

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

SANJIV MEHRA, individually, and
SAMRITA MEHRA, as trustee of the
SANJIV MEHRA 2014
IRREVOCABLE TRUST,

Plaintiffs,

v.

JONATHAN TELLER,
EOS INVESTOR HOLDING
COMPANY LLC, ANGRY
ELEPHANT CAPITAL, LLC,
ANDREW SALTOUN, as
successor trustee of the
Teller Children’s 2015 Trust,
and SARAH SLOVER,

Defendants.

C.A. No. 2019-0812-KSJM

REDACTED PUBLIC VERSION
FILED: December 20, 2019

VERIFIED AMENDED COMPLAINT

Plaintiffs Sanjiv Mehra (“Mehra”), individually, and Samrita Mehra, as trustee of the Sanjiv Mehra 2014 Irrevocable Trust (the “Mehra Trust”), by and through undersigned counsel, for their Verified Amended Complaint against defendants Jonathan Teller, EOS Investor Holding Company LLC, Angry Elephant Capital, LLC, Andrew Saltoun, as successor trustee of the Teller Children’s 2015 Trust, and Sarah Slover, allege as follows:

[Redacted signature block]

NATURE OF THE ACTION

1. Sanjiv Mehra (“Mehra”) is the co-founder and co-CEO of a private, consumer-products business, best known for its colorful, egg-shaped lip balms. The company does business under the name “EOS” and is herein referred to as such. EOS is owned primarily through defendant EOS Investor Holding Company LLC, a Delaware limited liability company (“EOS Holdco”), in which Mehra holds a [REDACTED] through the Mehra Trust. Mehra is the victim of an ongoing scheme by Jonathan Teller—co-founder and Mehra’s co-CEO of the EOS operating entities, and the [REDACTED] of EOS Holdco—to squeeze Mehra out of the EOS structure and illegally strip him of his economic rights. Mehra is forced to bring this action to protect and vindicate his rights against Teller’s fiduciary and contractual breaches, aided and abetted by defendant Sarah Slover, EOS’s general counsel. Because the scheme and breaches are ongoing, and because Teller may continue to take actions irreparably harming Mehra’s rights and interests, Mehra’s need for expedited relief is great.

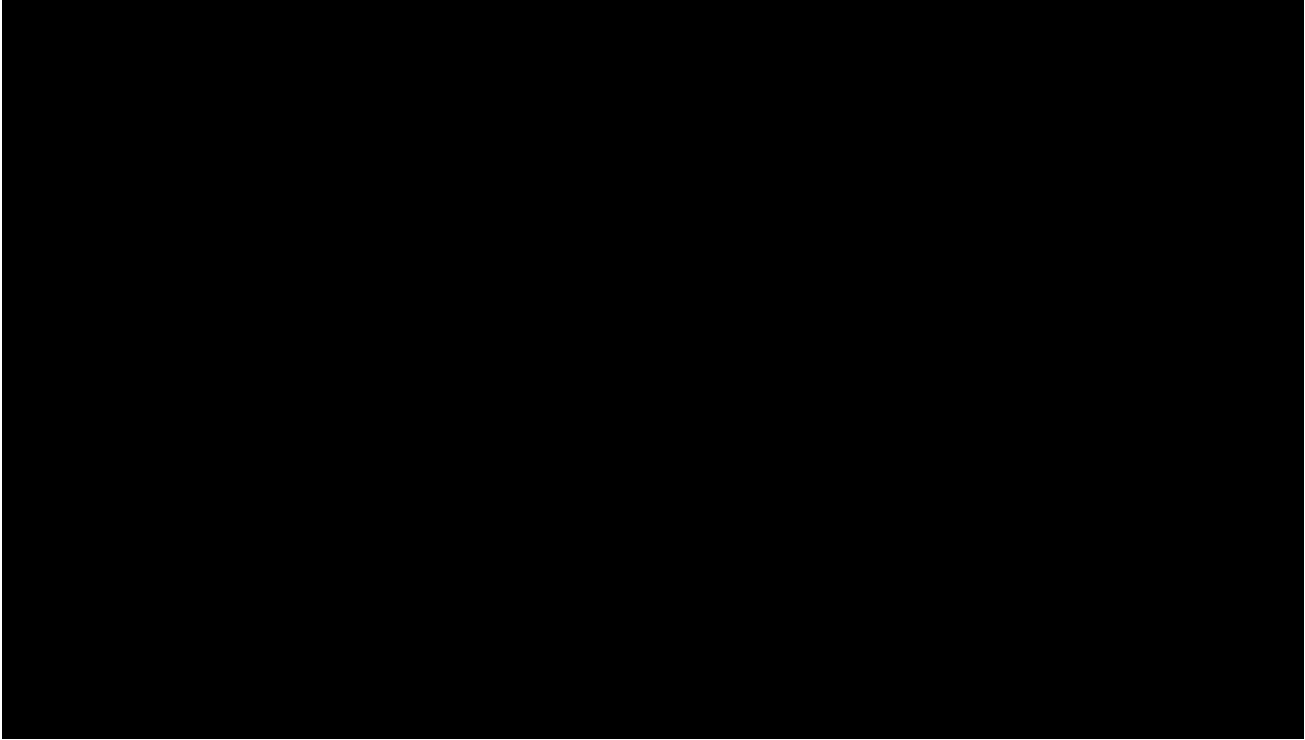
2. Mehra and Teller are co-CEO’s of non-party EOS Products, LLC (“EOS Products”), a New York limited liability company based in New York City. EOS Products is the primary operating entity for the business, which engages in the marketing and selling of a variety of lip balms, shave creams, and lotions.

