

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK

TSUNG TSIN ASSOCIATION, INC.,

Plaintiff,

- against -

TIAN XIANG ZHU a/k/a TIN CHEUNG CHU,
 JIANQIANG LU, HON WAI YUEN,
 HON CHO YUEN, MOON WING LAU
 a/k/a MOON LAU, and SHEK HUNG YUEN

Defendants.

Index No.: 651584/2023

SUMMONS

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's attorney within twenty (20) days after the service of this summons, exclusive of the day of service, (or within thirty (30) days after completion of service if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
 April 3, 2023

NUTTER, MCCLENNEN & FISH LLP

By: 

Christopher J. Sullivan
 John C. Leddy
 655 Third Avenue, 27th Floor
 New York, NY 10017
 (646) 440-8001
CSullivan@nutter.com
JLeddy@nutter.com

*Attorneys For Plaintiff
 Tsung Tsin Association, Inc.*

TO: TIAN XIANG ZHU a/k/a TIN CHEUNG CHU
319 81ST STREET
BROOKLYN, NEW YORK 11209

JIANQIANG LU
2761 BATH AVENUE
BROOKLYN, NY 11214

HON WAI YUEN
51 BAYARD STREET, 2F
NEW YORK, NEW YORK, 10013

HON CHO YUEN
2 MOTT STREET, 9F
NEW YORK, NEW YORK 10013

MOON WING LAU a/k/a MOON LAU
75 BAXTER STREET, APT 45
NEW YORK, NEW YORK 10013

SHEK HUNG YUEN
YOOK YING ASSOCIATION,
99 EAST BROADWAY, 1ST Floor
NY, NY 10002

5926427.1

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK

TSUNG TSIN ASSOCIATION, INC.,

Plaintiff,

- against -

TIAN XIANG ZHU a/k/a TIN CHEUNG CHU,
 JIANQIANG LU, HON WAI YUEN,
 HON CHO YUEN, MOON WING LAU
 a/k/a MOON LAU, and SHEK HUNG YUEN

Defendants.

Index No.:

VERIFIED COMPLAINT

Plaintiff Tsung Tsin Association, Inc., by its attorneys Nutter McClennen & Fish, LLP, as and for its Complaint against Defendants Tian Xiang Zhu a/k/a Tin Cheung Chu, Jianqiang Lu, Hon Wai Yuen, Hon Cho Yuen, Moon Wing Lau a/k/a Moon Lau, and Shek Hung Yuen alleges as follows:

NATURE OF THE ACTION

1. This is an action for damages and an accounting by a non-profit New York corporation against six of its former officers and directors. Over the course of the past several years, the defendants have looted or wasted the plaintiff's assets, operated the plaintiff solely for their personal benefit, and otherwise acted in an illegal, oppressive or fraudulent manner that caused intentional harm to the property of plaintiff.

2. The principal means by which the defendants have carried out their fraudulent scheme involve cemetery plots purchased in the name of the Association and commercial leases with tenants of two commercial properties owned by the Association.

(a) With respect to the cemetery plots, the defendants used the Association's status as a not-for-profit corporation to purchase plots in bulk for ostensible resale at cost to members and their families. To finance the purchase, the defendants mortgaged the

Association's properties to a local bank without any authority to do so. The defendants then illegally sold the plots to third parties in the New York area and in China for amounts exponentially higher than cost, and until recently have been diverting or stealing some or all of the sales proceeds for themselves; and

- (b) With respect to the leases, the defendants caused the Association to enter into unauthorized and unapproved below-market leases with tenants in exchange for under the table payments of bribes or undisclosed cash to themselves personally.

3. In addition, and the defendants have caused the plaintiff to re-finance the mortgages on its properties in amounts in excess of the existing debt and then apparently directed to themselves or others the excess loan proceeds. The defendants appear to have stolen or misappropriated hundreds of thousands of dollars from the plaintiff's bank accounts for their personal use by writing checks to "cash only" without the required approval of the Board of Directors and either without explanation or for a pretextual purpose.

4. Finally, the defendants have removed from the Association virtually all records pertaining to the cemetery plots and leases, and either destroyed or falsified the minutes of select board meetings during the applicable periods of time, including in particular the minutes of board meetings attended by all of the defendants at which the board resolved not to mortgage the properties to finance the purchase of cemetery plots and not to enter into any commercial leases for the properties without prior notice to and approval of the members and the board.

5. Plaintiff now asserts causes of actions for violations of the New York Not-for-Profit Corporation Law ("N-PCL") and common law, and for an accounting.

PARTIES

6. Plaintiff Tsung Tsin Association, Inc. (the "Association") is a not-for-profit New York corporation that was formed in 1935 for the purpose of acting as a civic association in the

Chinatown community in New York City. The Association owns two six-story commercial buildings at 1-5 Division Street a/k/a 1-5 Catherine Street (“One Division Street”) and 16-18 East Broadway in the heart of the Chinatown section of Manhattan, and has a principal place of business on the second floor of the building at One Division Street.

7. Upon information and belief, defendant Tian Xiang Zhu a/k/a Tin Cheung Chu (“Zhu”) is a resident of the County of Brooklyn, State of New York. From 2016 until November 2022, defendant Zhu served as one of three co-Chairmen and as a director of the Association, and was an authorized signatory on the Association’s bank accounts. Since that time, Zhu has held the title of Chairman Emeritus of the Association. At all relevant times herein, defendant Zhu has had responsibility or exercised power or influence over the Association, including without limitation by managing or controlling the business and financial affairs that constitute a substantial portion of the activities, assets, income, expenses and capital expenditures of the Association.

8. Upon information and belief, defendant Jianqiang Lu (“Lu”) is a resident of the County of New York, State of New York. From 2006 until 2010, Lu served as the Building Manager of the Association, in which capacity he was responsible for negotiating and signing leases and collecting rents, and was an authorized signatory on the Association’s bank accounts. From 2010 until November 2016, defendant Lu served three consecutive two year terms as the Chairman and as a director of the Association. Since that time Lu has held the title of Chairman Emeritus of the Association and until 2022 served as a director of the Association. At all relevant times herein, defendant Lu has had responsibility or exercised power or influence over the Association, including without limitation by managing or controlling the business and financial affairs that constitute a substantial portion of the activities, assets, income, expenses and capital expenditures of the Association.

