

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

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EVE MANCUSO, TERI GABEL,

Index No. _____/21

RAYMOND KOZMA, SUZANNE ROCHELEAU,
SUSANNE FLOWER, and the NEW YORK
CHAPTER, INC. OF THE
ADIRONDACK MOUNTAIN CLUB, INC.,

AFFIDAVIT OF
EVE MANCUSO
IN SUPPORT OF
ORDER TO SHOW CAUSE

Petitioners/Plaintiffs,

v.

ADIRONDACK MOUNTAIN CLUB, INC.,

Respondent/Defendant.

-----X

State of New York)

: SS:

County of Rockland)

Eve Mancuso, being duly sworn deposes and says:

1. I am an individual, am over eighteen (18) years of age, and reside in Rockland County, New York.
2. I am a member, director and officer of the New York Chapter of The Adirondack Mountain Club, Inc. ("NY ADK").
3. I am a member of The Adirondack Mountain Club, Inc. ("ADK").
4. I am fully familiar with the facts and circumstances set forth herein, and in the Verified Petition and Complaint, filed herewith and attached hereto as Exhibit 5.
5. I submit this affidavit in support of Petitioners/Plaintiffs' motion, brought by order to show cause, for a temporary restraining order and preliminary injunction (a) reversing the wrongful actions taken by Respondent/Defendant Adirondack Mountain Club, Inc. ("ADK") at a meeting conducted on June 26, 2021, and determining that any and all actions taken at such meeting be set aside and annulled,

including but not limited the dissolution of NY ADK as a chapter of ADK and a corporation organized and existing under the laws of the State of New York; establishment of a new, unincorporated chapter for the benefit of existing and new members; elimination of the Board and Officer positions of NY ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with NY ADK; and revocation of the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK; and (b) restoring them to their status and rights as they were prior to June 26, 2021, including, but not limited to, restoring individual Petitioners/Plaintiffs' to their membership in NY ADK and restoring ADK and NYADK as a chapter of ADK and being allowed to operate in the ordinary course.

6. ADK is as an organization for people interested in promoting conservation, recreation, and education.
7. As I am a member of both ADK and NY ADK, many of ADK's members are, likewise, also members of local chapters of ADK.
8. NY ADK is associated with ADK as a chapter of ADK and is separately incorporated.
9. NY ADK, through its volunteer board, has hosted many activities so that its members could enjoy and work to preserve the local environment including: maintaining miles of trails, holding hiking, skiing, camping and canoeing trips, and picnics, and nature study.

10. In addition to these ongoing activities, over the years, NY ADK has coordinated with the Palisades Interstate Parks Commission and leased access and provided maintenance and capital improvements to various camps in and around Harriman, New York.
11. NY ADK has a full slate of previously scheduled activities, including publicly announced hosted events at its camp location, for members and third parties for the summer 2021 season (including the impending July 4 weekend) and beyond.
12. With all of this, NY ADK has built a dedicated membership who have generously supported NY ADK's efforts.
13. ADK has acknowledged and supported the wide range of activities, good works, and vibrant membership of NY ADK.
14. In 2019, around the time that Michael Barrett ("Barrett"), a former political appointee and attorney, became the Executive Director of ADK, I noticed that ADK appeared to begin shifting away from being a collegial membership organization.
15. In 2020, ADK announced that chapter representatives, who had previously comprised the ADK's Board of Directors, would be replaced with "a professional board structure."
16. Even as chapters were being disenfranchised by ADK, ADK demanded, without explanation, that the chapters make financial contributions to ADK, notwithstanding that ADK is supposed to support the chapters, not the other way around.
17. In particular, when the pandemic hit, Barrett demanded financial support from the chapters, including NY ADK.

18. Although NY ADK had garnered generous support from its members, NY ADK was facing its own financial pressures, and declined to provide any gift to ADK as a chapter.
19. After NY ADK's decision not to donate to ADK, Barrett announced that NY ADK was dissolved, its board and officers removed, and its members, including myself, expelled from membership in both NY ADK and ADK and threatened with criminal prosecution.
20. On June 21, 2021, ADK through Barrett sent me (and certain of my co-members in NY ADK including the other individual Petitioners/Plaintiffs herein (collectively, "Us" "Our" or "We")) an identical¹ letter ("June 21 Letter") explicitly stating that it was being sent to Us pursuant only to Article IV, Section 1.2(b) of ADK's by-laws. A true and correct copy of the June 21 Letter addressed to me is attached hereto as Exhibit 1.
21. Section 1.2(b) of ADK's by-laws provides that:
- A member may be temporarily suspended from the membership or expelled from membership for violation of the Bylaws of ADK or for conduct prejudicial to the best interests of ADK as determined by the Board, provided charges in writing are proffered against such member, a copy thereof served upon such member, and an opportunity afforded such member for a hearing before the Board.
- A true and correct copy of ADK's by-laws is attached hereto as Exhibit 4.
22. While the June 21 Letter purports to "pursuant to Section 1.2. (b) of ADK's bylaws [regarding suspension or expulsion of an individual member], . . . provid[e] written notice and opportunity to be heard [at a June 26 Board Meeting ("Hearing")] regarding . . . charges [{"Charges"}]":