3. EOS Products is wholly owned and controlled by non-party The Kind Group LLC (“Kind LLC”), another New York limited liability company. Kind LLC is owned by several different members as described in more detail below (including both Teller and Mehra individually), but as most relevant here, approximately [REDACTED] of its membership interests [REDACTED] as defined in its operating agreement) are held by EOS Holdco. A copy of EOS Holdco’s Amended and Restated Limited Liability Company Agreement, effective as of May 26, 2016 (the “EOS Holdco Operating Agreement” or “EOS Holdco’s Operating Agreement”), is attached as Exhibit A.¹ A copy of Kind LLC’s Seventh Amended and Restated Limited Liability Company Agreement, effective as of April 4, 2016 (the “Kind Operating Agreement” or “Kind’s Operating Agreement”), is attached as Exhibit B.

4. Mehra, through the Mehra Trust, has a minority membership interest of [REDACTED] in EOS Holdco. EOS Holdco’s sole purpose is to hold membership interests in Kind LLC. Teller, individually and through certain entities, owns the remaining approximately [REDACTED] of EOS Holdco. Teller and Mehra are the sole managers of EOS Holdco, the sole managers of Kind LLC, and co-CEOs of EOS

¹ The EOS Holdco Operating Agreement includes a cover page, purporting to represent a written consent of the members, identifying EOS Holdco as a New York limited liability company. This appears to be an error. At all relevant times, EOS Holdco was and is a Delaware limited liability company.

Products. As noted above, Mehra also individually has a membership interest in Kind LLC. The chart below depicts the membership and management of the limited liability companies in the EOS structure.



5. While Mehra owns only about [REDACTED] of EOS Holdco's membership interests, his right to ongoing distributions from EOS Holdco [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] As of the date of this Complaint, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. EOS Holdco's Operating Agreement contains important protections designed to preserve Mehra's distribution rights—including his ongoing right to 50% of EOS Holdco's distributions—in the event EOS Holdco is dissolved. Under the EOS Holdco Operating Agreement, [REDACTED]

[REDACTED] But critically, the members, including Teller, are also required to take [REDACTED] actions to ensure that the distribution percentages— [REDACTED]

[REDACTED] Mehra's distribution rights in the EOS Holdco Operating Agreement, in other words, [REDACTED]

7. In or around September 2019, Teller, displeased with Mehra's efforts to persuade him to agree to a measure of financial discipline in the business, devised and began to implement a scheme to squeeze Mehra out of the EOS structure and strip him of his economic rights. Over a number of years, Teller, who was only minimally involved in EOS's business strategy and operations, drew at least approximately \$100 million out of the EOS structure to finance his lavish lifestyle, including an \$11 million apartment in Manhattan and a \$15-18 million, newly constructed, opulent house in the Hamptons, the high-end, summer-resort community on the east end of Long Island, New York. These advances impaired the

business's liquidity and hampered its growth. Despite Mehra's advice to the contrary, Teller regularly caused EOS Holdco to make large cash distributions to himself without regard for the company's liquidity needs. Teller also caused EOS Products to pay him compensation without regard to his actual contributions to the business and without regard to the business's liquidity needs.

8. Beginning in 2016, a combination of Teller's large cash distributions to himself and declining revenues left EOS's liquidity in a precarious state. Mehra's steady hand in implementing direction and control kept the business afloat.

9. In 2018, both Teller and Mehra loaned EOS Products money, which was repaid in 2019. Later in 2019, Mehra advised Teller that additional funding would be needed, but this time it would not be repaid for some time. While Mehra stated his willingness to contribute millions of dollars to the business, Teller said he did not have the cash and indicated that he had only sufficient money to fund his lifestyle until the end of 2020. Cognizant of their ten years of partnership and the emotional issues that Teller would have with the dilution of his interests if Mehra contributed new capital, Mehra worked diligently to try and borrow funds and manage EOS Products' expenses to delay the need for additional funding. He even brought new business opportunities to EOS to create potential liquidity opportunities.

10. Apparently unhappy with the resulting state of affairs, and the effects of Mehra’s necessary management decisions on Teller’s access to cash, Teller, with the knowledge and assistance of defendant Sarah Slover, EOS’s general counsel, embarked on his scheme to take full control of EOS and deprive Mehra of his economic interests in the business he built.

11. Teller called a meeting on September 26, 2019 of EOS Holdco’s Board of Managers, which consisted only of Mehra and Teller. Slover purported to act as the corporate secretary of EOS Holdco at the meeting. Teller provided neither an advance agenda nor any advance explanation of the purpose of the meeting. At the meeting, Teller proposed a resolution—a clear pretext for implementing his scheme—by which EOS Holdco, in its capacity as a member of Kind LLC, would consent to “remove” Mehra as a member of Kind LLC (as noted, Mehra individually had a membership interest in Kind LLC). But under Kind’s Operating Agreement, there is no mechanism for members to involuntarily “remove” another member. The proposed resolution was thus not a proper subject for action of EOS Holdco as a member of Kind LLC. Teller and Slover used the resolution as a pretext to manufacture a “deadlock” of EOS Holdco’s Board of Managers—Teller knew Mehra would not approve such a resolution—and purportedly [REDACTED]

[REDACTED]

[REDACTED]

12. Upon information and belief, the “deadlock dissolution” is part of a scheme aimed at extinguishing Mehra’s membership interests in EOS Holdco and Kind LLC through a “Call Option” provision in Kind’s Operating Agreement that permits Kind LLC, in certain circumstances, to purchase a member’s interests at their capital account balance. Upon information and belief, Teller’s goal in this scheme is to (i) avoid paying Mehra the distributions he is and will continue to be entitled to under the clear terms of the EOS Holdco Operating Agreement and (ii) allow Teller to resell Mehra’s membership interests to fund Teller’s lifestyle.