9. Upon information and belief, defendant Hon Wai Yuen is a resident of the County of New York, State of New York. At all relevant times herein, defendant Hon Wai Yuen was a member and a director of the Association and a staff member responsible for the management of the two properties owned by the Association. From 2016 until 2023, defendant Hon Wai Yuen served as the Building Manager of the Association, in which capacity he was responsible for negotiating and signing leases and collecting rents, and was an authorized signatory on the Association's bank accounts. At all relevant times herein, defendant Hon Wai Yuen has had responsibility or exercised power or influence over the Association, including without limitation by managing or controlling the business and financial affairs that constitute a substantial portion of the activities, assets, income, expenses and capital expenditures of the Association.

10. Upon information and belief, defendant Hon Cho Yuen is a resident of the County of New York, State of New York. From 2016 until November 2022, defendant Hon Cho Yuen served as one of three co-Chairmen and a director of the Association, and was an authorized signatory on the Association's bank accounts. At all relevant times herein, defendant Hon Cho Yuen has had responsibility or exercised power or influence over the Association, including without limitation by managing or controlling the business and financial affairs that constitute a substantial portion of the activities, assets, income, expenses and capital expenditures of the Association.

11. Upon information and belief, defendant Moon Wing Lau a/k/a Moon Lau ("Moon Lau") is a resident of the County of New York, State of New York. From 2016 until November 2022, defendant Moon Lau served as one of three co-Chairmen and a director of the Association, and was an authorized signatory on the Association's bank accounts. At all relevant times herein, defendant Moon Lau has had responsibility or exercised power or influence over the Association,

including without limitation by managing or controlling the business and financial affairs that constitute a substantial portion of the activities, assets, income, expenses and capital expenditures of the Association.

12. Upon information and belief, defendant Shek Hung Yuen is a resident of the County of New York, State of New York. Shek Hung Yuen is a former Chairman and director of the Association who currently holds the title Chairman Emeritus. At all relevant times Shek Hung Yuen has had responsibility or exercised power or influence over the Association, including without limitation by managing or controlling the business and financial affairs that constitute a substantial portion of the activities, assets, income, expenses and capital expenditures of the Association.

STATEMENT OF FACTS

The Association's By-Laws

13. The Association was formed as a New York not-for-profit corporation on November 4, 1935 pursuant to a written Certificate of Incorporation filed with the New York Secretary of State.

14. The Certificate of Incorporation was amended on September 11, 1990 by a Certificate of Amendment that added the following provision to the Certificate of Incorporation:

5. The following provisions are hereby added to Paragraph II of the certificate of incorporation.

* * *

b. No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual (except that reasonable

compensation may be paid for services rendered to or for the corporation) . . .

15. The Association operates pursuant to written By-Laws of Tsung Tsin Association, Inc. (the “By-Laws”) that were adopted in or about 1935 and then amended on January 5, 2004.

16. Under Section 6.01 of the By-Laws, the source of funds for the Association consists of initiation fees, membership dues, income from the Association’s real estate and memorial properties, bank interest, and charitable donations.

17. Under Section 3.01 of the By-Laws, the affairs of the Association are managed by a Chairman, who serves as the chief executive officer with the following responsibilities:

1. Chairman: As the chief executive of the association, he presides over the internal affairs of the plenary session, convenes meetings, implements various resolutions, directs the staff of various departments to handle all conference affairs, and signs legal documents according to the spirit of the board meetings; signs legal checks of the Association. Externally, the chairman represents the Association and participates in various public welfare undertakings and activities in the community. All words and deeds must conform to the purpose and interest of the Association.

18. Under Sections 3.01 (7) and 3.02 of the By-Laws, the Chairman appoints a Building Manager who is “responsible for the management of the use, maintenance, and leasing of the buildings of the Association.”

19. Under Section 3.01(5) of the By-Laws, the Association is required to appoint an Auditor from among the directors to act as the financial supervisor of the Association:

5. Auditor: As the financial supervisor of the Association, in addition to accounting for all monthly income and expenditure accounts, he also has the authority to review the books and records of any individual or collective of the Association who is suspected of embezzlement, private distribution, or illegal

sale of properties of the Association to ensure that all income and expenses are reasonable and fair.

20. Under Section 3.01 (4) of the By-Laws, the Association's use of funds for internal purposes is subject to the following limitations:

- I. Between \$1,000 and \$5,000, the funds shall be approved by the chairman;
- II. More than \$5,000 to \$9,000, the funds shall be approved by the Board of Directors;
- III. Anything over \$9,000 must be reported to the General Assembly for approval. If there is an urgent need to pay due to special circumstances, it can be approved by the Board of Directors and approved by the chairman, and then submitted to the General Assembly for ratification.

21. Under Section 3.02 of the Association's By-Laws, the Chairman, Secretary, Ambassador and Treasurer of the Association are elected for two-year terms by the vote of the members, and the Building Manager is appointed by the Chairman from among the group of directors.

22. Under Section 2.04 of the By-Laws, only members who have previously served as directors or staff of the Association have the right to be elected. Until the election of Wei Wen He as Chairman on March 8, 2023, the Association had not held an election since 2004.

23. Under Section 5.03, the directors of the Association are appointed by the current Chairman out of the membership. The By-Laws permit up to 19 directors to be appointed to the Board. For at least the past 20 years, the practice at the Association has been for the Board of Directors to be dissolved by the outgoing Chairman and new directors to then be appointed by the incoming Chairman.

24. From 2004 until 2023, the Association did not hold a single election for the office of Chairman. From 2010 until 2023, the defendants who served as Chairman of the Association did not appointed anyone to serve as the Auditor of the Association. And from 2016 until 2022,

the defendants appointed 32 people to serve as directors at the same time in order to minimize the influence of any one director.

25. In practical terms, this meant that the same small group of people served as Chairman of the Association and Building Manager. Since the Association did not hold an election from 2014 until March 2023, the outgoing Chairman simply appointed the incoming Chairman from the pool of directors that he also appointed. This is significant since the Chairman and the Building Manager control the bank accounts and other assets of the Association and negotiate and sign the leases between the Association and the tenants of the two properties owned by the Association.

