possessed the credibility and relationships necessary to recruit former NBA stars for the League. Indeed, Mason was instrumental in signing the players and coaches who participated in the League's inaugural season and many of the players and coaches who will be participating in the League's second season this summer. Among the former NBA players that Mason recruited for the League's 2017 season were Allen Iverson, Charles Oakley, Rashard Lewis, Kenyon Martin, Stephen Jackson, DeShawn Stevenson, DerMarr Johnson, and Xavier Silas. For the League's upcoming 2018 season, former NBA players successfully recruited by Mason

include Amar'e Stoudemire, Chris "Bird Man" Anderson, Drew Gooden, Glen "Big Baby" Davis, Carlos Boozer, Greg Oden, and Eddy Curry.

15. In addition to recruiting numerous well-known players necessary to publicize the League, Mason also ensured a credible league by helping develop the League's official rules, organizing a combine and draft format for players to be selected by League teams, and hiring the League's Director of Referees and referees.

16. Beyond Mason's basketball-related contributions, Mason also played a significant role in identifying investors and potential investors in the Company.

17. In recognition of his contributions and critical role with the League, as memorialized in a written Executive Employment Agreement, dated as of November 24, 2016 (the "Employment Agreement"), Mason was hired to serve as President of the Company and Commissioner of the League, and awarded 5% of the Class "A" Units in the Company, all of which have vested. Mason was also made a member of the League's Board.

B. Kwatinetz's History of Failed Businesses and Erratic Behavior

18. Between 2008 and 2017, Kwatinetz ran numerous businesses that failed spectacularly and was repeatedly involved in nasty public disputes with

partners and investors in those businesses. Among the businesses that Kwatinetz has been involved with that have been unsuccessful are The Firm, Prospect Park Networks, Overbrook Entertainment, and The Firm again.

19. As a result of Kwatinetz's lengthy history of failed businesses, disputes with partners and public reports of erratic behavior,¹ the Company would have been unable to attract necessary investors and marketing partners without assurances that it would be operated by a professional management team subject to appropriate oversight established by a carefully designed governance structure.

¹ The Firm, for example, a company co-founded by Kwatinetz, failed in 2008 after executives departed *en masse*. Jeff Leeds & James Ulmer, "Departures Cool Off Agency's Hot Start," THE NEW YORK TIMES, August 11, 2005. Following The Firm's collapse, Kwatinetz was criticized for his lack a business plan and "overly ambitious projections." See Michael Fleming, "Firm departure for its founder," DAILY VARIETY, November 11, 2008. Kwatinetz then founded another company, Prospect Park. Not long thereafter, Prospect Park filed for bankruptcy, reportedly due to a lack of funding and logistical issues. See Meg James, "Prospect Park files for bankruptcy; The production firm tried to revive two canceled ABC soap operas online." LOS ANGELES TIMES, March 11, 2014; see also Justin Oppelaar, "Firm backs down on Sillerman suit," DAILY VARIETY, August 16, 2001 (detailing the collapse of a proposed merger involving The Firm as a result of Kwatinetz's reportedly erratic behavior); Sharon Waxman, "Firm Believer," THE WASHINGTON POST, July 8, 2002 (same). Kwatinetz's alleged mismanagement, erratic behavior and personal troubles have been detailed in numerous published articles about his failed business ventures. See Sharon Waxman, "Firm Believer," THE WASHINGTON POST, July 8, 2002; Bryan Burrough, "Ovitz Agonistes," VANITY FAIR, August 2002; "Hollywood madam Michelle Braun cozies up to federal agents" NEW YORK DAILY NEWS, May 9, 2009.

C. Professional Management Team and Carefully Designed Governance Structure

20. Accordingly, along with Mason being hired as President and Commissioner, Amy Trask (“Trask”), the former President of the Oakland Raiders, was hired as Chief Executive Officer, Kai Henry (“Henry”) as Chief Creative Officer, and Rafael Fogel (“Fogel”) as Chief Financial Officer.

21. Further, the Company’s operating agreement, which was amended as additional members invested in the Company, detailed the rights and obligations of managers, officers and members.