13. After proposing the sham resolution, Teller voted in favor of it, and after Mehra refused to vote, Teller ordered him to leave the premises, denied him access to his computer, cut off his access to his company e-mail account, and, along with Slover, insisted on calling the police to remove Mehra from the premises. Slover then falsely told the New York City police that Mehra had no right to remain on the premises. Slover, an attorney, knew that the meeting of EOS Holdco’s Board of Managers was a pretextual sham and that EOS Holdco had no authority to remove Mehra as a member of Kind LLC.

14. Based on Mehra’s refusal to vote on the sham resolution, Teller unilaterally declared a “deadlock,” purporting to trigger a dissolution of EOS Holdco. That same day, Teller unilaterally executed “assignments” of EOS Holdco’s membership interests in Kind LLC to the individual members of EOS

Holdco, and in doing so breached the provisions of the EOS Holdco Operating Agreement, [REDACTED]

[REDACTED] Mehra remains a manager on EOS Holdco's Board of Managers and no vote has been taken on the selection of a liquidator.

15. Teller's actions breached EOS Holdco's Operating Agreement and his fiduciary duties as a [REDACTED] and manager of EOS Holdco, to Mehra. Mehra seeks relief that includes: (i) a preliminary injunction preventing any further steps to effect the dissolution or termination of EOS Holdco, and prohibiting Teller, Angry Elephant Capital, LLC, and Andrew Saltoun, as successor trustee of the Teller Children's 2015 Trust, from voting at the Kind LLC level purportedly based on the "assignments" Teller unilaterally executed on or about September 26, 2019; (ii) a permanent injunction requiring the restoration of the EOS Holdco membership interests to the status quo prior to the sham dissolution; (iii) declaratory relief stating that the purported dissolution was ineffective and that Mehra's distribution rights under the EOS Holdco Operating Agreement override anything in the Kind LLC Operating Agreement that could undermine or impair those distribution rights; and (iv) damages in an amount to be determined at trial.

PARTIES AND OTHER RELEVANT ENTITIES

16. Plaintiff Sanjiv Mehra is an individual residing in Scarsdale, New York. Mehra is a co-founder of EOS and co-CEO of EOS Products. Through the Mehra Trust, Mehra is a member of defendant EOS Holdco. Mehra individually is also a member of Kind LLC. Mehra is a manager of both EOS Holdco and Kind LLC.

17. Plaintiff Samrita Mehra, as trustee of the Mehra Trust, holds a [REDACTED] membership interest in EOS Holdco. For ease of reference only, this complaint refers to Mehra as the member of EOS Holdco and refers to the membership interest held by the trust as Mehra's membership interest.

18. Defendant Jonathan Teller is an individual residing in New York, New York. He is a co-founder of EOS and co-CEO of EOS Products. Teller individually holds a [REDACTED] membership interest in EOS Holdco. Through defendant [REDACTED] [REDACTED] membership interest in EOS Holdco, and through the [REDACTED] [REDACTED] membership interest in EOS Holdco, making his total membership interest [REDACTED] Teller is also a member of Kind LLC, and a manager of both EOS Holdco and Kind LLC.

19. Defendant EOS Investor Holding Company LLC (previously defined as "EOS Holdco") is a Delaware limited liability company. As set forth in the EOS Holdco Operating Agreement, EOS Holdco's only authorized purpose is to hold

membership interests in Kind LLC. (*See* Ex. A § 2.04.) EOS's business in turn operates through Kind LLC, EOS Products, and at least one other subsidiary not relevant here. Mehra, through the Mehra Trust, and Teller, individually and through Angry Elephant Capital, LLC and the Teller Children's 2015 Trust, are the only members of EOS Holdco.

20. Defendant Angry Elephant Capital, LLC is a Delaware limited liability company that holds a [REDACTED] membership interest in EOS Holdco on behalf of Teller.

21. Defendant Andrew Saltoun is the successor trustee of the Teller Children's 2015 Trust and, in that capacity, holds a [REDACTED] membership interest in EOS Holdco on behalf of Teller. Mehra served as the trustee of this trust until on or about September 15, 2019 when, unbeknownst to him, Teller removed Mehra and appointed Andrew Saltoun, in anticipation of taking the actions leading to the unlawful deadlock dissolution.

22. Defendant Sarah Slover is an individual residing in New York. She serves as general counsel of EOS Products. She purported to act as the corporate secretary for EOS Holdco at the meeting of its Board of Managers on September 26, 2019.

