



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

HARVEY WEINSTEIN,)
)
Plaintiff,)
v.)
) C.A. No.
THE WEINSTEIN COMPANY)
HOLDINGS, LLC,)
)
Defendant.)

VERIFIED COMPLAINT UNDER 6 DEL. C. § 18-305

Plaintiff Harvey Weinstein, by and through his undersigned attorneys, for his Verified Complaint under 6 *Del. C.* § 18-305 against The Weinstein Company Holdings, LLC, alleges as follows:

1. Plaintiff Harvey Weinstein brings this complaint against the company he founded and, until recently, of which he was the Co-Chairman, The Weinstein Company Holdings, LLC (“TWC” or the “Company”), to enforce his rights under 6 *Del. C.* § 18-305 and the Third Amended and Restated Limited Liability Company Agreement of The Weinstein Company Holdings, LLC dated as of October 21, 2005 (the “LLC Agreement”).

2. Mr. Weinstein is an owner of Class W Stock and Class B Stock of TWC and a Class W and Class B Member of TWC. In addition, Mr. Weinstein is a Principal under the LLC Agreement.

3. Under Section 3.05 of the LLC Agreement, upon reasonable notice by a Member, the Member:

will have access to such books and records, and to all officers and employees (including the Principals so long as such Member owns at least 1% Percentage Interest) acting on behalf of the Company (subject to the performance of their day-to-day responsibilities) during normal business hours for any purpose reasonably related to such Member's interest as a Member; provided that such Member shall exercise such rights in a manner that will not unreasonably interfere with the operation and administration of the Company.

4. By letter dated October 18, 2017, counsel for Mr. Weinstein made a demand under 6 *Del. C.* § 18-305 and Section 3.05 of the LLC Agreement on the Company (the "Demand"), through its counsel, attached hereto as Exhibit A, to inspect three categories of the Company's books and records:

- a. All emails sent to or from Mr. Weinstein's email address, hw375@weinsteinco.com;¹
- b. Mr. Weinstein's complete personnel, or employment, file; and
- c. The Code of Conduct referenced in paragraph 11(i) of Mr.

Weinstein's employment agreement, dated as of October 20, 2015, and any and all amendments thereto.

5. In the Demand, Mr. Weinstein explained that his purpose in obtaining the documents requested was to assist in his defense of civil and criminal allegations arising out of or in connection with his employment at TWC and

¹ Emails are considered books and records subject to production by the Company in response to a demand. *See Amalgamated Bank v. Yahoo! Inc.*, 132 A.3d 752, 792-94 (*Del. Ch.* 2016).

potentially to aid in investigating claims arising out of the wrongful termination of his employment. Critically, Mr. Weinstein has already seen all of the documents he is requesting, and they are uniquely personal to him. He did not demand any confidential or proprietary documents. Instead, he solely requested his emails and personnel file.

6. By letter dated October 20, 2017, the Company's counsel responded to the Demand, rejecting the request to inspect the emails requested and Mr. Weinstein's personnel file, but providing the Code of Conduct (the "Rejection"). A copy of the Rejection is attached hereto as Exhibit B.

7. On October 23, 2017, Mr. Weinstein's counsel sent another letter (the "October 23 Letter") to the Company's counsel responding to the Rejection and clarifying the reasons why Mr. Weinstein's request was reasonably related to his interests as a stockholder. A copy of the October 23 Letter is attached hereto as Exhibit C.

8. In the October 23 Letter, Mr. Weinstein asked that the Company respond by the close of business on October 24, 2017. On October 24, the Company informed Mr. Weinstein's counsel that it was working on a response to the October 23 Letter. As of the filing of this Complaint on October 26, the Company has not responded to the October 23 Letter.

JURISDICTION

9. This Court has exclusive jurisdiction to hear and determine this action pursuant to 6 *Del. C.* § 18-305.

THE PURPOSE OF THE DEMAND

10. On October 5, 2017, the New York Times published an article that included claims and allegations of improper conduct by Mr. Weinstein. On October 8, 2017, the Company's Board of Representatives (the "Board") sent an email to Mr. Weinstein purporting to terminate his employment. The email stated simply, "Your employment with The Weinstein Company is hereby terminated, effective immediately." At about the same time the Board sent Mr. Weinstein his purported termination notice, the Board issued a press release which stated: "In light of the new information about misconduct by Harvey Weinstein that has emerged in the past few days, the directors of The Weinstein Company ... have determined, and have informed Harvey Weinstein, that his employment with The Weinstein company is terminated, effective immediately." In an interview with the New York Times on October 8, 2017, Lance Maerov, a member of the Board, said that it had been "brought to [the Board's] attention that Mr. Weinstein had violated the company's code of conduct at some point in the last week," but he did not specify what the supposed violation was.

11. On October 17, 2017, the TWC Board met and ratified the termination of Mr. Weinstein. Shortly thereafter, the Company removed Mr. Weinstein's

permission to access his email account at TWC and any other Company documents.