22. For instance, the Second Amended and Restated Operating Agreement, dated July 14, 2017 (the “Second Amended and Restated Agreement”), expressly subjects managers to the fiduciary duties of care and loyalty imposed on directors of Delaware corporations. The Second Amended and Restated Agreement details, among other things, the authority of the Board, the process for making major decisions, the composition and election of the Board, the process for the Board to act, the process for removing members of the Board, the process for conducting Board meetings or acting by written consent, the process for appointing and removing officers, the Company’s obligation to maintain

business records, and the requirement that any related-party transaction be approved by the disinterested members of the Board to ensure that all such transactions were at arm's length and made on terms fair to the Company.

23. Upon information and belief, the carefully designed governance structure memorialized in the Second Amended and Restated Agreement, which was substantially similar to that in the Amended and Restated Limited Liability Company Operating Agreement, dated June 12, 2017, was necessary to convince outsiders to invest in the Company as a result of Kwatinetz's professional history.

D. Kwatinetz Interferes with the Management Team's Authority

24. While publicly representing to prospective investors that the Company's experienced and respected management team was running the day-to-day operations of the Company and the League, Kwatinetz used his position as a co-founder, member and Board member, along with his close relationship with Jackson, to prevent the Company's management team from performing their functions as he demeaned their character and ability and usurped their authority, in an effort to assume total control over the Company.

25. Almost from the outset of the League's operations, Kwatinetz engaged in a malicious, defamatory campaign of disparagement, which interfered with Mason's ability to effectively perform his duties and responsibilities as

President and Commissioner. Kwatinetz's wrongful actions have materially diminished Mason's reputation, position, status, title, authority and responsibilities as President and Commissioner.

26. As confirmed by documentary evidence, a pattern emerged whereby Mason introduced Kwatinetz and the League to important contacts in the basketball world, including players, coaches, referees, investors and other valuable insiders, only to be cut out of those relationships by Kwatinetz. This scheme, whereby Kwatinetz told Mason to stop communicating with his own contacts because Kwatinetz had taken over the communications, is well documented. In short, Kwatinetz actively worked to usurp Mason's duties, responsibilities and relationships. Notwithstanding Kwatinetz's unprofessional actions, Mason continued to attempt to work with Kwatinetz in a professional manner in the hope of performing his duties and advancing the Company's interests.

27. Kwatinetz's mistreatment of Mason and other Company executives, and other misconduct have confirmed that he is not fit to run the League, particularly in light of reports that he has made repeated horrible racist comments, including about African-American players in the League and Middle-Eastern investors in the Company.

28. As discussed above, the reputation and relationships Mason established over the course of his career as an NBA player and Deputy Executive Director of the NBPA were critical to BIG3's success and provided the League instant credibility. In disregard of Mason's contributions to the League and in violation of the Employment Agreement, Kwatinetz bad-mouthed and undermined Mason and his performance as President and Commissioner.

29. In a blatant attempt to isolate Mason, Kwatinetz purposefully left him off key communications; excluded him from important meetings; and disparaged him to investors, employees and people that Mason in his role as President and Commissioner had introduced to Kwatinetz. The enmity Kwatinetz displayed toward Mason became more pronounced in the latter part of 2017, after a successful first season, when Kwatinetz threatened without justification to arrange for the Board to terminate Mason's employment, which could have jeopardized the full vesting of Mason's contractually granted membership interest in the Company. The emptiness of Kwatinetz's threats was revealed when Mason's Employment Agreement was renewed for a second year.

E. Working with his Longtime Lawyer, Mark Geragos, Kwatinetz Manufactures a Sham "Independent Investigation"

30. Unfortunately, Kwatinetz's attacks on Mason continued unabated, even after renewal of the Employment Agreement. At the direction of Kwatinetz, on February 22, 2018, Mason was served with a letter (the "February 22 letter") from Sean Macias, Esq. ("Macias"), on behalf of the League, informing Mason of a purported "independent investigation" that Macias was conducting into alleged conflicts of interest with investors. Macias demanded that Mason appear in California within two weeks for a five hour interview that would be recorded by audio and/or certified stenographer. This "independent investigation" was nothing but a sham effort to make Mason a scapegoat for issues at the Company caused by Kwatinetz.

31. First, the so-called "independent investigation" was to be conducted by Macias and his two person law firm Macias Counsel. Yet, the numerous connections between Macias, Kwatinetz and Mark Geragos ("Geragos") establish that Macias could not conduct an independent investigation. Geragos has long-standing close relationships with both Macias and Kwatinetz.