23. Non-party The Kind Group LLC (previously defined as “Kind LLC”) is a New York limited liability company. Kind LLC’s membership interests are divided as follows: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24. Non-party EOS Products is a New York limited liability company. It is the primary operating entity for the business of the EOS structure. It is wholly owned by Kind LLC.

JURISDICTION

25. This Court has personal jurisdiction over defendants Teller, Angry Elephant Capital, LLC, and Saltoun as successor trustee of the Teller Children’s 2015 Trust, because, pursuant to Section 11.12 of the EOS Holdco Operating Agreement, the members of EOS Holdco consented to jurisdiction in the State of Delaware. (See Ex. A § 11.12.)

26. This Court has personal jurisdiction over defendant Slover because she engaged in acts directed toward this state, in that she aided and abetted breaches of fiduciary duty by Teller, the controlling member of EOS Holdco. She also purported

[REDACTED]

[REDACTED]

to act as the corporate secretary of EOS Holdco at the Board of Managers meeting on September 26, 2019. Alternatively, Slover took direct action as an officer/employee and is directly liable for breach of fiduciary duty as a participant in the wrongful conduct alleged herein and is therefore subject to personal jurisdiction pursuant to 6 *Del. C.* §§ 109 and 111.

27. This Court has subject-matter jurisdiction pursuant to 10 *Del. C.* § 341 and 10 *Del. C.* § 6501.

28. This Court also has subject-matter jurisdiction pursuant to (i) 6 *Del. C.* § 18-111 because this action involves the interpretation and/or enforcement of the EOS Holdco Operating Agreement, and (ii) 6 *Del. C.* § 18-110 because this action contests a vote of the managers of EOS Holdco.

FACTUAL ALLEGATIONS

Through Mehra's Efforts, EOS Becomes Successful While Teller Siphons Millions To Finance A Lavish Lifestyle

29. Mehra co-founded EOS with Teller and another individual in about 2008. Mehra has managed EOS Products, along with Teller and, briefly another individual, since about 2009. They have held equal titles, including Managing Partner and co-CEO. Teller's contributions to the company's business were limited primarily to providing financing (which came mainly from his mother) in the

business's early years. Teller was only tangentially involved, if at all, in business strategy and operations.

30. Mehra had decades of experience in the consumer-goods industry and particular expertise in brand strategy and growing new businesses to very large scale. Through the efforts of Mehra and others, EOS's business grew rapidly, going from the launch of the lip balm in 2009 to approximately [REDACTED] in revenues in 2011, and, at its peak in 2015, revenues of approximately [REDACTED]. Much of EOS's success was attributed to its popular lip balm, which was brought to market through highly effective brand and profitability strategies, both of which Mehra spearheaded.

31. At the first sign of EOS's success, Teller began to withdraw large sums of money from the EOS structure to finance his lavish lifestyle, which included the purchase of an \$11 million apartment on Park Avenue in Manhattan, the construction of a new home in the Hamptons, private-jet travel, and more. Teller was mostly uninvolved in the business on a day-to-day basis, content to siphon money out of the business to spend extravagantly. As Mehra tried to build a lasting brand and run a functional and fiscally responsible organization, Teller largely sat back, but he did see fit to make recommendations related to business expansion based on prognostications from his fortune teller, commit significant time and resources to the office's feng shui, and involve his friends as event planners and interior decorators.

32. From the founding of EOS through the present, Teller has withdrawn a total of approximately \$100 million from the EOS structure, the majority of which was distributed to him through EOS Holdco.

33. Teller's extravagant spending drained the company's cash position, and when EOS's revenues started to decline in the years following some bad publicity from the filing of a class-action lawsuit against it, it found itself without adequate cash to finance various growth opportunities available to the company.

34. Mehra's steady hand in managing EOS's business through this period kept it afloat, while Teller sat on the sidelines and lamented the fact that his source of spending money was drying up, and his personal travel was being downgraded from private jets to using credit-card points.

**Mehra Earns And Purchases An
Ownership Interest And Economic Rights In The Business**

35. As EOS experienced success from Mehra's efforts, he and Teller negotiated Mehra's purchase of an ownership interest in the company. Teller agreed to reward Mehra for building EOS's business and wanted to incentivize him to remain as CEO of EOS Products.

36. As relevant here, Mehra currently has the following ownership and economic rights in the EOS structure.

37. First, through the Mehra Trust, Mehra owns a 15.1584% share of EOS Holdco's membership interests. Under section 7.01(a)(ii) of EOS Holdco's Operating Agreement, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (See Ex. A § 7.01(a)(ii) and

Ex. A thereto.) Section 7.01(a)(ii) provides:

[REDACTED]

(*Id.* § 7.01(a)(ii).)

38. The "Threshold" is determined by a formula set forth in the EOS Holdco Operating Agreement. The "Threshold" is equal to, at the time of a given distribution, [REDACTED]

[REDACTED]

[REDACTED] (*See id.* at 6.)

[REDACTED]

39. Mehra's "revised sharing percentage[]" referenced in section 7.01(a)(ii) and set forth on Exhibit A of the EOS Holdco Operating Agreement is [REDACTED] [REDACTED] (referred to herein as Mehra's "Revised Sharing Percentage"). (*See id.* § 7.01(a)(ii) and Ex. A thereto.)