26. Section 6.02 of the By-Laws prohibits personal use of Association property as follows:

6.02 All properties of the Association (including movable and immovable property) shall not be stolen, privately distributed, illegally resold or embezzled by any individual or collective...

The Association's Past History

27. During the 1980's and 1990's the Association was accused in the New York press of being managed and controlled by organized crime figures, including at least two directors on the Board of the Association who were appointed by Defendants Lu and Zhu while they each were serving as the Chairman of the Association between 2010 and 2022.

28. The New York City office of the Association at One Division Street was established in 1986 by one of those directors, Paul Kwok Fu Lai, an alleged organized crime leader in Chinatown who was convicted in 1995 and served 10 years in prison for murder.

29. In 1995, prosecutors in the U.S. Attorney's Office for the Southern District of New York charged that the Association's property at One Division Street was a front for racketeering

activity and filed (and subsequently resolved) proceedings to seize the property and appoint a monitor for the Association.

30. In the years following Paul Lai's conviction, defendants Zhu and Lu took control of the management of the Association and began a 20-year history of appointing the officers, and in particular the Chairman and the Building Manager who controlled the money and the real property of the Association. At all relevant times from 2006 until March 2023, Zhu and Lu have controlled and directed the appointment of the Chairman and the Building Manager of the Association and, through them, directed and participated in the diversion and theft of the Association's money and assets described herein.

31. From 2006 until November 2022, only the following five people have served as the Chairman or the Building Manager of the Association:

- (1) Tian Xiang Zhu a/k/a Tin Cheung Chu
- (2) Jianqiang Lu
- (3) Hon Wai Yuen
- (4) Hon Cho Yuen
- (5) Moon Lau

32. In 2017, Lu was expelled as a financial officer of Lin Sing Association, a Chinese American non-profit association located at 47-49 Mott Street, New York, New York, for refusing to respond to or account for alleged financial irregularities or to produce the association's financial records. Lin Sing Association is made up of separate organizations, one of which is Tsung Tsin Association, Inc.

33. Upon information and belief, several years earlier, Zhu was expelled as an officer of Tsung Sun Social Club, Inc., a sister association at 11 Division Street, New York, New York, for alleged financial irregularities including the misappropriation of association monies.

34. Upon information and belief, the defendants, under the direction of Zhu and Lu, have conspired together over the course of the past six years to systematically loot the Association of funds and assets.

35. For at least the past six years, the defendants have completely controlled the Association's bank accounts and the management of the Association's two properties in Manhattan and cemetery plots. At Zhu and Lu's direction, only five officers of the Association have been authorized to sign checks on the Association's behalf: defendants Zhu, Moon Lau, and Hon Wai Yuen and non-parties You Mei Zhuang (the former corporate secretary) and Eddie Kong (the former treasurer). Under the direction and control of Zhu and Lu, the Association has bought and sold cemetery plots without any accounting for the monies generated by those transactions which appears to have been diverted to the defendants. The Association has entered into or renewed below market leases in exchange for payment of under the table bribes or key money to the defendants. The Association has incurred \$2 million in mortgage and other debt. And hundreds of thousands of dollars have disappeared from the Association's bank accounts.

The Association's Cemetery Plots

36. Under both New York and New Jersey statutory law, it is illegal to purchase an internment space for the sole purpose of re-sale. However, there is an exception in the law for not-for-profit corporations like the Association that purchase internment spaces, including in bulk, for resale to their members and their families.

37. For many years dating back to the 1980's, the Association has owned cemetery plots at Cypress Hills Cemetery in Queens, New York and in Brooklyn, New York for the benefit of its members and their families.

38. As of 2008, approximately 300 of these plots remained unsold.

39. Upon information and belief, in or about 2008 defendants Zhu and Lu devised a scheme to use the Association's status as a not-for-profit corporation to purchase additional cemetery plots in bulk that they would then illegally re-sell at prices well above cost to third parties in the Chinese community in New York and in China for their own benefit.

40. At meetings of the General Assembly and the Board in early 2008, Zhu and Lu informed the membership and Board that they intended to have the Association take out a loan, collateralized by its existing unsold cemetery plots, to acquire additional cemetery plots. Both Zhu and Lu assured the membership and the Board that the Association would not place a mortgage on its two buildings to finance the purchase of the cemetery plots.

41. Although individual directors objected to the proposed transaction as unnecessary, Zhu and Lu proceeded with the transaction and doctored the minutes of the board meetings to falsely make it appear that the board had unanimously approved the purchase. In particular, the minutes of the Board meetings in April 2008 and May 2008 have been ripped out of the minute book, leaving no record of what transpired at those meetings.

42. In April 2008, Zhu and Lu arranged for the Association to borrow \$1,250,000 from a local community bank, Global Bank, to finance the purchase of the cemetery plots. Notwithstanding their contrary assurances to the members and the Board, Zhu and Lu signed a mortgage on the Association's two properties to secure the loan from Global Bank.

43. On or about May 5, 2008, defendant Zhu and Lu arranged for the Association to purchase 1000 cemetery plots or graves from Ewing Church Cemetery Association, Inc. ("Ewing") in Trenton, New Jersey for \$1,200,000. In a written agreement for the purchase of 1000 graves between Ewing and the Association dated May 5, 2008, the Association agreed that "this purchase

cannot be made for speculative purposes and interment spaces can only be given or sold to the members.” Zhu signed the Agreement for the Association.

44. According to a representative of the Ewing cemetery, a third-party organization called “NY United Chinese Memorial Fund Inc.” was involved in the transaction, or a related transaction, although it is not clear at this juncture what that involvement was.

45. The same attorney represented the Association in the mortgage transaction with Global Bank and the purchase of the cemetery plots from the Ewing cemetery: Alfred Liu, Esq. In December 2022, Mr. Liu represented defendant Lu in an unsuccessful lawsuit against the Association in connection with which Lu sought, among other things, to appoint the defendants, two organized crime figures, and various other members of the Association as the directors of the Board of the Association.

46. From at least 2008 until the present time, Lu and the other defendants have been selling the New Jersey cemetery plots for amounts believed to range from \$4,000 to \$20,000 a plot and stealing or diverting the sales proceeds to pay themselves and others involved in the scheme.