12. By letter dated October 19, 2017, counsel for a Special Committee of the TWC Board (the “Special Committee”) sent a letter (the “Investigation Letter”) to Mr. Weinstein’s counsel informing her that the Special Committee had retained its own counsel “to conduct an independent investigation into asserted or actual misconduct by Mr. Harvey Weinstein while employed at TWC.” In the Investigation Letter, the Special Committee’s counsel asked Mr. Weinstein to produce or provide among other things:

- Any documents or property, whether hard copy or electronic, that Mr. Weinstein removed from the offices of TWC after June 1, 2017, including any computers or electronic devices paid for by TWC and any files belonging to TWC;
- Any documents, including but not limited to, credit card, bank or other financial statements reflecting expenses for Mr. Weinstein from January 1, 2005 to the present;
- Any documents concerning allegations of misconduct by Mr. Weinstein, including complaints, correspondence, settlement agreements and non-disclosure agreements. The Special Committee’s counsel also requested that Mr. Weinstein agree to waive any non-disclosure agreements or confidentiality agreements to allow the parties to those agreements to speak without constraint to counsel;
- Immediate access to any mobile phones, computers or other electronic devices used by Mr. Weinstein;
- Electronic copies of emails, along with associated metadata, from all email accounts that Mr. Weinstein has used from January 1, 2005 to the present;

- Immediate access to any mobile phones, computers or other electronic devices used by Mr. Weinstein’s assistant;
- Electronic copies of emails, along with associated metadata, from all email accounts that Mr. Weinstein’s assistant has used from the time she began her work at TWC to the present; and
- Any other documents or information that you believe are relevant or related to our investigation.

13. From the stated purpose of the Investigation Letter to the categories of documents and information it seeks from Mr. Weinstein, it is clear that the Company is performing an investigation to determine whether and to what extent the Company may face liability because of the allegations against Mr. Weinstein.

14. On October 23, 2017, the Attorney General of the State of New York, Eric Schneiderman (the “NY AG”), announced that he had opened an investigation into whether the allegations against Mr. Weinstein reflect broad gender discrimination and other civil rights violations at TWC. The NY AG’s Civil Rights Bureau sent a subpoena to the Company seeking a substantial amount of information, including personnel files. The Company may face additional liability as a result of this investigation.

15. On October 25, 2017, an actress sued TWC for \$5 million damages based on Mr. Weinstein’s alleged conduct. In her complaint, the plaintiff alleged that the TWC Board had actual knowledge about Mr. Weinstein’s alleged misconduct.

16. Because of the many investigations and actions that have been announced and are anticipated, Mr. Weinstein's counsel has written counsel for the Company to ask that the Company voluntarily provide certain information, including Mr. Weinstein's emails, to Mr. Weinstein. The purpose of that request, and the request made in the Demand and October 23 Letter, is to review the emails and personnel file to determine whether there is any exculpatory information in those files that would assist the Company in defending against any claims. Mr. Weinstein believes that his email account – which is the primary, if not only, account he used during the term of his employment by the Company – will contain information exonerating him, and therefore the Company, from claims that may be asserted against him or the Company. Further, Mr. Weinstein is in a unique position to offer insight, and further explain and contextualize his emails. By providing Mr. Weinstein access to his emails, he can more efficiently assist the Company in its investigation of these issues and defense of the NY AG investigation and any other claims asserted against the Company, such as the one filed on October 25, 2017, against TWC based on Mr. Weinstein's alleged conduct.

17. Indeed, Mr. Weinstein's brother, Robert Weinstein, who, like Mr. Weinstein, is a Principal of TWC and the only other holder of Class W shares besides Mr. Weinstein, was recently accused of similar improper conduct, and expressly identified his emails as containing exonerating or exculpatory

information. Mr. Weinstein seeks no more than to be able to have access to the same information as his brother does to prevent further harm to the Company.

18. Assisting the Company in its investigation reasonably relates to Mr. Weinstein's interest as a Member of TWC because he maintains, along with Mr. Robert Weinstein, the largest individual financial stake in the Company. Should the Company be forced to pay out unjustified settlements or judgments, Mr. Weinstein's interest as a Member will suffer as a result. The LLC Agreement requires that with certain exceptions, all cash must be distributed every year to the Members. The less cash available for distribution, the less Mr. Weinstein will receive as a Member.

19. In addition, press reports have indicated that the Board is exploring a sale of the Company. If the Board agrees to sell the Company for less than it would be worth because of the threat of unsubstantiated or false allegations, Mr. Weinstein will receive less than he should have received as a Member.

20. Further, certain press reports have mentioned information that Mr. Weinstein believes could have come only from his personnel file. By obtaining his personnel file, Mr. Weinstein can confirm that the information being reported in the press could have come only from his personnel file, and then pursue potential claims against the Company and its Representatives or officers for mismanagement by leaking confidential Company information.

21. By reason of the foregoing, Mr. Weinstein is entitled to inspect his emails and his personnel file.

COUNT I.

Inspection of Books and Records in the Demand

22. Plaintiff repeats and realleges each of the allegations in the preceding paragraphs as if fully set forth herein.

23. Plaintiff stated a proper purpose in the Demand. The documents sought in the Demand are necessary and essential to the purpose of the Demand.

24. Under 6 *Del. C.* § 18-305, upon presentation of a demand with a proper purpose, the Company must produce, among other things, “[o]ther information regarding the affairs of the limited liability company as is just and reasonable.”

25. Similarly, under Section 3.05 of the LLC Agreement, the Members of TWC enjoy broad inspection rights, and even rights to access officers and employees, for “any” purpose reasonably related to their interests as Members.

26. The Demand is reasonably related to Mr. Weinstein’s interests as a Member because if given access, Mr. Weinstein may cooperate more fully with the Company’s investigation and potentially reduce the Company’s liability, and, ultimately, improve Mr. Weinstein’s distributions on a regular basis or in a merger or other transaction.

27. In addition, by accessing his personnel file, Mr. Weinstein can determine whether Company employees have leaked confidential Company information.