40. No later than 2017, aggregate distributions equaled and exceeded the Threshold, thus triggering Mehra's [REDACTED] [REDACTED] from that point forward. (*See id.*)

41. The Revised Sharing Percentage was critical to Mehra and a key component of the deal. It granted Mehra permanent upside in the business, and a mechanism by which he would be compensated should Teller continue to seek to prioritize his desire for cash over the long-term health of the enterprise. It was a principal purpose of EOS Holdco to protect Mehra's interests in the business by, among other means, memorializing the Revised Sharing Percentage and ensuring that it would override any provision in the Kind Operating Agreement that could be deployed to injure Mehra's interests.

42. Second, Mehra individually is a member of Kind LLC and is entitled to receive distributions in accordance with Kind's Operating Agreement. Mehra, individually, along with Teller and a third individual, are holders of Kind LLC's [REDACTED]" As noted, Mehra also has an indirect ownership in

Kind LLC through his membership in EOS Holdco, which owns all the [REDACTED]
[REDACTED] of Kind LLC.

**EOS Holdco’s Operating Agreement Protects
Mehra’s Right To Distributions, Including The
“Revised Sharing Percentage,” In The Event Of Dissolution**

43. As detailed below, EOS Holdco’s Operating Agreement protects Mehra’s economic right to distributions, including the Revised Sharing Percentage, in the event EOS Holdco is dissolved.

44. In addition, Teller, [REDACTED]
[REDACTED] has a fiduciary duty to Mehra as [REDACTED] to ensure that EOS Holdco is managed in the best interests of the company and its members, and to further ensure that Mehra’s rights under the EOS Holdco Operating Agreement, including his right to distributions at the Revised Sharing Percentage, are honored and given effect. Nothing in EOS Holdco’s Operating Agreement purports to waive Teller’s fiduciary duties.

45. The management of EOS Holdco is vested in a Board of Managers. (See Ex. A § 4.01.) EOS Holdco’s Board of Managers consists solely of Mehra and Teller. Under the EOS Holdco Operating Agreement, the only way to remove a manager from the Board of Managers is through either [REDACTED]
[REDACTED]

Since Teller did not and does not [REDACTED]

he could not and cannot unilaterally remove Mehra from EOS Holdco’s Board of Managers. (*See id.* § 4.01.)

46. Under the EOS Holdco Operating Agreement, the Board of Managers is required to [REDACTED] [REDACTED] (*Id.* § 4.03.)

47. Each member of the Board of Managers (*i.e.*, Mehra and Teller) was given one vote. In the event of a “deadlock,” the [REDACTED] [REDACTED] the EOS Holdco Operating Agreement’s provisions on dissolution set forth in article 10. (*Id.* § 4.10.)

48. In the event of such a dissolution (referred to in this complaint as a “deadlock dissolution”), the EOS Holdco Operating Agreement provides specific protections to ensure that Mehra’s distribution rights, including his right to the Revised Sharing Percentage, [REDACTED]

The applicable provision, section 4.10, provides in relevant part:

[REDACTED]

[REDACTED]

[REDACTED]

(*Id.* § 4.10 (emphasis added).)

49. Thus, in the event of a deadlock dissolution, [REDACTED] and [REDACTED] the members, including Teller, would be required to take [REDACTED] actions to give effect to Mehra’s distribution rights, including the Revised Sharing Percentage, (which are provided for in section 7.01(a)(ii)), at Kind LLC. In other words, even if EOS Holdco went through a deadlock dissolution, Teller was required [REDACTED] [REDACTED] to ensure Mehra continued to have the right—at the Kind LLC level— [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

50. The mechanics of such a dissolution were controlled by article 10 of the EOS Holdco Operating Agreement. Under section 10.02, EOS Holdco’s assets were to be distributed by a [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (*Id.* § 10.02.) As the deadlock-dissolution provision of section 4.10 says nothing about *who* must distribute the Kind LLC shares in the event of deadlock dissolution, the liquidator provision of section 10.02 controls.

51. The dissolution article also provides that a dissolution becomes effective “[REDACTED]

[REDACTED]

[REDACTED] (*Id.* § 10.01.)

**Kind’s Operating Agreement Provides
No Mechanism To “Remove” A Member**

52. As with EOS Holdco, the management of Kind LLC is vested in a Board of Managers. (*See* Ex. B § 4.1.) During the period relevant here, and as with EOS Holdco, Mehra and Teller were the sole managers of Kind LLC’s Board of Managers.²

² Though the Kind Operating Agreement identifies four managers on the Board of Managers as of the agreement’s effective date (*see* Ex. B § 4.2(e)), the number of managers was later changed to include only Teller and Mehra.

53. The members of Kind LLC—including EOS Holdco—have only the rights and powers expressly granted to them under the Kind Operating Agreement, and “ [REDACTED] [REDACTED] ” (*Id.* §§ 5.1, 5.2.)

54. The Kind Operating Agreement has no provision granting members the right or authority to involuntarily “remove” another member.

55. Under section 11.8 of the Kind Operating Agreement, titled “Call Option,” the company has the option to repurchase a member’s interest [REDACTED] [REDACTED] [REDACTED] (*Id.* §

11.8.) The repurchase price depends on [REDACTED] [REDACTED] [REDACTED] (*See id.*) Where such a termination was [REDACTED] [REDACTED] [REDACTED] (as those terms are defined in the operating agreement). (*Id.*)

Nothing in the Kind Operating Agreement gives members (as opposed to the Board of Managers) the right to approve an exercise of the Call Option provision.