32. Geragos' own firm, Geragos & Geragos, represents the Company. Macias actually worked for Geragos & Geragos. A true and correct copy of a docket sheet from a matter in the Eastern District of California is attached hereto as Exhibit 2. Geragos himself is a member of the Company, has been retained as

an advisor by the Company, and has been reputed to be a member of the Board of Managers.

33. As to Geragos and Kwatinetz, Geragos has been Kwatinetz's personal lawyer for many years and has been hired by Kwatinetz to represent the Company in numerous matters. Indeed, after Kwatinetz's most recent business failure, which resulted in closing The Firm for a second time, Kwatinetz publicly announced that he had joined Geragos's firm as "of counsel."

34. Accordingly, the notion that Macias could conduct an "independent investigation" involving Geragos and Kwatinetz is not credible.

35. Second, according to Macias Counsel's website, its areas of practice are Personal Injury, Entertainment, Intellectual Property and Civil Litigation. Neither of the two members of the law firm appear to have ever conducted a corporate investigation. In fact, the only place that the word "investigation" appears on its website is that in personal injury cases Macias "will retain experts to assist the *investigation* and reconstruction of the incident."

36. Neither Macias's bio nor that of the only other attorney working for him indicates that they have ever conducted or even been involved in any

“investigation.” Accordingly, the League’s claim that a legitimate “investigation” had been conducted is not credible.

37. That Kwatinetz would jeopardize the success and financial well-being of the Company and League by purporting to conduct a phony “independent investigation” to create a scapegoat for his misconduct is further proof of his poor judgment and lack of suitability to be involved in running the League.

38. Notwithstanding the obvious intent of the sham investigation, Mason, through counsel, expressly informed Macias that he would cooperate with the purported “independent investigation” and was working to schedule an interview. However, in order to protect himself, Mason had his counsel send the League a letter on March 6, 2018 (the “March 6 Letter”), detailing Kwatinetz’s conduct in violation of Mason’s Employment Agreement, demanding that Kwatinetz immediately cease his malicious defamatory campaign of disparaging Mason, which was interfering with Mason’s performance of his contractual responsibilities, and memorializing that Kwatinetz’s wrongful actions had materially diminished Mason’s position, status, title, authority and responsibilities as President and Commissioner. A true and correct copy of the March 6 Letter is attached hereto as Exhibit 3.

39. Mason's counsel's letter further questioned Kwatinetz's competence to manage BIG3, especially in light of claims by numerous former employees that Kwatinetz had made racist comments about African-American athletes and the Middle-Eastern background of representatives of the League's largest investor, Sport Trinity, LLC ("Sport Trinity"). Mason's counsel's letter also made clear that it viewed the purported "independent investigation" as harassment and an effort to imply some impropriety by Mason related to individuals and companies identified in the February 22 Letter.

40. Notably, Mason introduced the League to Sport Trinity, Ahmed Al-Rumaihi ("Al-Rumaihi") and Ayman Sabi ("Sabi") (three of the names identified in the February 22 Letter), with Sport Trinity becoming by far the largest investor in the League. Other than introducing a potential investor to Kwatinetz and the League, Mason had nothing to do with Sport Trinity's financial relationship with the Company as Kwatinetz insisted on personally handling all negotiations. That Mason knew Al-Rumaihi and Sabi was fully disclosed and obvious, as evidenced by the fact that he introduced them to Kwatinetz and the Company.

41. Rather than take legal action due to the League's breach of his Employment Agreement, counsel stated Mason's desire to constructively resolve

the issues involving Kwatinetz's misconduct so that the parties could focus their attention on the League's success.

F. Kwatinetz and the League Retaliate Against Mason for the March 6 Letter by Terminating Mason's Employment and Publicly Lie about the "Independent Investigation" and Mason's Alleged Refusal to Cooperate

42. On March 12, 2018, the Company purported to terminate Mason by letter from Geragos to Mason's lawyer (the "March 12 Letter").

43. That same day, the Company publicly announced that it had "fired" Mason as President and Commissioner. News of Mason's termination was publicly disseminated by the Company and Kwatinetz through the media outlet "TMZ.com."

44. Kwatinetz also sent an e-mail from the Company to all of the players, coaches and staff informing them of Mason's termination (the "defamatory email"). As more fully set forth herein, the Company's manufactured grounds for his termination were baseless, false and fraudulent.