47. According to representatives of the Ewing cemetery, from 2008 until 2022 they have interacted principally with Lu, who has represented to them at all relevant times that he is the Chairman of the Association.

48. In 2020 Lu caused the Association to issue a check for \$2700 to resolve an unexplained issue involving one of the cemetery plots.

The Association’s Leases

49. Under the direction of the Building Manager appointed by the Chairman, the Association has entered into, and then amended and extended, a series of unauthorized and unapproved leases for commercial and residential space at its two buildings at 16-18 East

Broadway and 1 Division Street, New York, New York. From 2016 until 2023, the Building Manager was defendant Hon Wai Yuen and the Chairmen were defendants Zhu, Hon Cho Yuen and Moon Lau.

50. Pursuant to a resolution of the Board of Directors of the Association adopted before the year 2000 and then confirmed at repeated Board meetings since that time, all commercial leases must first be reviewed and approved by the Board, and then presented to the full membership, before being signed. None of the commercial leases currently in effect for the Association's two properties were approved by the Board or presented to the full membership.

51. The leases include the following:

- (a) Store Lease dated 07/05/22 between the Association, signed by defendant Moon Lau, and the E Noodle Group Inc., for ground floor and basement space at 5 Catherine Street at an annual rent beginning at \$84,000, replacing a store lease signed by defendant Lu with the Great Fortune Restaurant LLC, on 11/01/2016 at an annual rent beginning at \$75,000;
- (b) Store Lease dated 11/01/2022 between the Association, signed by defendant Moon Lau, and Ango Management Inc., for first floor corner space at 1 Division Street at an annual rent beginning at \$60,000, and Sublease dated 05/01/2019 to Murad M. Al Saidi c/o China Square Convenience Inc. beginning 11/01/2022, consented to by Moon Lau.
- (c) Store Lease dated 5/29/2019 between the Association, signed by defendant Moon Lau, and L&K Clothing Inc., for ground floor space at 3 Catherine Street at an annual rent beginning at \$36,000;
- (d) Lease Extension and Modification Agreement dated 08/25/2022 between the Association, signed by Defendant Moon Lau, and Wing Fat Company, Inc., for the first floor corner store space at 1-3 Division Street at an annual rent beginning at \$66,000 (reduced from the original lease rent at the time of \$116,000/year);
- (e) Ground Lease dated 11/15/1984 between the Association and Kuo Po Trading Co., modified on 12/11/2005, amended on 01/22/2006, and then assigned to Wing Fung LLC on 08/13/2005 and amended on the signature of Shek Hung Yuen on 10/13/2005 and again on 08/20/2013 when the term was extended until 11/14/2026, for the entire building at 16-18 East Broadway, at a current annual rent of \$288,615.38 x CPI/536, or

approximately \$28,000 a month.

- (f) 9 residential apartment leases for one and two bedroom apartments at One Division Street at a total monthly rental (for all 9 apartments) of approximately \$2,500.

52. Plaintiff is informed and believes that the defendants, led by Zhu, Lu and Shek Hung Yuen, entered into the foregoing leases on behalf of the Association in order to obtain under the table bribes or payments from the tenants for the leases they signed.

53. Upon information and belief, all of the leases, and in particular the ground lease for the Association's Property at 16-18 East Broadway, are for amounts of rent far below the rental market value of the leased space.

54. Upon information and belief, the market value of a net lease for a six-story commercial property in the area of 16-18 East Broadway is at least \$100,000 a month more than the \$28,000 monthly rent in the Ground Lease, and the Association has lost over \$10 million as a result of the below market arrangement with the ground lease tenant.

55. Plaintiff is informed and believes that Wing Fung LLC, the ground lease tenant for the building at 16-18 East Broadway, is directly or indirectly making illegal payments that exceed \$2 million in the aggregate to the defendants for the ground lease. Plaintiff is further informed and believes that the tenants occupying commercial space at the 1 Division Street Property are also paying, or have paid, bribes to the defendants for below-market leases.

56. Upon information and belief, defendant Shek Hung Yuen is the person who collects the illegal payments from the ground lessee of the property at 16-18 East Broadway and distributes them to the other defendants.

The Association's Mortgages

57. On or about March 15, 2019, defendant Moon Lau executed a Gap Mortgage dated that day between the Association, as borrower, and Royal Business Bank, as lender, to secure a

loan to the Association of \$366,356.57. The mortgage was placed on the two Chinatown properties owned by the Association at One Division Street and 16-18 East Broadway.

58. On or about March 15, 2019, defendant Moon Lau signed – as President of the Association – a Subordination, Non-Disturbance and Attornment Agreement between Royal Business Bank and the net tenant of the property at 18 East Broadway, Wing Fung LLC.

59. On or about March 15, 2019, defendant Moon Lau signed a Consolidation, Extension and Modification Agreement between the Association, as borrower, and Royal Business Bank, as lender, in the amount of \$1,600,000.

60. On or about February 14, 2020, Royal Business Bank and the Association entered into a written Indenture Agreement whereby the Bank released the lien of the consolidated mortgage on the property at 16-18 East Broadway.

61. The net result of the foregoing transactions was that the Association received \$366,356.57 in cash and ended up with a refinanced \$1,600,000 mortgage on the One Division Street property and no debt on the 16-18 East Broadway property.

62. Upon information and belief, the Association used a portion of the Gap Mortgage loan to pay back interest and other charges owed to Global Bank. Upon information and belief, defendants misappropriated for themselves the balance of the \$366,356.57 amount of the Gap Mortgage loan.