56. Mehra’s right to distributions, including pursuant to the Revised Sharing Percentage, under the EOS Holdco Operating Agreement—including his right to receive those distributions through Kind LLC in the event of a deadlock

dissolution—supersedes any right of Kind LLC to repurchase his membership interest through the Call Option provision.

**Teller And Slover Concoct A Deadlock Dissolution
As Part Of A Scheme To Strip Mehra Of His Economic Rights**

57. By on or about late September 2019, Teller—unhappy with the necessary controls Mehra implemented to ensure the continued [REDACTED] [REDACTED] and the effect of those controls on Teller’s continued ability to fund his high-end lifestyle with advances of company cash—embarked on a scheme to squeeze Mehra out of the EOS structure and deprive him of his economic rights in the business. Slover, EOS Products’ general counsel, knew about the scheme and substantially assisted in its execution.

58. The first step in the scheme was to concoct a deadlock dissolution.

59. On or about September 23, 2019, Teller e-mailed Mehra, purportedly to provide notice of an upcoming meeting of EOS Holdco’s Board of Managers (which, as noted, consisted only of Mehra and Teller). Teller refused to provide an agenda for the meeting or explain its purpose.

60. The meeting was held on September 26, 2019. Teller explained that the purpose of the meeting was to vote on a resolution authorizing EOS Holdco to “execute a consent, as a member of The Kind Group LLC, to remove Sanjiv Mehra as a member of The Kind Group LLC.” When Mehra asked for a rationale for the

proposal, Teller made vague, unsupported allegations of Mehra being a “negative force,” “dishonest,” and “difficult to work with.” Mehra refused to vote on the proposal.³

61. Upon information and belief, Slover participated in drafting the proposed resolution, which was executed on the same day as the meeting. Slover also purported to act as the corporate secretary for EOS Holdco at the meeting.

62. The proposed resolution was pretextual and proposed in bad faith. As noted above, there is no mechanism in the Kind Operating Agreement allowing members to involuntarily “remove” another member, as Teller’s proposed resolution purported to authorize. Teller proposed a resolution that would be utterly pointless at the Kind LLC level, because members of Kind LLC do not have the authority to involuntarily “remove” other members, regardless of any supposed written consent from EOS Holdco. Teller’s “resolution” was not a proper subject for action of EOS Holdco in its capacity as a member of Kind LLC.

63. Teller’s motivation for proposing this resolution was only to manufacture a “deadlock” so that he could declare a deadlock dissolution and, upon information and belief, take advantage of a purported shift in membership interests at the Kind LLC level to strip Mehra of his economic rights by, for example,

³ The meeting was recorded with the consent of all parties present.

purporting to exercise the Call Option to attempt to extinguish Mehra's membership interests and avoid honoring Mehra's long-term distribution rights.

64. Because the supposed "deadlock" related to a matter that was not a proper subject for action by EOS Holdco and could not have had any legal effect, it was not a valid deadlock, not a valid trigger for a deadlock dissolution, and totally ineffectual.

65. Teller breached the EOS Holdco Operating Agreement and his fiduciary duty as a controlling member and manager of EOS Holdco in purporting to dissolve EOS Holdco.

66. Teller and EOS Holdco also breached the EOS Holdco Operating Agreement through the manner in which Teller purported to unilaterally implement the manufactured deadlock dissolution.

67. As noted, under the EOS Holdco Operating Agreement, the distribution of EOS Holdco's assets upon dissolution is to be performed by a liquidator appointed by the Board of Managers.

68. Teller, however, personally and unilaterally executed "assignments" purporting to transfer EOS Holdco's interests in Kind LLC to the members of EOS Holdco, namely, to himself individually, as well as the Mehra Trust, Angry Elephant Capital, LLC, and the Teller Children's 2015 Trust.

69. The Board of Managers of EOS Holdco did not authorize Teller to [REDACTED] and Teller's actions breached the agreement and were invalid.

70. Upon information and belief, Slover was involved in drafting the invalid "assignments" with knowledge of Teller's scheme to strip Mehra of his economic rights.

71. The purported dissolution and these "assignments" would also improperly dilute Mehra's voting power at the Kind LLC level. The improper dissolution would shift ownership of Kind LLC's Preferred Interests from EOS Holdco [REDACTED]

[REDACTED] to the individual members of EOS Holdco (where Mehra held only about [REDACTED] of the membership interests), diluting his voting power on matters subject to the vote of Preferred Members holding the Preferred Interests of Kind LLC. Actions subject to the vote of Preferred Members holding a majority of Preferred Interests include [REDACTED]

[REDACTED], (*see* Ex. B § 11.9(a)).

72. The dissolution and "assignments" would also alter the composition of Kind LLC's Restricted Members (a group consisting of Preferred Members, Class A Common Members, and Class B Common Members) by changing the Preferred

Members from EOS Holdco to the individual members thereof (three of whom are controlled by Teller, and only one of which is controlled by Mehra) and would similarly dilute Mehra's voting power on matters subject to the vote of Restricted Members. Actions subject to the vote of a majority of Restricted Members include

[REDACTED]

[REDACTED] (See Ex. B § 4.2(c), (d).)

73. Teller violated his fiduciary duties by seeking to cause a dilution of Mehra's voting power at Kind LLC with the purpose of squeezing Mehra out of the EOS structure and depriving him of and undermining his economic rights.