28. Mr. Weinstein is entitled to an order compelling the Company to produce the documents sought in the Demand.

WHEREFORE, Mr. Weinstein respectfully requests that the Court enter its Orders, Judgments and Decrees:

- A. Declaring that Mr. Weinstein is entitled to inspect the documents described in the Demand (with the exception of the Code of Conduct);
- B. Ordering the Company to produce the documents described in the Demand (with the exception of the Code of Conduct) within five business days of the date of the Order;
- C. Awarding Mr. Weinstein his reasonable attorneys' fees, expenses and costs; and
- D. Granting such other and further relief as the Court deems just and proper.

MORRIS JAMES LLP

OF COUNSEL:

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/s/ Peter B. Ladig

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Attorneys for Plaintiff Harvey Weinstein

Dated: October 26, 2017



DECLARATION PURSUANT TO 10 DEL. C. § 3927

Pursuant to 10 Del. C. § 3927, I, HARVEY WEINSTEIN, declare that:

1. To the extent the allegations of the Complaint concern my acts or matters of which I have personal direct knowledge, I know those allegations to be true and correct;
2. To the extent the allegations of the Complaint concerns acts of other or which I do not have direct personal knowledge, upon information and belief I believe those allegations to be true and correct.

I declare under penalty of perjury under the laws of the State of Delaware that the foregoing is true and correct.

Executed on the 25th day of OCTOBER, 2017

HARVEY WEINSTEIN (printed name)
[Signature] (signature)



EXHIBIT A

Glaser Weil

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Kerry Garvis Wright

October 18, 2017

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VIA E-MAIL

The Weintein Company Holdings, LLC
c/o
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Karin A. DeMasi, Esq.
Cravath, Swaine & Moore LLP
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Re: Demand for Access to Books and Records Pursuant To 6 Del.C. § 18-305

Dear Counsel,

As you know, our law firm represents Harvey Weinstein. Enclosed herein is written authorization for us to act on his behalf in connection with the following request.

As a shareholder of The Weinstein Company Holdings, LLC, a Delaware limited liability company ("TWC" or the "Company"), for at least six months immediately preceding this demand, Mr. Weinstein requests access pursuant to 6 Del.C. § 18-305(a) and section 305 of TWC's Third Amended and Restated Limited Liability Company Agreement, dated as of October 21, 2005, the following books, records and other information of the Company: (i) all e-mails sent to or from Mr. Weinstein's email address, hw375@weinsteinco.com, (ii) Mr. Weinstein's complete personnel, or employment, file, and (iii) the Code of Conduct referenced in paragraph 11(i) of Mr. Weinstein's employment agreement, dated as of October 20, 2015, and any and all amendments thereto.

Mr. Weinstein has a proper purpose in seeking the foregoing books, records and other information inasmuch as they are relevant, and indeed, critical to Mr. Weinstein's defense of civil and criminal allegations arising out of and/or in connection with his employment with TWC and also Mr. Weinstein's claims arising out of the wrongful termination of his employment. Delaware courts have held that

The Weinstein Company
October 18, 2017
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“Investigating potential wrongdoing is also a proper purpose. *Somerville S Trust v. USV P’rs, LLC*, 2002 WL 1832830, at *3, *5 & n. 7 (Del.Ch. Aug. 2, 2002) (holding that “investigat[ing] allegations of wrongdoing and mismanagement” was a proper purpose under Section 18-305).” *Sanders v. Ohmite Holdings, LLC*, 17 A.3d 1186, 1193 (2011) They have additionally found that e-mails qualify as proper documents for such a shareholder request. *See Amalgamated Bank v. Yahoo! Inc.*, 132 A.3d 752, 792-794 (2016) (“Delaware precedents have ordered the production of electronic documents and emails in Section 220 actions.”); *see also Sanders*, 17 A.3d at 1193 (“Delaware courts have interpreted Section 18-305 by looking to ‘cases interpreting similar Delaware statutes concerning corporations and partnerships.’); *Somerville S Trust*, 2002 WL 1832830, at *5 n. 4 (citing cases applying 8 Del. C. § 220, the corporate-law counterpart to 6 Del. C. § 18-305, to interpret Section 18-305)).

We expect to either have copies of the requested documents provided, or be given access to them, within five business days of the date of this letter, pursuant to 6 Del.C. § 18-305(f).

All rights reserved.

Cordially,



KERRY GARVIS WRIGHT
of GLASER WEIL FINK HOWARD AVCHEN & SHAPIRO LLP

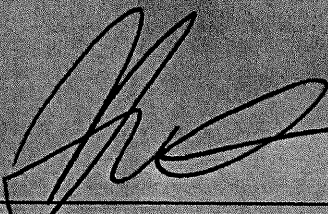
KGW:mg

Encl.

cc: Harvey Weinstein
Patricia L. Glaser, Esq.

I, Harvey Weinstein, as a shareholder of The Weinstein Company Holdings LLC, hereby authorize Patricia Glaser, Kerry Garvis Wright, and Glaser Weil Fink Howard Avchen & Shapiro LLP to act on my behalf in requesting and inspecting books, records, and other information from The Weinstein Company Holdings LLC pursuant to 6 Del.C. § 18-305(a).