The Association's Bank Accounts

63. During the years 2017, 2018, 2019, 2020, 2021, and 2022, the defendants approved and wrote multiple checks to “cash only” on the Association’s bank accounts at First American International Bank (which was acquired by Royal Business Bank in 2018 and operated thereafter under the name “Royal Business Bank” (“RBB”)) and Global Bank (“GB”). Some of the checks

to cash were in specific amounts under \$5,000 that, under the By-Laws, did not require the approval of the Board. The following checks are examples of checks written to “cash only” for amounts of \$5,000 or greater that did require the approval of the Board of Directors of the Association but were issued without that approval:

<u>2017-2018</u>			
<u>Date</u>	<u>Amount</u>	<u>Check Number and Bank</u>	<u>Signatories</u>
6-7-17	\$5,000	1750 (GB)	Hon Wai Yuen and You Mei Zhuang
7-10-17	\$8,142	1766 (GB)	Hon Wai Yuen and You Mei Zhuang
8-7-17	\$5,000	1776 (GB)	Hon Wai Yuen and Moon Lau
8-14-17	\$30,000	1777 (GB)	Hon Wai Yuen and Moon Lau
8-14-17	\$30,000	1778 (GB)	Hon Wai Yuen and Moon Lau
8-28-17	\$6,000	1782 (GB)	Hon Wai Yuen and Moon Lau
11-19-17	\$27,900	1813 (GB)	Hon Wai Yuen and Moon Lau
6-6-18	\$27,300	1885 (GB)	Hon Wai Yuen and Eddie Kong
7-2-18	\$5,000	1891 (GB)	Hon Wai Yuen and Moon Lau
8-6-18	\$8,727	1902 (GB)	Hon Wai Yuen and You Mei Zhuang
9-8-18	\$6,803	1915 (GB)	Hon Wai Yuen and You Mei Zhuang
10-11-18	\$28,600	1929 (GB)	Hon Wai Yuen, Moon Lau and You Mei Zhuang
<u>2019</u>			
<u>Date</u>	<u>Amount</u>	<u>Check Number and Bank</u>	<u>Signatories</u>
1-8-19	\$16,000	1952 (GB)	Hon Wai Yuen and Moon Lau
1-23-19	\$8,000	1958 (GB)	Hon Wai Yuen, Moon Lau and You Mei Zhuang
1-29-19	\$5,000	1959 (GB)	Hon Wai Yuen, Moon Lau and You Mei Zhuang
6-20-19	\$7,000	1015 (RBB)	Hon Wai Yuen and You Mei Zhuang
7-6-19	\$6,000	1017 (RBB)	Hon Wai Yuen and You Mei Zhuang
11-8-19	\$50,000	1059 (RBB)	Hon Wai Yuen and Moon Lau
12-5-19	\$7,762	1065 (RBB)	Hon Wai Yuen and Moon Lau
12-11-19	\$5,000	1068 (RBB)	Hon Wai Yuen and Moon Lau
<u>2020</u>			
<u>Date</u>	<u>Amount</u>	<u>Check Number and Bank</u>	<u>Signatories</u>
6-16-20	\$9,058	1108 (RBB)	Hon Wai Yuen and Moon Lau
6-16-20	\$41,658.81 ¹	1997 (GB)	Hon Wai Yuen and You Mei Zhuang
8-3-20	\$5,821	1112 (RBB)	Hon Wai Yuen and You Mei Zhuang
10-12-20	\$5,122	1123 (RBB)	Hon Wai Yuen and You Mei Zhuang

¹ These checks are made payable to the Association itself instead of to “cash only.”

10-14-20	\$5,000	1998 (GB)	Hon Wai Yuen and You Mei Zhuang
11-20-20	\$20,000	1999 (GB)	Hon Wai Yuen and Moon Lau
11-20-20	\$42,000	1129 (RBB)	Hon Wai Yuen and Moon Lau
12-27-20	\$16,837 ¹	2004 (GB)	Hon Wai Yuen and You Mei Zhuang
2021			
<u>Date</u>	<u>Amount</u>	<u>Check Number and Bank</u>	<u>Signatories</u>
7-12-21	\$5,514	1166 (RBB)	Hon Wai Yuen and You Mei Zhuang
8-16-21	\$5,328	1171 (RBB)	Hon Wai Yuen and Moon Lau
9-13-21	\$5,010	1175 (RBB)	Hon Wai Yuen and Moon Lau
10-12-21	\$5,521	1181 (RBB)	Hon Wai Yuen and Moon Lau
11-18-21	\$20,000	2005 (GB)	Hon Wai Yuen and Moon Lau
11-18-21	\$30,000	1185 (RBB)	Hon Wai Yuen and Moon Lau
2022			
<u>Date</u>	<u>Amount</u>	<u>Check Number and Bank</u>	<u>Signatories</u>
3-2-22	\$6,946	1200 (RBB)	Hon Wai Yuen and Moon Lau
4-11-22	\$6,351	1212 (RBB)	Hon Wai Yuen and Moon Lau
5-11-22	\$5,889	1216 (RBB)	Hon Wai Yuen and Moon Lau
5-15-22	\$5,985	1222 (RBB)	Hon Wai Yuen and Moon Lau
8-16-22	\$5,139	1241 (RBB)	Hon Wai Yuen and Moon Lau
9-14-22	\$20,000	2006 (GB)	Eddie Kong and Hon Wai Yuen
9-15-22	\$20,000	1245 (RBB)	Moon Lau and Hon Wai Yuen
9-15-22	\$14,225	1246 (RBB)	Hon Wai Yuen and Moon Lau
10-15-22	\$6,013	1249 (RBB)	Hon Wai Yuen and Moon Lau
11-15-22	\$5,781	1259 (RBB)	Hon Wai Yuen and Moon Lau
12-12-22	\$5,786	1269 (RBB)	Hon Wai Yuen and Moon Lau

64. Many of these checks contain notations in Chinese on the check stubs or memo lines that are either illegible or refer in general terms to administrative expenses such as “meals” or “transportation” or “year-end staff stipend;” other checks do not contain a notation of any kind. None of the checks are mentioned or approved in the minutes of the Board of Director meetings during the same time period. To the extent that the Association has copies of cancelled checks, they indicate that the checks to cash were cashed by at least one of the defendants. In at least two instances, there is a corresponding reference to the payment in the Association’s books and records that does not correspond to the amounts of the checks. For example, defendants Hon Wai Yuen

and Moon Lau wrote two checks totaling \$50,000 on November 18, 2021 for “year-end staff stipend” in 2021. But the Association’s internal statement of income and expenses for November 2021 shows total payment for “year-end staff stipend” of \$36,000.