45. Both the March 12 Letter to Mason and its defamatory email to the players, coaches and staff falsely stated that Mason had "refused" to cooperate in the League's "independent investigation." As noted above, there was no "independent investigation" (or for that matter any actual "investigation"). Indeed,

as conceded by Macias, when confronted about the Company's public statement that Mason had refused to cooperate, he knew nothing about any such statement, "I have no idea what you are talking about. What statement and to what media outlet."

46. Another fabricated basis for Mason's termination was the Company's claim that Mason had recently travelled to China without either disclosing his trip or its purpose. Kwatinetz and the Company were fully aware that Mason's Employment Agreement expressly allowed him to provide services to Vaunt, LLC ("Vaunt"), a Company in which Kwatinetz is an investor. The Employment Agreement provides:

For the avoidance of doubt...notwithstanding [Mason] being employed full time by the Company, [Mason] may spend substantially similar time providing services to Vaunt LLC as [Mason] provides as of the date hereof.

47. Thus, not only did Mason's trip to China related to Vaunt not violate Mason's obligations to the Company, but it was expressly permitted by the Employment Agreement, which did not require Mason to disclose where or when he provided services to Vaunt.

48. The Company's and Kwatinetz's conduct in disseminating false reasons for Mason's termination intentionally caused numerous public reports that

Mason was “fired in connection with a corruption investigation by BIG3.”

Building on this foundation of fabricated claims, Kwatinetz sought to distract attention from his mismanagement and misconduct by falsely blaming Mason for jeopardizing the League’s financial success and sponsorships.

G. Mason Sues Kwatinetz and the Company for Defamation and Wrongful Termination

49. On March 13, 2018, the day after he was unceremoniously and publicly “fired,” Mason filed suit against BIG3 and Kwatinetz for wrongful termination and defamation. Kwatinetz’s and the Company’s defamatory attacks on Mason have subjected the Company to substantial financial liability for damage to Mason’s well-deserved, hard-earned reputation as a smart, hard-working, tireless advocate for players, who was poised to assume positions of great responsibility in valuable projects both related to and unrelated to basketball. As a result of the wrongful termination and irreparable harm to Mason’s impeccable reputation, Kwatinetz has recklessly caused the League to be exposed to potential financial liability well in excess of one-hundred million dollars.

H. Kwatinetz Created a Hostile Work Environment and is Reputed to Have Made Racist Statements about Black Athletes and Middle-Eastern Investors.

50. By criticizing Mason and other talented and dedicated officers of the Company during conversations with investors, marketing partners, potential marketing partners and others with whom the League was working or looking to

work, Kwatinetz injured (and has continued to injure) the Company and jeopardized (and continued to jeopardize) its future prospects.

51. Similarly, during this same time period, Kwatinetz repeatedly criticized the performance of (and berated) Trask, Henry and Fogel, and interfered with their performance of their duties.

52. Kwatinetz intentionally interfered with the Company's executives' abilities to perform their jobs by creating a hostile work environment. Kwatinetz intimidated (or attempted to intimidate) the Company's officers and other employees by acting in an abusive and belligerent matter.

53. The hostile nature of the environment created by Kwatinetz is even more dramatically illustrated by the racist comments that Kwatinetz is reported to have made to former employees about players and investors in the League. More specifically, one of BIG3's former employees (not Kai Henry) reports that Kwatinetz referred to Black athletes as "Rich Ni****s."

54. Further, Kwatinetz was reported by Henry, BIG3's then Chief Creative Officer, to have disparaged the representatives of Sport Trinity, BIG3's largest investor, as "terrorists" while explaining that all "Arabs" are terrorists.

55. Henry, a longtime associate of Kwatinetz, resigned from BIG3 because of Kwatinetz's unprofessional and offensive actions. As Henry, who is African-American, explained in his February 26, 2018 resignation email:

I became very uncomfortable when you [Kwatinetz] began using rhetoric that weaponizes the heritage of the Trinity investors in order to damage their character. As the Co-Founder of a basketball league which is comprised predominately of minorities, that language you are using and consistent demonizing is unacceptable and undermines the integrity and viability of the organization.

I do not understand how this type of language became acceptable but it makes me very uncomfortable.