Dated: October 18, 2017



HARVEY WEINSTEIN

EXHIBIT B

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DAVID GREENWALD
RACHEL G. SKAISTIS
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JOEL F. HEROLD

ERIC W. HILFERS
GEORGE F. SCHOEN
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CRAIG F. ARCELLA
DAMIEN R. ZOUBEK
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ERIC L. SCHIELE
ALYSSA K. CAPLES
JENNIFER S. CONWAY
MINH VAN NGO
KEVIN J. ORSINI
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OMID H. NASAB
DAMARIS HERNÁNDEZ
JONATHAN J. KATZ
MARGARET SEGALL D'AMICO
RORY A. LERARIS
KARA L. MUNGOVAN

SPECIAL COUNSEL
SAMUEL C. BUTLER

OF COUNSEL
MICHAEL L. SCHLER

October 20, 2017

Harvey Weinstein / Inspection Demand on The Weinstein Company Holdings LLC

Dear Ms. Glaser and Ms. Wright:

I write in response to your firm's letters seeking certain documents on behalf of Harvey Weinstein. Specifically, we respond to (1) Ms. Wright's letter, dated October 18, 2017, demanding, on Mr. Weinstein's behalf, to inspect certain documents from The Weinstein Company Holdings LLC ("TWC") pursuant to 6 Del. C. § 18-305(a) (the "Inspection Demand") ("Wright Ltr."); and (2) Ms. Glaser's October 16, 2017 letter to Bert Fields, subsequently forwarded to us, requesting that TWC voluntarily provide certain documents to Mr. Weinstein (the "Requests for Voluntary Production") ("Glaser Ltr.").

I. The Inspection Demand

Mr. Weinstein seeks access under Delaware law to three categories of documents from "six months immediately preceding this demand" (*i.e.*, April 18, 2017): (i) all e-mails sent to or from Mr. Weinstein's email address, hw375@weinsteinco.com, (ii) Mr. Weinstein's complete personnel, or employment, file, and (iii) the Code of Conduct referenced in paragraph 11(i) of Mr. Weinstein's employment agreement, dated as of October 20, 2015, and any and all amendments thereto." (Wright Ltr. at 1.) The Inspection Demand states that these documents are "relevant, and indeed, critical to" two purposes: (i) Mr. Weinstein's "defense of civil and criminal allegations arising out of and/or in connection with his employment with TWC"; and (ii) Mr. Weinstein's "claims arising out of the wrongful termination of his employment". (Wright Ltr. at 1.)

Under the Delaware Limited Liability Company Act (the "Act"), a "member of a limited liability company . . . has the right . . . to obtain from the limited liability company from time to time upon reasonable demand for any purpose reasonably related to the member's interest as a member of the limited liability company" certain categories of documents, including "information regarding the affairs of the limited liability company as is just and reasonable". 6 Del. C. § 18-305(a). A party making a demand under this section of the Act must (i) state "a proper purpose" related to the

member's interest, and (ii) establish "that the requested documents are 'essential and sufficient' to that stated purpose". See, e.g., *Apogee Investments, Inc. v. Summit Equities LLC*, No. CV 12897-MZ, 2017 WL 4269013, at *2 (Del. Ch. Sept. 22, 2017). Mr. Weinstein's Inspection Demand fails to satisfy either requirement.

First, Mr. Weinstein has not stated a proper purpose "reasonably related" to his interests as a member of TWC. Even accepting as true that Mr. Weinstein has to defend himself against "civil and criminal allegations . . . in connection with his employment with TWC",¹ that is not an interest he has *as a member of TWC*. Nor is it a proper purpose within the meaning of the Act that Mr. Weinstein would like the documents to pursue his own claims arising out of his termination *as an employee*. See *Khanna v. Covad Commc'ns Grp., Inc.*, No. 20481-NC, 2004 WL 187274, at *5 (Del. Ch. Jan. 23, 2004) (holding that a shareholder who was terminated as an officer could *not* use documents obtained under the Delaware Corporation Law's analogous provision, Section 220, "in any potential litigation against [the company] on wrongful termination grounds" because the litigation of personal claims is not a proper purpose to seek company records). The cases cited in Ms. Wright's letter, *Somerville S Tr. v. USV Partners, LLC*, No. CIV.A. 19446-NC, 2002 WL 1832830 (Del. Ch. Aug. 2, 2002) and *Sanders v. Ohmite Holdings, LLC*, 17 A.3d 1186 (2011), do not hold otherwise. Those cases involved a member's stated purpose of investigating possible mismanagement of the LLC. *Somerville* at 7; *Sanders* at 1193. Here, by contrast, Mr. Weinstein seeks documents to investigate personal claims only.

Second, even if Mr. Weinstein had a proper purpose, the Inspection Demand does not even attempt to explain why the requested documents are "essential and sufficient" to that purpose. See *Sanders*, 17 A.3d at 1194 ("the burden of proof is always on the party seeking inspection to establish that each category of the books and records requested is essential and sufficient to the stockholder's stated purpose") (internal citations omitted). Mr. Weinstein has failed to carry his burden under the Act of making "specific and discrete identification, with rifled precision, of the documents sought." *Brehm v. Eisner*, 746 A.2d 244, 266 (Del. 2000). Instead, the Inspection Demands seeks the wholesale production of "all e-mails sent to or from Mr. Weinstein's email address"—a plainly overbroad formulation more akin to litigation requests than a properly tailored inspection demand. See *Saito v. McKesson HBOC, Inc.*, 806 A.2d 113, 114 (Del. 2002) ("[Section 220] does not open the door to the wide ranging discovery that would be available in support of litigation.").

In any event, even if the Inspection Demand satisfied the requirements of § 18-305(a)—and it does not—§ 18-305(c) authorizes TWC to withhold documents where disclosure would not be in the best interests of the Company.² At this time, TWC

¹ In fact, the Inspection Demand cites no actual, pending proceedings.

