



4. We agreed that I would move to New York and join HTF, contribute my name, reputation, industry connections, design authority, and a group of fonts we came to call the “Dowry Fonts,” which I believe had a value in excess of \$3 million, in exchange for half of Jonathan’s shares in HTF and my name on the door.
5. We agreed that HTF would be run with me as the principal designer and Jonathan as responsible for running the business side of the company, using his “client-hustling skills” to sell my font designs. As my close friend and business partner, I trusted Jonathan with the business and legal side of our deal.
6. I never would have left Font Bureau and Boston, where I was well-established, merely to work for HTF as an employee.
7. Soon after I joined HTF, Jonathan began promoting our partnership to industry and media contacts, current clients and potential clients.
8. Until October 21, 2013, Jonathan continued to represent me as his equal business partner both to me and to the public. For example, Jonathan had always represented that we drew the same salary and received the same percentage of contributions into our retirement accounts, and in an unrelated litigation, Jonathan valued us as equals.

#### **Documentary Evidence**

9. The following collection of emails I quote with references underlined and attach to this affidavit are just a few examples of the hundreds, maybe even thousands, of instances in which Jonathan described or presented me as his partner. The full body of Jonathan’s written communications is on HTF’s computers and servers.
  - a. On February 15, 2000, Jonathan wrote to a potential client: “we’re not accepting any new commissions until the first of April; my new (and still as-yet-

unannounced) partnership with Tobias Frere-Jones has opened the floodgates for new work.” A true and correct copy of this email is attached as Exhibit A.

- b. On February 23, 2000, Jonathan wrote to a potential client at Sephora, “I was in the process of setting up my new partnership with Tobias Frere-Jones (you know his Interstate family, among others) – news of our collaboration seems to be spreading fast . . . .” A true and correct copy of this email is attached as Exhibit B.
- c. On July 14, 2000, Jonathan wrote to a client at Conde Nast regarding a typeface “that Tobias Frere-Jones, my partner at the studio, has been noodling with for some time.” A true and correct copy of this email is attached as Exhibit C.
- d. On April 30, 2002, Jonathan sought my help to respond to an inquiry from the editor of Graphis, a publisher, who wanted information about us for an article focusing “on the new venue/partnership he [Jonathan] has developed with Frere-Jones.” A true and correct copy of this email is attached as Exhibit D.
- e. On October 2, 2002, as part of his pitch to land Ford as a client for custom design work, Jonathan acknowledged that “[s]ince 1999, Tobias has been a partner at The Hoefler Type Foundry.” A true and correct copy of an excerpt from this email is attached as Exhibit E.
- f. On August 8, 2012, Jonathan emailed a prospective client at the Smithsonian Institute, thanking her for her time and apologizing on my behalf: “My partner Tobias Frere-Jones (the Frere-Jones in “Hoefler & Frere-Jones”) asked me to send his apologies for missing the call – he was called away at the last minute.” A true and correct copy of this email is attached as Exhibit F.

- g. In addition, on a regular basis, Jonathan called me his business partner in all forms of communication with me, including in writing and to my face. For example, on March 17, 2000, we agreed to take a break “for a game of Immolate-Your-Business-Partner.” A true and correct copy of this email is attached as Exhibit G.
- h. As another example, on May 20, 2002, Jonathan emailed me with a subject line that read “[i]t’s possible that your partner is a genius.” A true and correct copy of this email is attached as Exhibit H.
- i. Furthermore, whenever Jonathan received interview requests, he would usually schedule the interviews to include me. For example, on October 18, 2005, in response to an interview request, Jonathan replied, “[m]y partner Tobias Frere-Jones has been kind enough to let me shanghai him into joining us, since we’re far more fun as a tag team effort.” A true and correct copy of this email is attached as Exhibit I.
- j. As another example, on January 4, 2006, a magazine asked to interview Jonathan. In response, Jonathan said, “I usually do these things in the company of Tobias Frere-Jones, my partner at the studio; presumably there’s room for us both?” A true and correct copy of this email is attached as Exhibit J.
- k. Even the New York Times reported that we were partners. In an October 19, 2004 article, the New York Times wrote: “With so many parallels in their adolescence, it seems inevitable that Mr. Hoefler and Mr. Frere-Jones would become business partners.” A true and correct copy of the New York Times article is attached as Exhibit K.