56. Kwatinetz's inability to maintain an appropriate work environment and, to put it mildly, insensitivity to matters of concern to people of color and immigrants is evidenced by his repeated discussions with Company employees of his relationship with Steve Bannon ("Bannon") and his defense of Bannon's character. Kwatinetz has even recently involved Bannon in Company business. This occurred even as, just two months ago, Bannon gave a speech to the extremist French political party, the National Front, in which he unapologetically encouraged the National Front to continue advocating its offensive positions: "Let them call you racists. Let them call you xenophobes. Let them call you nativists. Wear it as a badge of honor." See <https://www.nytimes.com/2018/03/10/world/europe/steve-bannon-france-national-front.html>.

57. The March 12 Letter sent to Mason's counsel by Geragos & Geragos, as counsel for the Company, purported to terminate Mason "for cause" claiming that the Company's Board voted "unanimously" to terminate Mason's employment. As demonstrated below, that was yet another false claim by BIG3. Not surprisingly, Fogel, BIG3's Chief Financial Officer, resigned shortly thereafter.

58. With Mason's purported termination, three-quarters of the Company's independent management (Mason, Henry and Fogel) were gone, including the only two African-American officers of the Company.

59. Kwatinetz's reckless misconduct, wrongdoing, and incompetent management has caused droves of valuable BIG3 employees to quit their positions. His continued involvement with the League presents a clear and present danger to BIG3's success.

I. Sport Trinity Invests and Claims to Have Been Defrauded By Kwatinetz

60. In the first half of 2017, Mason introduced Kwatinetz and the League to Al-Rumaihi and Sabi, representatives of Sport Trinity, a potential investor in the Company. Al-Rumaihi and Sabi are of Middle-Eastern descent.

61. Kwatinetz personally negotiated Sport Trinity's investment, while excluding Mason from the discussions.

62. Nonetheless, in order to permit Sport Trinity's investment, Mason ultimately agreed to reduce his membership interest in the Company from 5% to 2.8% of the Class "A" Units. Further, Mason effectively agreed to step down from the Board to permit Sport Trinity to designate a Board member.

63. As memorialized in the Second Amended and Restated Agreement, Sport Trinity agreed to invest \$11,500,000 in consideration for, among other things, a 15.03% membership interest in the Class "A" Units of the Company, the right to appoint a member to the Board, who was designated as Al-Rumaihi, and the right to appoint a Board observer, who was designated as Sabi.

64. Upon information and belief, after funding the first \$6,500,000 of its investment in the Company, Sport Trinity refused to fund the balance of its investment because of financial irregularities that it claims to have discovered in the financial information provided by and at the direction of Kwatinetz. More specifically, Sport Trinity contends that the projections provided by Kwatinetz, mid-way through the League's first season, which it relied on, were knowingly false as the League's revenues through 2017 were ultimately less than 20% of the

projected revenues and the Company's loss was more than 2 ½ times the amount projected.

65. Sport Trinity also contends that that the general ledger provided to it at Kwatinetz's direction, while it was considering its investment, was knowingly outdated and that the updated general ledger that it was provided in July 2017 was also inaccurate.

J. Kwatinetz Blames the Company's Former Accountant for Sport Trinity's Failure to Complete Its Investment

66. In October 2017, when confronted with questions concerning the Company's "unbalanced" balance sheet, Kwatinetz wrote e-mails to numerous recipients, including Geragos and Sabi, asserting that Steven Fishman ("Fishman") of Fishman, Block & Diamond, the Company's original accountant (and another member of the Company), was not entitled to have his bills paid because "he fucked up a lot of stuff" and "he cost us [\$]5m from Qatar.... [Sabi] is getting it from other sources but him sending out an 'unbalanced' balance sheet and getting revenues wrong created red flags that out [sic] of the deal and its [sic] been hard to get back on track. Its [sic] straight up malpractice."

K. Kwatinetz's Undisclosed, Unapproved Related-Party Transactions

67. Beyond the admittedly “unbalanced” balance sheet and the allegedly outdated projections and general ledger, the list of related-party transactions provided to Sport Trinity at Kwatinetz’s direction was, upon information and belief, incomplete. Among the material related-party transactions that Sport Trinity contends were not disclosed (and were not approved, as required, by the Company’s disinterested Board members), was an agreement for BIG3 to fully fund a documentary about Allen Iverson, which would be produced by a company owned by Jackson and managed by Kwatinetz, Cube Vision Film Production, LLC.

68. As for the related-party transactions that were disclosed to Sport Trinity, many of the disclosed related-party transactions had not been approved by the Company’s Board as required by the Operating Agreements in affect at the time that the related-party transactions were entered into.