² Section 18-305(c) states that managers of an LLC have "the right to keep confidential from the members, for such period of time as the manager deems reasonable, . . . information the disclosure of which the manager in good faith believes is not in the best interest of the limited liability company or could damage the limited liability company or its business or which the limited liability company is required by law or by agreement with a third party to keep confidential." Additionally, Section 3.05 of the Third Amended and Restated Limited Liability Company Agreement, dated October 21, 2005, further restricts access where the demand would "unreasonably interfere with the operation and administration of the Company." (LLC Agreement § 3.05.)

has concluded that providing Mr. Weinstein with internal company documents, such as his emails and personnel file, would not be in the Company's interest, among other reasons, due to the potential interference with the independent investigation being conducted by Debevoise & Plimpton LLP.

In short, Mr. Weinstein is not entitled to any of the documents he seeks under § 18-305(a).

II. The Requests for Voluntary Production

Separately, Mr. Weinstein seeks access to (i) "emails he sent/received using his TWC email address, as well as emails sent/received while at Miramax using his Miramax email address", (ii) his own personnel file from TWC's records, and (iii) the TWC Code of Conduct. (Glaser Ltr. at 1.) He asks that TWC voluntarily produce these documents so that he will "be able to respond to the various allegations being leveled against him." (*Id.*) Again, TWC has concluded that it is not prudent at this time to provide, on a voluntary basis, internal Company documents to Mr. Weinstein—a terminated employee whose attorneys have represented that he intends to sue TWC. That is particularly true given that the Company is in the midst of an ongoing internal investigation. TWC is, however, willing to provide the Code of Conduct, which is enclosed herewith.

Finally, Mr. Weinstein requests "copies of certain corporate documents, including (i) any which restrict his ability to transfer his interest in TWC, such as those which restrict TWC's ability to acquire his interest (e.g., financing documents); and (ii) any pursuant to which Harvey has personally guaranteed any obligations of TWC or its affiliates." (Glaser Ltr. at 1.) Because such documents set forth Mr. Weinstein's rights as a shareholder, TWC is willing to provide such documents, subject to Mr. Weinstein's ongoing obligation to keep such documents confidential. We are in the process of gathering those documents and will send them to Ms. Glaser shortly.

Sincerely,


Karin A. DeMasi

Patricia L. Glaser
Kerry Garvis Wright
Glaser Weil Fink Howard Avchen & Shapiro LLP
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Copy to:

Bert Fields, Esq.

BY EMAIL

**The Weinstein Company Holdings LLC
Code of Conduct and Ethics**

In performing their duties to The Weinstein Company Holdings LLC and its subsidiaries (collectively, "TWC"), employees, including the Senior Officers (as defined below), and members of the Board of Representatives (the "Board") of TWC, should always act lawfully, ethically, and in the best interests of TWC. The Code of Conduct and Ethics (the "Code of Conduct") set forth below outlines the behaviors that we all must follow to uphold TWC's ethical standards. The Code of Conduct shows us how to resolve ethical dilemmas, challenging workplace situations and provides the contact information that we should use when we have questions or concerns about our actions or the actions of those around us. The Code of Conduct may be amended by the Board at any time and any amended Code of Conduct, once approved by the Board, will be immediately made available to employees of TWC. "Senior Officers" means each Co-Chairman and the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer and the Executive Vice President-Financial Reporting.

I. Compliance with Laws, Rules and Regulations

Employees must follow applicable laws, rules and regulations at all times. Employees who are unsure whether their conduct or the conduct of their coworkers complies with the Code of Conduct should contact the head of human resources or, in the case of Senior Officers, the Board. Employees may also report any suspected noncompliance as provided in paragraph XI below.

II. Conflicts of Interest and Corporate Opportunities

Except as otherwise provided in TWC's Operating Agreement, and/or an employee's employment agreement, in performing their duties to TWC, employees are expected to use their judgment to act, at all times and in all ways, in the best interests of TWC. A "conflict of interest" exists when an employee's personal interest interferes with the best interests of TWC. For example, a conflict of interest may occur when an employee or a family member receives a personal benefit as a result of the employee's position with TWC. A conflict of interest may also arise from an employee's business or personal relationship with a customer, supplier, competitor, business partner, or other employee, if that relationship impairs the employee's objective business judgment.

Except as otherwise provided in TWC's Operating Agreement, and/or an employee's Employment Agreement, employees may not take personal advantage of a business or investment opportunity that the employee becomes aware of through the use of TWC property or information obtained in connection with his or her role or position with TWC, unless and until the head of human resources, or in the case of any Senior Officer, the Board, has had an opportunity to evaluate it and has stated, in writing, that TWC has chosen not to pursue the opportunity or potential opportunity.

Except as otherwise provided in TWC's Operating Agreement, and/or an employee's Employment Agreement, employees should avoid conflicts of interest and employees who face a conflict of interest or potential conflict of interest situation must promptly notify the head of human resources or, in the case of the Senior Officers, the Board. The head of human resources or the Board, as applicable, will consider the facts and circumstances of the situation to decide whether corrective or mitigating action is appropriate.

III. Discrimination and Harassment

TWC provides equal opportunity in all aspects of employment and will not tolerate discrimination or harassment of any kind. TWC complies with all laws prohibiting discrimination and harassment.