10. Never, in any of Jonathan's communications, did he deny that we were equal partners in the ownership and operation of HTF, nor did he correct the public or internal perception of equality.
11. From the beginning of our venture until 2004, Jonathan and I repeatedly discussed completing our original deal and began to focus on rebranding HTF as "Hoefler & Frere-Jones," to reflect my equal position.
12. In June 2003, a public relations consultant was hired to implement the name change. The consultant drafted the following press release on August 24, 2003:

"Jonathan Hoefler, Principal of The Hoefler Type Foundry, and Tobias Frere-Jones, Type Director of The Hoefler Type Foundry, announced today that they have entered into an agreement to become equal partners and to rename the business Hoefler & Frere-Jones Typography."

A true and correct copy of an excerpt of this draft is attached as Exhibit L.
13. Between 1999 and March 2004, I continued to perform my part of the agreement, including by negotiating with Font Bureau to obtain the rights to the Dowry Fonts, which I acquired in November 2002.
14. In January 2004, Jonathan and HTF's attorney Frank Martinez presented me with a Sale and Assignment of Type Fonts that transferred the Dowry Fonts to HTF for nominal consideration. I was not separately represented by counsel when I signed the agreement because I trusted Jonathan with handling the business and legal part of our deal. I believe that the Dowry Fonts had a value of over \$3 million but the sale price for the Dowry Fonts was ten dollars. I considered signing the document a ministerial act and part of my performance of our original partnership agreement. I never would have transferred the Dowry Fonts to HTF but for Jonathan's promise to transfer to me half of the ownership of HTF.

15. I executed the Sale and Assignment of Type Fonts as well as an Employment Agreement with HTF, because I believed that there would be an additional agreement between Jonathan and me regarding the transfer of equity once he got around to it. At that time, I still trusted him.
16. After I signed the Sale and Assignment of Type Fonts, I repeatedly asked Jonathan to complete his part of the bargain and transfer half of his shares in HTF to me. Jonathan would always acknowledge his obligation to do so, but would beg off for a variety of reasons, such as work and personal pressures. As his friend and partner, I respected his wishes.
17. In the Spring of 2012, Jonathan promised that he would complete the deal after the launch of the Cloud, a new HTF service to deliver HTF fonts for use in website design. When the Cloud finally launched on July 1, 2013, I asked Jonathan to set a date to complete our deal as Jonathan had always promised. Jonathan set this date for July 31, 2013.
18. On July 23, 2013, Jonathan and I had an instant message conversation in which he said that in advance of our July 31, 2013 meeting, "I'm going to have some things for you on the Bigger Stake in the Company conversation." A true and correct copy of an excerpt of this instant message conversation is attached as Exhibit M.
19. On July 31, 2013, I followed up with Jonathan, and he curtly responded: "Stop it. I'm working on it. Stop harassing me."
20. After being told, yet again, that he needed more time, finally, on October 21, 2013, Jonathan told me, for the first time, that he did not intend to transfer 50% of HTF to me. Instead, I discovered that he had transferred shares intended for me to his wife and HTF

Chief Operating Officer Carleen Borsella. Now, Jonathan and Carleen are the owners of 100% of HTF.

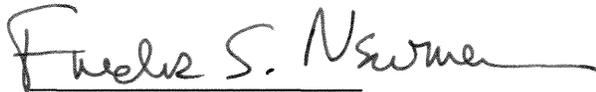
21. If I had known before October 21, 2013 that Jonathan did not intend to honor his agreement to transfer 50% ownership in HTF to me as he promised, I would have brought this action earlier instead of forbearing in reliance upon his promises that he would get to it later.
22. On January 17, 2014, the day after my complaint was filed in this court, HTF released a press release stating the following: "With Tobias's departure, the company founded by Jonathan Hoefler in 1989 will become known as Hoefler & Co." Attached hereto as Exhibit N is a true and correct copy of HTF's press release announcing my departure.
23. For the reasons set forth above, I respectfully request that Jonathan Hoefler's motion to dismiss this action be denied.



Tobias Frere-Jones

Sworn to before me this

4<sup>th</sup> day of April, 2014



Notary Public

**FREDRIC S. NEWMAN**  
Notary Public, State of New York  
No. 02NE5072568  
Qualified in New York County  
Commission Expires February 3, 2015