65. In addition, four checks were written in September and October of 2022 in the amounts of \$2,000, \$1,000, \$275 and \$275 to the attorney representing defendant Lu against the Association in the proceedings before the Court related to this lawsuit. Other questionable unapproved checks include thousands of dollars in water utility bills for a tenant responsible under its lease for paying the water utility bills, just under \$45,000 in payments to a local restaurant in a single month, and multiple checks to Moon Lau, signed by Hon Wai Yuen and Moon Lau, for amounts ranging from \$1,500 to \$9,800.

The Defendants’ Refusal to Account to the Association

66. Beginning in early 2022 a number of members of the Association began demanding answers from Zhu, Lu and the other defendants about the finances of the Association and the leases at the Association’s properties.

67. At a full membership meeting of the Association on November 21, 2022, the Association’s current Chairman, Wei Wen He, who was elected on March 8, 2023, confronted Lu and certain of the other defendants about the Association’s finances. Wei Wen He demanded answers to the apparent disappearance of over \$1 million in funds, the creation of \$2 million in debt owed by the Association, the mismanagement of a net lease for one of the Association’s properties, the execution of below market leases for the Association’s other property, and the Association’s purchase and sale of cemetery plots.

68. Defendant Lu and the other defendants refused to answer any questions about the Association’s finances or to provide He with the bank statements for the Association’s bank

accounts, the leases for the Association's properties, or any financial information or documentation. Instead, they walked out of the meeting.

69. Following that meeting, the defendants refused to produce to the Association its own financial records until ordered to do so by the Court. The defendants have not turned over to the Association any financial or business records pertaining to the Association's cemetery plots, leases, or mortgages. There are few minutes of board of director meetings, and the minutes that have been produced are either incomplete or do not truthfully reflect the transactions described herein and contain the forged signature of the Secretary of the Association.

FIRST CAUSE OF ACTION
(Against Defendant Zhu for Violation of N-PCL §§ 717; 719 and 720)

70. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

71. At all relevant times, defendant Zhu was a director and officer of the Association and/or was acting as a *de facto* officer or "key person" by virtue of the fiduciary actions and responsibilities delegated to him in managing the affairs of the Association.

72. N-PCL § 720 provides a cause of action to a corporation against a current or former director or officer for the "acquisition by himself or transfer to others, loss, or waste of corporate assets due to neglect of, failure to perform, or other violation of his duties." N-PCL § 719 provides a cause of action against directors who vote for or concur, or who are presumed under the N-PCL to have concurred, in the distribution of the corporation's cash or property to members, directors or officers other than as permitted by the statute.

73. Defendant Zhu violated the N-PCL by using his powers as an officer, director and ex officio officer and director to obtain illegal compensation and benefits, to convert and steal Association funds for his own benefit, and to dominate, control and direct the Association to

provide private benefits for himself and certain defendants, in contravention of the Association By-Laws, policies and procedures, and the N-PCL and applicable common law.

74. Defendant Zhu's actions were wrongful, unlawful, and fraudulent, and were made collusively, deceitfully, surreptitiously and furtively and in violation of the N-PCL.

75. Defendant Zhu's violations of the N-PCL and applicable common law have damaged the Association by, among other things, causing its assets to be diverted and wasted for non-Association purposes, and by exposing the Association to potential tax and regulatory liability.

76. Accordingly, Defendant Zhu is liable to the Association under N-PCL 720 and 719 to account and pay restitution and/or damages, plus interest at the statutory rate of 9%, for his conduct in the intentional neglect and violation of his duties in the management and disposition of the Association's assets and in causing loss and waste of those assets by his violations of the N-PCL.

SECOND CAUSE OF ACTION
(Against Defendant Lu for Violation of N-PCL §§ 717, 719 and 720)

77. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

78. At all relevant times, defendant Lu was a director and officer of the Association or was acting as a *de facto* officer or "key person" by virtue of the fiduciary actions and responsibilities delegated to him in managing the affairs of the Association.

79. N-PCL § 720 provides a cause of action to a corporation against a current or former director or officer for the "acquisition by himself or transfer to others, loss, or waste of corporate assets due to neglect of, failure to perform, or other violation of his duties." N-PCL § 719 provides a cause of action against directors who vote for or concur, or who are presumed under the N-PCL

to have concurred, in the distribution of the corporation's cash or property to members, directors or officers other than as permitted by the statute.

80. Defendant Lu violated the N-PCL by using his powers as an officer, director and ex officio officer and director to obtain illegal compensation and benefits, to convert and steal Association funds for his own benefit, and to dominate, control and direct the Association to provide private benefits for himself and certain other defendants, in contravention of the Association By-Laws, policies and procedures, and the N-PCL and applicable common law.

81. Defendant Lu's actions were wrongful, unlawful, and fraudulent, and were made collusively, deceitfully, surreptitiously and furtively and in violation of the N-PCL.

82. Defendant Lu's violations of the N-PCL and applicable common law have damaged the Association by, among other things, causing its assets to be diverted and wasted for non-Association purposes, and by exposing the Association to potential tax and regulatory liability.

83. Accordingly, Defendant Lu is liable to the Association under N-PCL 720 and 719 to account and pay restitution and/or damages, plus interest at the statutory rate of 9%, for his conduct in the intentional neglect and violation of his duties in the management and disposition of the Association's charitable assets and in causing loss and waste of those assets by his violations of the N-PCL.

THIRD CAUSE OF ACTION
(Against Defendant Hon Wai Yuen for
Violation of N-PCL §§ 717, 719 and 720)

84. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

85. At all relevant times, defendant Hon Wai Yuen was a director and officer of the Association or was acting as a *de facto* officer or "key person" by virtue of the fiduciary actions and responsibilities delegated to him in managing the affairs of the Association.

86. N-PCL § 720 provides a cause of action to a corporation against a current or former director or officer for the “acquisition by himself or transfer to others, loss, or waste of corporate assets due to neglect of, failure to perform, or other violation of his duties.” N-PCL § 719 provides a cause of action against directors who vote for or concur, or who are presumed under the N-PCL to have concurred, in the distribution of the corporation’s cash or property to members, directors or officers other than as permitted by the statute.