Discrimination

TWC values its employees' different cultures, sexual orientations, backgrounds and experiences because it allows issues to be seen from varied perspectives, thereby enriching the decision-making process. All personnel decisions, including, but not limited to, those relating to recruitment, hiring, training, promotion, retention, compensation and benefits, will be based solely upon an employee's or applicant's qualifications, skills, performance, and abilities and without regard to any condition or characteristic protected by applicable law. No employee may take any action that improperly discriminates against a candidate or employee.

Harassment

TWC seeks to provide a work environment that is free from harassment of any kind and/or any other offensive or disrespectful conduct. Harassment includes unwelcome verbal, visual, physical or other conduct of any kind that creates an intimidating, offensive or hostile work environment. While the legal definition of harassment may not always be clear, TWC considers the following non-exhaustive list to be unacceptable behavior:

- Sexual harassment;*
- Racial, ethnic, gender or religious slurs;
- Degrading comments;
- Intimidating or threatening behavior; or
- Showing hostility towards other people because of individual characteristics.

Employees may never act in a harassing manner. It is important to remember that harassment, sexual or otherwise, is determined by an employee's actions and how those actions impact others, regardless of the employee's intentions. If an employee or any of his or her coworkers is the subject of harassment, the employee should report the harassment to the head of human resources, the Board or in accordance with paragraph XI.

***Sexual harassment:** TWC is committed to addressing all forms of harassment, but it is important for all employees to understand that TWC considers sexual harassment to consist of verbal, visual or physical conduct of a sexual nature that is unwelcome or that makes someone feel uncomfortable. It can take many forms, such as:

- Sexual advances, requests for sexual favors or unwelcome demands for dates;
- Explicit or degrading comments about appearance; or
- Display of sexually suggestive pictures or pornography.

IV. Health and Safety

TWC provides a clean, safe and healthy work environment. Each employee is responsible for maintaining a safe and healthy workplace by following safety and health rules and practices and reporting accidents, injuries and unsafe conditions, procedures, or behaviors.

In keeping with TWC's commitment to safety, TWC will not tolerate threats of violence or physical harm of any kind, whether explicit or implicit, including, stalking. TWC takes all reports of threats seriously, will look into the matter, and take appropriate disciplinary action if it is determined that a threat of violence has occurred.

Employees must report to work in a condition that will enable them to best perform their duties, free from the influence of illegal drugs or alcohol.

V. Bribery and Gifts

Employees may not bribe anyone for any reason, whether in dealings with governments or the private sector.

Employees must never directly or indirectly request or solicit gifts from business partners. Entertainment or gifts that are extravagant in value or exclusive in nature (such as Super Bowl or World Cup tickets) require special consideration to avoid the appearance of impropriety.

VI. Recordkeeping, Reporting, and Financial Integrity

TWC's books, records, accounts and financial statements must be maintained in appropriate detail, must properly reflect TWC's transactions and must conform both to applicable law and to TWC's system of internal controls. TWC's financial, accounting and legal groups are responsible for procedures designed to assure proper internal and disclosure controls, and all employees should cooperate with these procedures.

VII. Business Expenses

TWC and its employees recognize that it is essential that only appropriate business expenses be charged to TWC. All employees are required to classify expenses in the proper manner. In any case where it is uncertain whether a particular expense is a business expense or a personal expense, employees must use their best efforts to be certain that initially all such expenses are paid by the employee and not by TWC. Such payment by the employee will be without prejudice to the employee's right to reimbursement if it is later determined by TWC that the expense is an appropriate business expense.

TWC has a policy to audit all expenses paid by, on behalf of, and/or at the request of the employee at the end of each calendar year in order to determine whether the employee has paid more business expenses than TWC has paid personal expenses (or vice versa). As a result of this audit, the difference between the two will be reimbursed by the employee or TWC, depending on which party has paid the excess amount.

VIII. Confidentiality

Employees and members of the Board often learn confidential information about TWC, its customers and its suppliers. TWC employees and members of the Board must maintain the confidentiality of all information entrusted to them, except when disclosure of such information is authorized or legally mandated. It is important that employees conduct the appropriate due diligence and have the appropriate agreement in place prior to disclosing the confidential information. Confidential or proprietary information of TWC may include any non-public information that would be harmful to the relevant company or useful or helpful to competitors if disclosed.

IX. Protecting TWC's Assets and Reputation

All employees are responsible for protecting TWC's assets, including physical assets, information and intellectual property, trademarks and brands, and TWC's name and reputation. All TWC assets should be used only for legitimate business purposes.

X. Use of Social Media and Other Online Activity

Employees should use their best judgment when using social media and in engaging in other online activity. Employees should ensure that they do not disclose any confidential information, or post, seek or provide recommendations or referrals by or of other employees, customers or suppliers unless they are authorized to do so. An employee should speak with a manager or supervisor or the head of human resources if they have a question about TWC's social media and online activity policy.

XI. Questions; Reporting Violations

Employees should speak with any one of their managers or supervisors or the head of human resources, and the Senior Officers and member of the Board should speak to the Board, when they have a question about the application of the Code of Conduct or when in doubt about how to properly act in a particular situation.

If an employee is aware of or suspects unethical or illegal conduct, the employee has a duty to report the issue or seek guidance. The employee may report someone to their manager or supervisor or the head of human resources or to any member of the Board. An employee may also report a violation of the Code of Conduct anonymously on the Code of Conduct Reporting Line set up by TWC. The contact information for the Reporting Line is [].

TWC will investigate all reports promptly, thoroughly and will take appropriate action whenever necessary in accordance with paragraph XIV below. As noted below, employees who violate the Code of Conduct will be subject to disciplinary action up to and including discharge. It is expected that employees participate in an investigation when asked, and **every effort** will be made to safeguard the confidentiality both during and after the investigation.