74. The dilution of Mehra's voting power at Kind LLC as a result of Teller's unlawful dissolution of EOS Holdco threatens Mehra with irreparable harm and underscores the urgency of undoing the dissolution to avoid potentially irreversible decisions that may be made at Kind LLC based on an improper balance of voting power.

75. Teller has also failed to take necessary or appropriate steps at the Kind LLC level to give effect to Mehra's distribution rights under the EOS Holdco Operating Agreement.

[REDACTED]

76. At the September 26, 2019 meeting, after Teller purported to vote on his sham resolution, he ordered Mehra to leave the premises, denied him access to his computer, cutoff his company e-mail account, and, with Slover, insisted on having the police called to remove him from the premises.

77. To date Mehra has received no notice from EOS that he has—even purportedly—been fired as co-CEO of EOS Products or removed as a manager for either EOS Holdco (as noted above, Teller lacks the authority to remove Mehra unilaterally) or Kind LLC.

78. Nonetheless, Teller and others on his behalf reached out to EOS’s business contacts and other contacts of Mehra immediately after the meeting to advise them that Mehra is no longer associated with the company. Mehra has suffered reputational harm as a result. Teller’s actions jeopardize the industry relationships that Mehra has worked for decades to build.

COUNT I - BREACH OF FIDUCIARY DUTY

(Against Teller)

79. Plaintiffs repeat and reallege the allegations of the above paragraphs as if fully set forth herein.

80. Teller, as a manager and controlling member of EOS Holdco, owes fiduciary duties of care and loyalty to EOS Holdco and directly to Mehra (through the Mehra Trust) as a minority member.

81. Teller breached his fiduciary duty of loyalty by, among other things:
- a. Executing a scheme to strip Mehra of his economic rights in the EOS structure for Teller's own benefit, including to strip Mehra of his right to distributions, including the Revised Sharing Percentage, and including in the event of a deadlock dissolution;
 - b. Using a pretext to dissolve EOS Holdco for the purpose of executing his scheme to deprive Mehra of his economic rights and to dilute his voting power at Kind LLC.

82. Mehra and the Mehra Trust have been harmed by these breaches in an amount to be proven at trial.

83. Especially because Mehra's rights to distributions are ongoing and indefinite in duration, Mehra and the Mehra Trust's damages will be difficult to quantify in dollars and, especially given the impact of the illegal dissolution on his voting rights, the harm cannot be addressed simply by awarding money damages.

COUNT II - BREACH OF CONTRACT
(Against Teller)

84. Plaintiffs repeat and reallege the allegations of the above paragraphs as if fully set forth herein.

85. The EOS Holdco Operating Agreement is a valid and enforceable contract.

86. At all times, Mehra, individually, and Samrita Mehra, as trustee of the Mehra Trust, performed all obligations required of them under the EOS Holdco Operating Agreement.

87. Teller, purporting to act on behalf of EOS Holdco, breached the EOS Holdco Operating Agreement by, among other things:

- a. Manufacturing a “deadlock” in bad faith by proposing a resolution that was an improper subject for action of EOS Holdco as a member of Kind LLC and incapable of having a legal impact on any relevant issue;
- b. Failing to act in good faith and in such manner as may be required to protect and promote the interests of EOS Holdco and its members, including Mehra;
- c. Failing to follow the proper procedure to effect a deadlock dissolution by, among other things, Teller’s unilateral “assignment” of EOS Holdco’s interests in Kind LLC; and
- d. Failing to take necessary and appropriate steps to give effect to Mehra’s distribution rights under the EOS Holdco Operating Agreement at the Kind LLC level.

88. Mehra and the Mehra Trust have been harmed by these breaches in an amount to be proven at trial.

89. Especially because Mehra’s rights to distributions are ongoing and indefinite in duration, Mehra and the Mehra Trust’s damages will be difficult to quantify in dollars and, especially given the impact of the illegal dissolution on his voting rights, the harm cannot be addressed simply by awarding money damages.

COUNT III - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY
(Against Slover)

90. Plaintiffs repeat and reallege the allegations of the above paragraphs as if fully set forth herein.

91. As noted above, Teller owed fiduciary duties to Mehra and the Mehra Trust, and he breached those duties.

92. Slover knew about the breaches as she knew about Teller's scheme to strip Mehra of his economic rights for Teller's own benefit.

93. Slover provided substantial assistance to Teller's breaches by, among other things, participating in the drafting of pretextual corporate documents designed to implement the scheme.

94. Mehra and the Mehra Trust have been harmed by these breaches in an amount to be proven at trial.

95. Especially because Mehra's rights to distributions are ongoing and indefinite in duration, Mehra and the Mehra Trust's damages are difficult to quantify in dollars and, especially given the impact of the illegal dissolution on his voting rights, the harm cannot be addressed simply by awarding money damages.

96. Alternatively, Slover is directly liable for breach of fiduciary duty as an officer/employee who participated in the wrongful conduct alleged herein.

COUNT IV - DECLARATORY JUDGMENT

(Against All Defendants; as to EOS Holdco, Angry Elephant Capital, LLC, and Andrew Saltoun, as successor trustee of the Teller Children's 2015 Trust, they are named for relief purposes only)

97. Plaintiffs repeat and reallege the allegations of the above paragraphs as if fully set forth herein.

98. This matter presents a controversy involving Mehra's rights, including his rights as a member of EOS Holdco and including his rights to distributions in accordance with the provisions of EOS Holdco's Operating Agreement, including his revised share percentage.