69. Notwithstanding the questions concerning the management of the Company and the representations made by and at the behest of Kwatinetz at the time that Sport Trinity agreed to invest in the Company, in or about November 2017, in an apparent sign of good faith, Sport Trinity invested another \$1,000,000 into the Company, raising its total investment in the Company to \$7,500,000.

70. Unfortunately, Kwatinetz and Sport Trinity have been unable to resolve their dispute, which has boiled over into the commencement of an arbitration in California by the Company against Sport Trinity and a lawsuit filed in state court in California by Kwatinetz, Jackson and putatively on behalf of the Company against Sport Trinity.

L. Kwatinetz Contends that Sport Trinity Possesses No Interest in BIG3

71. In the context of Kwatinetz's dispute with Sport Trinity, he and his representatives have claimed that Trinity possesses no interest in the Company and does not occupy a seat on the Board.

72. No notice of the revocation, rescission or lack of effectiveness of the Second Amended and Restated Agreement was ever provided to the members of the Company, who include Mason.

73. If, and to the extent, the Second Amended and Restated Agreement was rendered void or ineffective in some manner, the First Amended and Restated Agreement became the operative Operating Agreement and Mason's 5% interest in the Class "A" Units and position on the Board should have been restored.

74. Mason, who is a member of the Company, has never been advised of an election to elect, or the election of, a Board member since the Second Amended and Restated Agreement.

75. As the dispute between Kwatinetz and Sport Trinity escalated, Kwatinetz moved on to new targets to blame for the Company's challenges and Sport Trinity's claim that it was defrauded into investing in the Company.

M. Kwatinetz Lies About Mason and Falsely Holds Him Responsible for Sport Trinity's Refusal to Complete Funding its Investment

76. Evidently recognizing that his claim of malpractice by Fishman was likely insufficient to protect him from liability for his actions related to the Company, Kwatinetz started lying about Mason and attempting to blame him for any difficulties at the Company.

N. Kwatinetz Also Sought to Justify Mason's Termination Based on a False and Hypocritical Claim of Conflict of Interest

77. Rather than the result of an "independent investigation," Mason's termination came after his counsel sent the Company a letter defending Mason from baseless allegations of misconduct and objecting to Kwatinetz's abusive conduct.

78. While Geragos wrote that the Company's Board acted unanimously on March 11, 2018 in terminating Mason, the properly constituted Board should have been comprised of either Kwatinetz, Jackson and Al-Rumahai (the Board provided for under the Second Amended and Restated Agreement) or Kwatinetz, Jackson and Mason (the Board provided for under the First Amended and Restated Agreement). No meeting of either such Board occurred on March 11, 2018 or on any other date. As such, the purported termination was improper under Delaware law and the terms of the then-operative Operating Agreement.

79. Among the purported bases for Mason's termination was an alleged (but false) conflict of interest; stunning hypocrisy in light of Kwatinetz's numerous conflicts of interest.

O. Kwatinetz's Own Conflicts of Interest and Unauthorized Related-Party Transactions

80. Kwatinetz and entities and individuals with whom he is affiliated, including The Firm, Prospect Park, Cube Vision Film Production, LLC, and Mike Kwatinetz, have, upon information and belief, entered into numerous related-party transactions with BIG3, permitting funds to be drained from BIG3 to support other projects and interests of Kwatinetz.

81. Upon information and belief, Kwatinetz wasted Company assets by chartering private airplanes, first class travel and enjoying luxury accommodations while traveling.

82. In September 2017, at a time when Kwatinetz now claims that Sport Trinity had wrongfully failed to complete funding its investment in the Company, he was actively soliciting Al-Rumaihi and Sabi to invest millions of dollars in the Michael Jackson publishing library. A true and correct copy of an email, dated September 18, 2017, is attached hereto as Exhibit 4.

P. Kwatinetz Spreads Further Lies About Mason in the Defamatory Email

83. Following Mason's being provided notice of termination, Kwatinetz told further lies about Mason and his alleged role in Sport Trinity's failure to pay the full amount it had agreed to invest.

84. More specifically, in the March 12th defamatory email to BIG3's players, coaches and staff, Kwatinetz said that Mason was fired as President and Commissioner because he allegedly acted with "less than the utmost professionalism and ethical behavior." Kwatinetz's claim was untrue. In contrast to Kwatinetz, Mason acted with the utmost professionalism and in an ethical manner at all times.