TWC does not tolerate intimidation or retaliation against anyone who in good faith reports a known or suspected violation of the Code of Conduct by others and any intimidation or retaliation will be treated as a breach of the Code of Conduct and anybody who engages in intimidation or retaliation will be immediately subject to discipline under the Code of Conduct.

XII. Periodic Certification

The Board will designate certain employees who, based on their level of responsibility or the nature of their work, will be required to certify periodically that they have read, understand and complied with the Code of Conduct.

XIII. Board of Directors

With respect to their service on behalf of TWC, members of the Board must comply with the relevant provisions of the Code of Conduct, including conflicts of interest, and compliance with all applicable laws, rules and regulations.

XIV. Penalties

Any waiver of the Code of Conduct for Senior Officers and members of the Board may be made only by the Board.

XV. No Rights

The Code of Conduct does not convey any rights to employees of the Company. Except for the procedures set forth in the Code of Conduct, employees do not have any right to enforce the terms of the Code of Conduct nor does the Code of Conduct provide employees any right to take action against the Company, any of its subsidiaries or affiliates, or any of their respective employees, members, representatives, directors, officers or consultants.

EXHIBIT C

Glaser Weil

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Los Angeles, CA 90067
310.553.3000 TEL
310.556.2920 FAX

Kerry Garvis Wright

October 23, 2017

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Email
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VIA E-MAIL

Karin A. DeMasi, Esq.
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Re: *Harvey Weinstein / Inspection Demand on The Weinstein Company Holdings LLC*

Dear Ms. DeMasi:

Late Friday evening, we received your response on behalf of TWC¹ to Mr. Harvey Weinstein's Inspection Demand. We were disappointed and, frankly, astonished to learn that, except for the Company's Code of Conduct, TWC refuses to comply with the Inspection Demand. In particular, TWC refuses to provide Mr. Weinstein with access to his emails and his personnel file.

Our astonishment derives in part from the fact that after Mr. Weinstein made the Inspection Demand, counsel for a Special Committee of the Board of Representatives of TWC (the "Special Committee") sent a demand to Mr. Weinstein to produce numerous categories of documents, including most notably, "[e]lectronic copies of all emails, with associated metadata, from all email accounts that Mr. Weinstein has used from January 1, 2005 to the present."² The Special Committee's demand to Mr. Weinstein to produce his emails and the other documents demonstrates that in fact Mr. Weinstein's Inspection Demand is made for a proper purpose.

The Special Committee purports to be conducting an "independent investigation into asserted or actual misconduct by Mr. Harvey Weinstein while

¹ Capitalized terms shall have the same meaning as in my October 18, 2017 letter to your office, as counsel for TWC, which sets forth Harvey Weinstein's demand for inspection of books and records pursuant to 6 Del. Ch. § 18-305 and Section 3.05 of Third Amended and Restated Limited Liability Company Agreement of The Weinstein Company Holdings, LLC, dated as of October 21, 2005 (the "LLC Agreement") (the "Inspection Demand").

² We presume you are aware of, and have a copy, of the October 19, 2017 letter from Debevoise & Plimpton to my colleague Patty Glaser, but in case not, we enclose a copy.

employed at TWC, including any inappropriate sexual conduct and any payments that may have been made in connection with such asserted or actual conduct.” From the stated purpose of the Special Committee’s purported investigation as well as from the many categories of documents and information it seeks from Mr. Weinstein, it is clear that the Special Committee intends to conduct an investigation to determine whether and to what extent the Company may face liability because of the allegations against Mr. Weinstein. To that very end, Mr. Weinstein made the Inspection Demand so that he may review his emails (and his personnel file) to determine whether there is any exculpatory information - which he believes there is - that would assist the Company in defending against any claims. Mr. Weinstein believes that his email account - which is the only one he used throughout the time he was employed by the Company - will contain information exonerating him, and therefore the Company, from claims that may be asserted against them. By providing Mr. Weinstein access to his emails, he can more effectively assist the Special Committee in its investigation of these very issues.³ Indeed, in light of the investigation of TWC by the New York Attorney General announced just minutes ago, it makes even more sense for the Company to provide the requested information to Mr. Weinstein so that he and the Company can prepare a solid and unified defense on behalf of all stockholders.

Assisting the Special Committee in its investigation reasonably relates to Mr. Weinstein’s interest as a shareholder of TWC because he maintains, along with Mr. Robert Weinstein,⁴ the largest individual financial stake in the Company. By way of example, should the Company be forced to pay out unjustified settlements or judgments, Mr. Weinstein’s interest as a shareholder will suffer as a result. In addition, press reports have indicated that the TWC Board is exploring a sale of the Company. If the Board agrees to sell the Company for less than it would be worth because of the threat of unsubstantiated or false allegations, Mr. Weinstein will receive less than he should have received as a shareholder.

Further, following Mr. Weinstein’s Inspection Demand, certain TWC Board members apparently spoke with the *Financial Times* and have claimed publicly that Mr. Weinstein blocked access to his personnel file in connection with the negotiation of his 2016 employment agreement and, had the directors been given access to the file, they would not have consummated the agreement. Mr. Weinstein therefore

³ To clarify, Mr. Weinstein demands access to his TWC emails from the same period that the Special Committee has demanded, i.e., January 1, 2005 to the date of Mr. Weinstein’s termination, October 8, 2017.