99. The defendants, as either members, managers, or employees of EOS Holdco or one of its subsidiaries, have an interest in contesting the claim, as evidenced by Teller's purported attempt to dissolve EOS Holdco in violation of the EOS Holdco Operating Agreement and his fiduciary duties. The entities through which Teller holds a portion of his membership interests have an interest in this action as their membership interests were affected by Teller's actions.

100. The controversy is real and adverse, and the issues are ripe for determination.

101. Plaintiffs are entitled to a declaratory judgment stating the following:

- a. The purported dissolution of EOS Holdco violated the terms of the EOS Holdco Operating Agreement and Teller's fiduciary duties and was therefore invalid and ineffectual;
- b. Any votes of Teller, Angry Elephant Capital, LLC, or Andrew Saltoun, as successor trustee of the Teller Children's 2015 Trust, as Preferred Members or Restricted Members of Kind LLC purportedly based on the membership interests of Kind LLC "assigned" by Teller on or about September 26, 2019 are invalid;

- c. Mehra (through the Sanjiv Mehra 2014 Irrevocable Trust) is entitled to the distributions, including at the Revised Sharing Percentage, set forth in section 7.01(a)(ii) of the EOS Holdco Operating Agreement, at the Kind LLC level;
- d. Mehra's right to distributions as set forth in section 7.01(a)(ii) of the EOS Holdco Operating Agreement, including at the Revised Sharing Percentage, overrides any provision in the Kind Operating Agreement that could impair his right to such distributions, including the Call Option provision in section 11.8 of the Kind Operating Agreement;
- e. The Call Option provision in section 11.8 of the Kind Operating Agreement cannot be exercised in any manner that impairs or diminishes Mehra's right to distributions as set forth in section 7.01(a)(ii) of the EOS Holdco Operating Agreement, including at the Revised Sharing Percentage; and
- f. Under the EOS Holdco Operating Agreement, Teller, Angry Elephant Capital, LLC, and Andrew Saltoun, as successor trustee of the Teller Children's 2015 Trust, must take all necessary or appropriate acts to give effect to Mehra's right to distributions as set forth in section 7.01(a)(ii) of the EOS Holdco Operating Agreement, including at the Revised Sharing Percentage, at the Kind LLC level.

PRAYER FOR RELIEF

Plaintiffs respectfully request the following relief:

- 1. A preliminary injunction:
 - a. Prohibiting the defendants from taking any further steps to dissolve and terminate the existence of EOS Holdco; and
 - b. Prohibiting Teller, Angry Elephant Capital, LLC, and Andrew Saltoun, as successor trustee of the Teller Children's 2015 Trust, from voting as Preferred Members or Restricted Members of Kind LLC, to the extent such votes purport to be based on the

membership interests of Kind LLC “assigned” by Teller on or about September 26, 2019.

- c. Prohibiting Teller, Angry Elephant Capital, LLC, and Andrew Saltoun, as successor trustee of the Teller Children’s 2015 Trust, from taking any action to purportedly exercise the “Call Option” provision in section 11.8 of the Kind Operating Agreement to repurchase any membership interests in Kind LLC held by Mehra or the Mehra Trust.
2. A permanent injunction requiring the defendants to reinstate the membership interests and all other provisions of EOS Holdco in effect immediately prior to the purported dissolution.
 3. A declaration stating:
 - a. The purported dissolution of EOS Holdco violated the terms of the EOS Holdco Operating Agreement and Teller’s fiduciary duties and was therefore invalid and ineffectual;
 - b. Any votes of Teller, Angry Elephant Capital, LLC, or Andrew Saltoun, as successor trustee of the Teller Children’s 2015 Trust, as Preferred Members or Restricted Members of Kind LLC purportedly based on the membership interests of Kind LLC “assigned” by Teller on or about September 26, 2019 are invalid;
 - c. Mehra (through the Sanjiv Mehra 2014 Irrevocable Trust) is entitled to the distributions, including at the Revised Sharing Percentage, set forth in section 7.01(a)(ii) of the EOS Holdco Operating Agreement, at the Kind LLC level;
 - d. Mehra’s right to distributions as set forth in section 7.01(a)(ii) of the EOS Holdco Operating Agreement, including at the Revised Sharing Percentage, overrides any provision in the Kind Operating Agreement that could impair his right to such distributions, including the Call Option provision in section 11.8 of the Kind Operating Agreement;

- e. The Call Option provision in section 11.8 of the Kind Operating Agreement cannot be exercised in any manner that impairs or diminishes Mehra's right to distributions as set forth in section 7.01(a)(ii) of the EOS Holdco Operating Agreement, including at the Revised Sharing Percentage; and
 - f. Under the EOS Holdco Operating Agreement, Teller, Angry Elephant Capital, LLC, and Andrew Saltoun, as successor trustee of the Teller Children's 2015 Trust, must take all necessary or appropriate acts to give effect to Mehra's right to distributions as set forth in section 7.01(a)(ii) of the EOS Holdco Operating Agreement, including at the Revised Sharing Percentage, at the Kind LLC level.
4. Damages in amount to be determined at trial;
 5. Pre-judgment and post-judgment interest; and
 6. Such other relief as the Court deems just and proper.

DATED: December 13, 2019

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