87. Defendant Hon Wei Yuen violated the N-PCL by using his powers as an officer, director and ex officio officer and director to obtain illegal compensation and benefits, to convert Association funds for his own benefit, and to dominate, control and direct the Association to provide private benefits for himself and certain other defendants, in contravention of the Association By-Laws, policies and procedures, and the N-PCL and applicable common law.

88. Defendant Zhu’s actions were wrongful, unlawful, and fraudulent, and were made collusively, deceitfully, surreptitiously and furtively and in violation of the N-PCL.

89. Defendant Hon Wai Yuen’s violations of the N-PCL and applicable common law have damaged the Association by, among other things, causing its assets to be diverted and wasted for non-Association purposes, and by exposing the Association to potential tax and regulatory liability.

90. Accordingly, Defendant Hon Wai Yuen is liable to the Association under N-PCL 720 and 719 to account and pay restitution and/or damages, plus interest at the statutory rate of 9%, for his conduct in the intentional neglect and violation of his duties in the management and disposition of the Association’s charitable assets and in causing loss and waste of those assets by his violations of the N-PCL.

FOURTH CAUSE OF ACTION
(Against Defendant Hon Cho Yuen for
Violation of N-PCL §§ 717, 719 and 720)

91. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

92. At all relevant times, defendant Hon Cho Yuen was a director and officer of the Association or was acting as a *de facto* officer or “key person” by virtue of the fiduciary actions and responsibilities delegated to him in managing the affairs of the Association.

93. N-PCL § 720 provides a cause of action to a corporation against a current or former director or officer for the “acquisition by himself or transfer to others, loss, or waste of corporate assets due to neglect of, failure to perform, or other violation of his duties.” N-PCL § 719 provides a cause of action against directors who vote for or concur, or who are presumed under the N-PCL to have concurred, in the distribution of the corporation’s cash or property to members, directors or officers other than as permitted by the statute.

94. Defendant Hon Cho Yuen violated the N-PCL by using his powers as an officer, director and ex officio officer and director to obtain illegal compensation and benefits, to convert Association funds for his own benefit, and to dominate, control and direct the Association to provide private benefits for himself and certain other defendants, in contravention of the Association By-Laws, policies and procedures, and the N-PCL and applicable common law.

95. Defendant Hon Cho Yuen’s actions were wrongful, unlawful, and fraudulent, and were made collusively, deceitfully, surreptitiously and furtively and in violation of the N-PCL.

96. Defendant Hon Cho Yuen’s violations of the N-PCL and applicable common law have damaged the Association by, among other things, causing its assets to be diverted and wasted for non-Association purposes, and by exposing the Association to potential tax and regulatory liability.

97. Accordingly, Defendant Hon Cho Yuen is liable to the Association under N-PCL 720 and 719 to account and pay restitution and/or damages, plus interest at the statutory rate of 9%, for his conduct in the intentional neglect and violation of his duties in the management and disposition of the Association's charitable assets and in causing loss and waste of those assets by his violation of the N-PCL.

FIFTH CAUSE OF ACTION
(Against Defendant Moon Lau for
Violation of N-PCL §§ 717; 719 and 720)

98. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

99. At all relevant times, defendant Moon Lau was a director and officer of the Association or was acting as a *de facto* officer or "key person" by virtue of the fiduciary actions and responsibilities delegated to him in managing the affairs of the Association.

100. N-PCL § 720 provides a cause of action to a corporation against a current or former director or officer for the "acquisition by himself or transfer to others, loss, or waste of corporate assets due to neglect of, failure to perform, or other violation of his duties." N-PCL § 719 provides a cause of action against directors who vote for or concur, or who are presumed under the N-PCL to have concurred, in the distribution of the corporation's assets or property to members, directors or officers other than as permitted by the statute.

101. Defendant Moon Lau violated the N-PCL by using his powers as an officer, director and ex officio officer and director to obtain illegal compensation and benefits, to convert Association funds for his own benefit, and to dominate, control and direct the Association to provide private benefits for himself and certain other Defendants, in contravention of the Association By-Laws, policies and procedures, and the N-PCL and applicable common law.

102. Defendant Moon Lau's actions were wrongful, unlawful, and fraudulent, and were made collusively, deceitfully, surreptitiously and furtively and in violation of the N-PCL.

103. Defendant Moon Lau's violations of the N-PCL and applicable common law have damaged the Association by, among other things, causing its assets to be diverted and wasted for non-Association purposes, and by exposing the Association to potential tax and regulatory liability.

104. Accordingly, Defendant Moon Lau is liable to the Association under N-PCL 720 and 719 to account and pay restitution and/or damages, plus interest at the statutory rate of 9%, for his conduct in the intentional neglect and violation of his duties in the management and disposition of the Association's charitable assets and in causing loss and waste of those assets by his violation of the N-PCL.

SIXTH CAUSE OF ACTION

(Against Defendant Shek Hung Yuen for Violation of N-PCL §§ 717, 719 and 720)

105. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

106. At all relevant times, defendant Shek Hung Yuen was a director and officer of the Association or was acting as a *de facto* officer or "key person" by virtue of the fiduciary actions and responsibilities delegated to him in managing the affairs of the Association.

107. N-PCL § 720 provides a cause of action to a corporation against a current or former director or officer for the "acquisition by himself or transfer to others, loss, or waste of corporate assets due to neglect of, failure to perform, or other violation of his duties." N-PCL § 719 provides a cause of action against directors who vote for or concur, or who are presumed under the N-PCL to have concurred, in the distribution of the corporation's cash or property to members, directors or officers other than as permitted by the statute.

108. Defendant Shek Hung Yuen violated the N-PCL by using his powers as an officer, director and ex officio officer and director to obtain illegal compensation and benefits, to convert Association funds for his own benefit, and to dominate, control and direct the Association to provide private benefits for himself and certain other defendants, in contravention of the Association By-Laws, policies and procedures, and the N-PCL and applicable common law.

109. Defendant Shek Hung Yuen's actions were wrongful, unlawful, and fraudulent, and were made collusively, deceitfully, surreptitiously and furtively and in violation of the N-PCL.

110. Defendant Shek Hung Yuen's violations of the N-PCL and applicable common law have damaged the Association by, among other things, causing its assets to be diverted and wasted for non-Association purposes, and by exposing the Association to potential tax and regulatory liability.

