

At an IAS Part 13 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse, No. 60 Centre Street, New York, New York, on the 9 day of January, 1993

PRESENT:

HON. HAROLD TOMPKINS,

JUSTICE

-----X
SUSAN CHARNEY,

Plaintiff,

-against-

NORTH JERSEY TRADING CORPORATION,
ALEXANDER FRIED, JUDITH HERSKOWITZ,
[REDACTED]
[REDACTED]

ORDER AND
JUDGMENT

Index No. 24517/88

Defendants.
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The plaintiff, Susan Charney, having moved the Court by Order to Show Cause dated dated July 13, 1992, for an Order compelling defendants to make discovery, or for sanctions; and the defendants Judith Herskowitz, [REDACTED], and [REDACTED], having moved the Court by Notice of Motion dated July 3, 1992, for a Protective Order; and the plaintiff having further moved, by Notice of Cross Motion dated September 8, 1992, for an order granting plaintiff priority, and compelling defendants to make discovery, and for sanctions; and the said Order to Show Cause having come on to be heard on August 18, 1992; and the said motion and cross motion having come on to be heard on September 15,

1992; and the Court having issued its Decision and Order, dated September 18, 1992, and entered September 21, 1992, deciding all of said motions, denying defendants' motion for a protective order, and granting plaintiff's motion and cross motion to the extent of finding defendants in contempt, and directing defendants to appear before the Court and commence discovery on October 29, 1992, at 9:30 am, or have their pleadings stricken; and said Order with Notice of Entry having been duly served on defendants; and said defendants having failed to appear before the Court on October 29, 1992; and the Court having found defendants to be in default in proceeding; and plaintiff having thereupon moved for an order striking defendants' pleadings, granting the relief sought in the Amended Complaint, and setting an inquest on damages; and defendants having purported to move, by Notice of Motion dated October 26, 1992 and delivered to the Court on October 29, 1992, to vacate the said Order entered on September 21, 1992;

NOW upon reading and filing the Court's Order entered September 21, 1992; the motion of defendants, dated October 26, 1992, to vacate said Order, and the Joint Affidavit of defendants Judith Herskowitz and ██████████ sworn to on October 28, 1992; and the affidavit of ██████████, sworn to on October 26, 1992, in support of the motion; and

Upon the summons, the complaint, and the amended com-

plaint; upon the answers of all of the defendants; and upon all of the proceedings heretofore had herein;

And the Court on October 29, 1992, having heard Steven Delibert, Esq., attorney for plaintiff, in support of the plaintiff's motion to strike pleadings and for other relief, and in opposition to the defendants' motion; and defendants having failed to appear on October 29, 1992; and

Defendants having defaulted in appearing to commence discovery on October 29, 1992, as directed by the Order of this Court entered on September 21, 1992; and

Due deliberation having been had; and

The Court having rendered its decision in open court on October 29, 1992,

NOW, on motion of Steven Delibert, Esq., attorney for plaintiff, it is

ORDERED, that the motion of the plaintiff to strike the pleadings of defendants is GRANTED; and it is

ORDERED, that the relief sought in the Second Cause of Action of the Amended Complaint is granted, whereby it is

ADJUDGED, ~~AND~~ AND DECLARED, that plaintiff is the owner of forty (40%) per cent of the issued and outstanding shares of common stock in defendant North Jersey Trading Corporation; and it is further

ORDERED, that upon the filing by plaintiff of a Note of Issue, this matter be set down for an Inquest to determine

the appropriate amount to be awarded in damages with respect to the Fifth and Sixth Causes of Action of the Amended Complaint, for money damages on behalf of plaintiff, and for derivative relief in the nature of money damages on behalf of North Jersey Trading Corporation; and it is further

ORDERED, that the motion of defendants dated October 26, 1992, to vacate the Order entered on September 21, 1992, be and it hereby is DENIED in all respects, ~~and it is further~~

~~ORDERED, that the motion of defendants dated October 26, 1992, to vacate the Order entered on September 21, 1992, be and it hereby is DENIED in all respects, and it is further~~

ENTER:
[Signature]
J.S.C.

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Norman Gooder
Clerk

FILED
FEB 10 1993
COUNTY CLERK'S OFFICE
NEW YORK