¹ Except for the "Dear ___:" salutation.

- a. It is dated June 21, 2021, a mere five (5) days prior to the Hearing (the June 21 Letter itself acknowledges the inadequacy of the short “proximity” of the June 26 Hearing);
 - b. The Charges make no allegations of wrongdoing by any of Us and make no mention of Us individually or collectively, other than the “Dear ___:” salutation;
 - c. The June 21 Letter does not list who the witnesses against Us would be at the Hearing;
 - d. The June 21 Letter did not provide Us with the right to cross-examine such witnesses at the Hearing;
 - e. The June 21 Letter prohibited Us from bringing witnesses of our own (“[o]nly those individually noticed will have the right to appear at this meeting.”);
 - f. The June 21 Letter did not provide any of the documentary evidence to be used against Us;
 - g. The June 21 Letter did not allow for Us to question any such documentary evidence at the Hearing;
 - h. The June 21 Letter calls for Us to produce certain documentary evidence after the Hearing; and
 - i. The June 21 Letter prohibited Us from having counsel appear at the Hearing (“[o]nly those individually noticed will have the right to appear at this meeting.”)
23. On June 25, 2021, counsel advised ADK that the June 21 Letter and the scheduled Hearing failed to meet legal due process requirements and that the June 21 Letter and Hearing were rejected as invalid, defective, and a nullity. A true and correct copy of Counsel’s letter is attached hereto as Exhibit 2.

24. Counsel further noted that, beyond the obvious due process failings, NY ADK, We (along with NY ADK) vigorously deny the vague, unspecified and conclusory statements in the June 21 Letter and reserved all of Our (and NY ADK's) rights and remedies.
25. Counsel advised that, should charges be properly noticed and heard in an appropriate manner and forum, the allegations would be shown to be false and the expulsion effort shown to be unreasonable and undertaken in bad faith.
26. Nonetheless, ADK apparently proceeded on June 26, 2021.
27. On June 28, 2021, ADK through Barrett sent a letter (mysteriously dated June 29) by email only, addressed to each of Us individually, stating that the Board has voted to remove each of Us, *in absentia*, from ADK membership, and, given that the bylaws of ADK and NY ADK require ADK membership as a condition precedent for membership in NY ADK, that the decision to terminate Our membership with ADK effectively terminated our membership with ADK NY ("Abstentia Letter"). A true and correct copy of the Abstentia Letter is attached hereto as Exhibit 3.
28. The Abstentia Letter makes no findings against any of Us and states no basis, let alone a rational or good faith one, for Our expulsion.
29. In the Abstentia Letter, Barrett threatened Us that, even though there was no due process, no actual allegations against any of Us, or reasonable or good faith findings, he would be "passing the matters on to" unnamed "relevant authorities."
30. The Abstentia Letter threatened Us by stating "Going forward please know that you have no authority to act on behalf of the organization, to include any enjoyment or decision making as it relates to Camp Nawakwa and, importantly, any rights or

authority to direct any funds or financial accounts currently belonging to the NY Chapter of ADK. Any expenditures or withdrawals from such accounts will be referred to the District Attorney for prosecution as larceny/theft." Ex. 3.

31. In light of these declarations, directives and threats, We are being irreparably harmed by, *inter alia*:

- i. Being denied status and attendant rights as a member of NY ADK and ADK, itself
- ii. Being prohibited from "enjoying" the activities and facilities of NY ADK or ADK or participating in any of their previously scheduled or other events, including in the imminent summer season (including the impending July 4 weekend);
- iii. Being prohibited from acting as a director or officer of NY ADK;
- iv. Being prohibited from acting on behalf of NY ADK;
- v. Being, wrongfully and baselessly, threatened with reporting to "authorities" and with criminal prosecution.