111. Accordingly, Defendant Shek Hung Yuen is liable to the Association under N-PCL 720 and 719 to account and pay restitution and/or damages, plus interest at the statutory rate of 9%, for his conduct in the intentional neglect and violation of his duties in the management and disposition of the Association's charitable assets and in causing loss and waste of those assets by his violation of the N-PCL.

SEVENTH CAUSE OF ACTION
(Against All Defendants, for Corporate Waste and Injury to Property)

112. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

113. At all relevant times, the defendants were directors and officers of the Association or were acting as *de facto* officers or "key persons" by virtue of the fiduciary actions and responsibilities delegated to them in connection with the management of the Association.

114. The defendants abused their powers as officers, directors and *ex officio* officers and directors or “key persons” to obtain illegal compensation and benefits, to convert Association funds for their own benefit, to mismanage the Association’s property, and to dominate, control and direct the Association to provide private benefits for themselves and others in contravention of the Association By-Laws, policies and procedures, and the applicable common law.

115. As a direct and proximate result of the foregoing misconduct by the defendants, the Association’s assets have been mismanaged and wasted for non-Association purposes, and the Association has suffered injury to its property.

116. Accordingly, the defendants are liable to the Association to pay restitution and/or damages, plus interest at the statutory rate of 9%, for their misconduct in causing loss and waste of the Association’s assets and injury to the Association’s property.

EIGHTH CAUSE OF ACTION
(Against All Defendants, for an Accounting)

117. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

118. The By-Laws of the Association confer upon the officers the care and custody all Association funds, and restrict and prohibit the officers from disbursing funds in excess of stipulated amounts without notification to and/or approval of the Board of Directors and/or the General Assembly.

119. The By-Laws further require the Chairman of the Association to appoint the Auditor to serve as the financial supervisor of the Association.

120. At all relevant times the defendants served as officers or *de facto* officers of the Association during the relevant period of time.

121. On numerous occasions, as set forth in paragraphs 29-30 above, without notification to or approval of the Board of Directors and/or the General Assembly, the defendants wrote or caused to be written checks on the Association's bank accounts in excess of the permitted amounts under the By-Laws.

122. In addition, the defendants each conspired and engaged in a course of illegal and improper conduct to direct to themselves and others and misappropriate monies pertaining to the Association's leases, mortgages and cemetery plots.

123. The defendants did not appoint anyone to the position of Auditor, as the By-Laws require, and did not keep complete or accurate books and records to reflect the transactions described herein.

124. The Association has duly demanded of the defendants that they account for the monies received and disbursed by the Association, and for the monies realized through the leases, mortgages and cemetery plot transactions.

125. The defendants have refused to account to the Association.

126. The Association demands a full accounting from each of the defendants.

127. The Association does not have an adequate remedy at law.

WHEREFORE, Plaintiff Tsung Tsin Association, Inc. respectfully demands judgment against the defendants as follows:

- (a) On the First Cause of Action against defendant Zhu, (i) requiring him to account to the Association for all monies that he received from the Association or diverted or participated in diverting to other defendants or third parties during the relevant period of this lawsuit, and (ii) awarding compensatory and punitive damages

- against him in an amount to be determined at trial but not less than \$1 million;
- (b) On the Second Cause of Action against defendant Lu, (i) requiring him to account to the Association for all monies that he received from the Association or diverted or participated in diverting to other defendants or third parties during the relevant period of this lawsuit, and (ii) awarding compensatory and punitive damages against him in an amount to be determined at trial but not less than \$1 million;
- (c) On the Third Cause of Action against defendant Hon Wai Yuen, (i) requiring him to account to the Association for all monies that he received from the Association or diverted or participated in diverting to other defendants or third parties during the relevant period of this lawsuit, and (ii) awarding compensatory and punitive damages against him in an amount to be determined at trial but not less than \$1 million;
- (d) On the Fourth Cause of Action against defendant Hon Cho Yuen, (i) requiring him to account to the Association for all monies that he received from the Association or diverted or participated in diverting to other defendants or third parties during the relevant period of this lawsuit, and (ii) awarding compensatory and punitive damages against him in an amount to be determined at trial but not less than \$1 million;
- (e) On the Fifth Cause of Action against defendant Lau, (i) requiring him to account to the Association for all monies that he received from the Association or diverted or participated in diverting to other defendants or third parties during the relevant period of this lawsuit, and (ii) awarding compensatory and punitive damages

- against him in an amount to be determined at trial but not less than \$1 million;
- (f) On the Sixth Cause of Action against defendant Shek Hung Yuen, (i) requiring him to account to the Association for all monies that he received from the Association or diverted or participated in diverting to other defendants or third parties during the relevant period of this lawsuit, and (ii) awarding compensatory and punitive damages against him in an amount to be determined at trial but not less than \$1 million;
- (g) On the Seventh Cause of Action against all defendants, for compensatory and punitive damages in an amount to be determined at law but not less than \$1 million;
- (h) On the Eighth Cause of Action against all of the defendants, for a full accounting of all monies of the Association taken, received or disbursed by them; and
- (i) Awarding Plaintiff interest, costs and reasonable attorneys' fees; and granting such other and further relief as this Court deems just and proper.

Dated: New York, New York
March 29, 2023

NUTTER, MCCLENNEN & FISH LLP

By: 
 Christopher J. Sullivan
 John C. Leddy
 655 Third Avenue, 27th Floor
 New York, NY 10017
 (646) 440-8001
CSullivan@nutter.com
JLeddy@nutter.com
 Attorneys For Plaintiff
 Tsung Tsin Association, Inc.

VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

WEI WEN HE, being duly sworn, deposes and says:

1. I am the Chairman of Tsung Tsin Association, Inc., the plaintiff in this action.
2. I have read the foregoing Complaint. The contents thereof are true to my own knowledge, except as to those matters alleged upon information and belief, and as to those matters I believe them to be true.

Wei Wen He
Wei Wen He

Sworn to before me this
24th day of March, 2023

Christopher J. Sullivan
Notary Public

CHRISTOPHER J. SULLIVAN
Notary Public, State of New York
No. 02SU4773859
Qualified in New York County
Commission Expires February 28, 2024