85. In the defamatory email, Kwatinetz went on to falsely claim that Mason stated that he “would not get in the middle” between the League and Sport Trinity, that Mason “continued to pursue separate and conflicting business interests with [Al-Rumaihi and Sabi],” and that Mason was involved in “undisclosed” transactions with the investors. The simple fact is that Mason was never asked to assist the Company in arranging for Sport Trinity to pay the balance of its investment and the only other business opportunity that Mason discussed with Al-Rumaihi and Sabi (Vaunt LLC) was not only disclosed to the Company, but Mason was expressly permitted in the Executive Employment Agreement to continue spending “substantially similar time providing services to Vaunt LLC” as he had prior to commencing work with the Company.

86. The disingenuousness of Kwatinetz’s objection to Mason providing services to Vaunt while employed by the Company is underscored by the fact that not only did Al-Rumaihi and Sabi not invest in Vaunt, but, as noted above, Kwatinetz did.

87. Finally, the implication that Mason received any gifts, vacations or the use of exotic cars for social events from Al-Rumaihi and Sabi was false and deliberately unsubstantiated.

88. Upon information and belief, at or about the same time that the Defamatory email was sent, Kwatinetz arranged for it to be disseminated to TMZ.com by Sunshine Sachs Consultants (“Sunshine Sachs”), the Company’s public relations consultant.

89. The League had previously used Sunshine Sachs to arrange for the public dissemination of information by TMZ.com and other media outlets.

90. As a result of the leak of the defamatory email, defamatory statements regarding Mason have been published by TMZ.com and other media outlets.

Q. The Demand for Books and Records Pursuant to Section 18-305

91. On March 21, 2018, Mason caused the Demand, pursuant to Section 18-305, to be delivered to the Company.

92. The Demand in all respects complied with Section 18-305 as to the form and manner of making a demand for the inspection of books and records.

93. A copy of the Demand identified the following proper purposes for Mason’s requested inspection of books and records:

My purpose in making this demand as a member is to obtain information (i) concerning the Company’s financial condition (including information with respect to its recent financial difficulties), (ii) to investigate the Company’ compliance with the terms of the

current operating agreement and the requirements of Delaware law, (iii) to determine if members of the Board of Managers, including Jeff Kwatinetz, and the officers of the Company have complied with their fiduciary duties, (iv) to investigate the basis of the termination of the Company's former President and Commissioner of the League, (v) to investigate the reasons that the Company's former Chief Financial Officer and Chief Creative Officer recently chose to resign, (vi) to investigate any effort by the Company to defame or disparage former officers, and (vii) to understand whether the Company is being injured by wrongful conduct of Jeff Kwatinetz, including in allegedly making racist statements about players and members of the Company.

94. Consistent with Section 18-305, the Demand sought production of specific books and records of the Company, which books and records are necessary and essential to Mason's proper purposes discussed above. See Exhibit 1 hereto (Demand).

R. The Company's Response, or Lack of a Response, to the Demand

95. The Company has not responded to Mason's Demand.

96. By failing to respond to the Demand, the Company has rejected Mason's demand.

97. The Company refuses to produce the demanded books and records. Accordingly, the Company has failed to comply with its obligations under Section 18-305.

COUNT I

(Inspection of Books and Records Pursuant to 6 *Del. C.* § 18-305)

98. Mason repeats and realleges the foregoing paragraphs as if fully set forth herein.

99. The Demand complied with the requirements of Section 18-305 with respect to the form and manner of making a demand for the examination of the books and records of the Company.

100. Mason's purposes for requesting access to the books and records of the Company are proper and are reasonably related to Mason's interest as a member of the Company.

101. The books and records requested in the Demand are necessary and essential to fulfill Mason's proper purpose.

102. Mason is entitled to inspect the books and records described in the Demand.

103. The Company has failed to provide Mason with the books and records requested in the Demand, in violation of Section 18-305.

104. Mason has no adequate remedy at law.

Prayer For Relief

WHEREFORE, Mason respectfully requests that the Court:

- (a) enter judgment in favor of Mason and against the Company;
- (b) summarily order the Company to provide to Mason the books and records sought;
- (c) award Mason his costs and expenses incurred in bringing and prosecuting this action, including his attorneys' fees; and
- (d) award such other and further relief as may be just and equitable in the circumstances.

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Dated: April 9, 2018