32. Barrett also declared in the Abstentia Letter that "with respect to the NY Chapter, please know that the Board voted to dissolve the New York Chapter as it is currently constituted and establish a new, unincorporated chapter for the benefit of both existing and new members. This decision thereby eliminates both the Board and Officer positions of the then-existing NY Chapter of ADK."

33. ADK's effort through Barrett to dissolve the chapter was purportedly taken under ADK by-laws (Ex. 4) Article IX, Section 2.4a which provides, in pertinent part, that:

A Chapter's status as a Chapter of ADK may be terminated by the Board, when the Board determines that a Chapter's actions or activities are inconsistent with or injurious to ADK's Certificate of Incorporation, Bylaws, or Board policies and procedures.

34. However, the purported dissolution of NY ADK as stated in the Abstentia Letter was improper because, *inter alia*:

- i. NY ADK was purportedly dissolved without notice or a hearing (the June 21 Letter cited only the individual member expulsion provision for the purported hearing);
- ii. Neither the June 21 Letter nor the Abstentia Letter cite any authority for the dissolution or ADK by-laws Article IX, Section 2.4a (the June 21 Letter cited only the individual member expulsion provision for the purported hearing);
- iii. If there was a dissolution hearing, there was no notice to NY ADK of such hearing or charges against NY ADK, itself (the June 21 Letter cited only the individual member expulsion provision for the purported hearing and the Abstentia Letter was not addressed to NY ADK);
- iv. If there was a dissolution hearing, it failed to allow NY ADK to attend and face the presentment of charges in detail with supporting documents;
- v. If there was a dissolution hearing, NY ADK did not have an opportunity for rebuttal;
- vi. If there was a dissolution hearing, NY ADK was not allowed to present witnesses or evidence;
- vii. If there was a dissolution hearing, NY ADK was not allowed to cross-examine witnesses or review evidence; and

viii. If there was a dissolution hearing, NY ADK was not allowed to have counsel at such hearing.

35. The Abstentia Letter is not addressed to NY ADK; makes no findings against NY ADK and states no basis, let alone a rational or good faith one, for the purported dissolution of NY ADK.

36. Beyond trying to dissolve the chapter, ADK's actions through Barrett are a unilateral and unauthorized attempt to dissolve a New York corporation, NY ADK, itself, without judicial authority or supervision.

37. In light of these declarations, directives and threats, NY ADK is being irreparably harmed by, *inter alia*:

- i. Being denied status and attendant rights as a chapter of ADK;
- ii. Being effectively dissolved as a corporation;
- iii. Being prohibited from functioning as a corporate entity including, but not limited to:
 - a. Holding directors' meetings and facilitating board resolutions and actions;
 - b. Having officers act on behalf of NY ADK;
 - c. Accessing and utilizing its assets including funds and camp facilities;
 - d. Paying expenses, such as insurance premiums;
 - e. Filing tax returns; and
 - f. Paying counsel to defend itself against ADK's wrongful actions or otherwise.

- iv. Being prohibited from operating in the ordinary course, including but not limited to:
- a. providing its members with benefits and activities such as running hikes, performing trail maintenance and operating the camp;
 - b. conducting any of previously scheduled activities, included publicly announced hosted events at its camp location, for members and third parties for the summer 2021 season (including the impending July 4 weekend) and beyond;
 - c. communicating with its members or third parties, e.g. updating its website;
 - d. responding to and sending correspondence; and
 - e. dealing with the Palisades Interstate Parks Commission from which it leases the camp grounds;
- v. Being, wrongfully and baselessly, threatened with criminal prosecution and reporting to 'authorities.'

38. For the foregoing reasons, I respectfully request this Court to enter a temporary restraining order and preliminary injunction (a) reversing the wrongful actions taken by Respondent/Defendant Adirondack Mountain Club, Inc. ("ADK") at a meeting conducted on June 26, 2021, and determining that any and all actions taken at such meeting be set aside and annulled, including but not limited the dissolution of NY ADK as a chapter of ADK and a corporation organized and existing under the laws of the State of New York; establishment of a new, unincorporated chapter for the benefit of existing and new members; elimination of the Board and Officer positions of NY ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with NY ADK; and revocation of the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK; and (b) restoring them to their status and rights as they were prior to June 26, 2021, including, but not limited to, the restoring individual Petitioners/Plaintiffs' to their membership in NY ADK and restoring ADK and NYADK as a chapter of ADK and being allowed to operate in the ordinary course.



Eve Mancuso

Sworn to before me
this 4 day of July 2021



Notary Public

CHRISTINA CARLINO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CA6382676
Qualified in Rockland County
My Commission Expires 10-29-2022.