⁴ We note with particular interest that Mr. Robert Weinstein has recently been accused of sexual harassment and, through counsel, announced in the press that he plans to rebut those accusations with his emails. Mr. Robert Weinstein’s counsel gave an interview to the press, stating “*Variety’s* story about Bob Weinstein is riddled with false and misleading assertions by [the sexual harassment accuser] and we have the emails to prove it.” <http://www.hollywoodreporter.com/print/1049705>

Karin A. DeMasi, Esq.
October 23, 2017
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needs his personnel file to demonstrate that (1) he never blocked access to, or misrepresented the contents of, the personnel file, and (2) there is nothing in the file that would have prevented the Board from entering into the operative employment agreement.

Finally, Mr. Weinstein desires to investigate potential mismanagement by TWC officers and directors concerning, *inter alia*, their improper and harmful responses to the recent claims and allegations against Mr. Weinstein, including but not limited to their wrongful termination of Mr. Weinstein, and their knee-jerk pursuit of a fire sale of the Company, all before completing a thorough investigation to discern exactly what did or did not occur. Investigating mismanagement is without question an acceptable purpose for an inspection demand.

Perhaps TWC did not fully consider the foregoing when it flatly rejected the Inspection Demand, and we trust that it will reconsider and reverse its decision to deny Mr. Weinstein access to his emails and his personnel file. Please advise no later than the close of business (pdt) on Tuesday, October 24, 2017.

All rights reserved.

Cordially,



KERRY GARVIS WRIGHT
of GLASER WEILFINK HOWARD AVCHEN & SHAPIRO LLP

Encl.

KGW:ch

cc: Patricia Glaser, Esq.
Harvey Weinstein

October 19, 2017

Patricia L. Glaser, Esq.
Glaser Weil Fink Howard Avhen & Shapiro LLP
10250 Constellation Blvd.
19th Floor
Los Angeles, CA 90067
(310) 282-6217

Dear Ms. Glaser:

We have been retained by a Special Committee of the Board of Representatives of The Weinstein Company ("TWC") to conduct an independent investigation into asserted or actual misconduct by Mr. Harvey Weinstein while employed at TWC, including any inappropriate sexual conduct and any payments that may have been made in connection with such asserted or actual conduct. We appreciate your offer at the Board meeting on October 17, on behalf of Mr. Weinstein, to cooperate in our investigation. To that end, we make the following requests.

- 1) We request that Mr. Weinstein preserve all information within his possession, custody or control, whether in hard or electronic format and wherever located, related to his work at TWC or to any personal sexual activities with women other than his wife or any expenditures in connection with such activities.
- 2) We request that Mr. Weinstein inform us of any such information that has been destroyed or discarded, whether intentionally or inadvertently, since June 1, 2017.
- 3) Please provide:
 - a) Any documents¹ or property, whether hard copy or electronic, that Mr. Weinstein removed from the offices of TWC after June 1, 2017, including any computers or electronic devices paid for by TWC and any files belonging to TWC.

¹ Throughout this letter, we use to term "documents" to reflect both hard copy documents and electronically stored information of any format. We ask that any electronically stored information given to us in response to this letter include all associated metadata.

- b) Any documents, including but not limited to, credit card, bank, or other financial statements reflecting expenses for Mr. Weinstein from January 1, 2005 to the present.
- c) Any documents concerning allegations of misconduct by Mr. Weinstein, including complaints, correspondence, settlement agreements and non-disclosure agreements. We also request that Mr. Weinstein agree to waive any non-disclosure agreements or confidentiality agreements to the extent of allowing parties to such agreements to speak without constraint to Debevoise.
- d) Any documents reflecting communications with the press, private investigators or others concerning anyone who engaged or claimed to have engaged in sexual activity with Mr. Weinstein, refused or claimed to have refused his advances, or had or asserted any knowledge of sexual activity or unsolicited advances on his part.
- e) Immediate access to any mobile phones, computers or other electronic devices used by Mr. Weinstein. We will arrange to have images of Mr. Weinstein's personal devices collected through a data vendor working on our behalf so that they can be returned to him promptly. Any TWC devices in his possession will not be returned.
- f) Electronic copies of emails, along with associated metadata, from all email accounts that Mr. Weinstein has used from January 1, 2005 to the present. To the extent you believe our access to these emails should be limited, please describe the parameters you propose to use in limiting them.
- g) Immediate access to any mobile phones, computers or other electronic devices used by Tracey Miller, who we understand to have resigned from her TWC position and to now be working for Mr. Weinstein directly. We will arrange to have images of Ms. Miller's personal devices collected through a data vendor working on our behalf so that they can be returned to her promptly. Any TWC devices in her possession will not be returned.
- h) Electronic copies of emails, along with associated metadata, from all email accounts that Ms. Miller has used from the time she began her work at TWC to the present. To the extent you believe our access to these emails should be limited, please describe the parameters you propose to use in limiting them.
- i) Any other documents or information that you believe are relevant or related to our investigation.

We also request that Mr. Weinstein make himself available for two interviews, one to take place within approximately the next ten days and one to take place at a mutually agreeable time after we have had an opportunity to review the documents and information we have collected from him and to interview other witnesses. We also request that Mr. Weinstein make Ms. Miller available for two interviews, one to take place within approximately the next ten days and one to take place after we have had an opportunity to review her documents and information. We will travel to a place that is convenient to Mr. Weinstein and Ms. Miller for those interviews.

Many thanks.

Sincerely yours,



John S. Kiernan
Matthew E. Fishbein
Helen V. Cantwell