

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

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In the Matter of the Application of	:	Index No. _____
KEVIN PHILLIPS, JOHN BILLS, SCHUYLER	:	
FABIAN, and ROBERT KAVANAGH,	:	
Petitioners,	:	
For an Order, Pursuant to Article 75 of the Civil	:	<u>VERIFIED PETITION TO</u>
Practice Law and Rules, to Vacate in Part/Modify the	:	<u>VACATE IN PART/MODIFY</u>
Parties' Arbitration Award,	:	<u>ARBITRATION AWARD</u>
	:	
-against-	:	
	:	
	:	
CANTOR FITZGERALD & CO.,	:	
Respondent.	:	

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Petitioners Kevin Phillips, John Bills, Schuyler Fabian, and Robert Kavanagh ("Petitioners"), by and through their attorneys, Beys Liston & Mobargha LLP, for their petition pursuant to Article 75 of the New York Civil Practice Law and Rules ("CPLR"), respectfully allege as follows:

PRELIMINARY STATEMENT

1. This Article 75 proceeding seeks an order pursuant to the Federal Arbitration Act (9 U.S.C. § 1 *et seq.*) ("FAA") to vacate in part and/or modify the arbitration award dated October 30, 2023 rendered in several consolidated arbitrations before the Financial Industry Regulatory Authority Dispute Resolution Services ("FINRA").

2. The nature of the underlying dispute concerns Petitioners' departure from their employment as investment bankers for the Respondent, Cantor Fitzgerald & Co. ("Cantor" or "Respondent"), in 2021. Petitioners exited Cantor because Cantor had materially breached multiple

agreements that collectively comprised the terms and conditions under which each Petitioner was employed by Cantor. After Petitioners departed Cantor, they established a new investment bank specializing in power, energy and infrastructure transactions, PEI Global Partners Holdings, LLC (“PEI Holdings”), which executes certain transactions through its affiliate, PEI Global Partners LLC (“PEI NY”), which is a registered broker-dealer and member of FINRA.

3. Cantor thereafter filed six individual arbitrations before FINRA – one each against each Petitioner, one other individual, and PEI NY.

4. In the Statements of Claim, Cantor sought, collectively, an award of at least \$24 million. By the time of the closing argument in the FINRA arbitration, Cantor asked for an award of [REDACTED].

5. FINRA issued its Award on October 31, 2023. *See* Ex. 1. In its Award, the FINRA arbitration panel rejected all of Cantor’s claims, save one, against each Petitioner. Although the panel did not expressly state on which claim Cantor prevailed, it is an easy fact to determine. The Award provides that Petitioner Phillips must pay \$3,085,045.26; Petitioner Bills must pay \$378,750.00; Petitioner Fabian must pay \$282,656.25; and Petitioner Kavanagh must pay \$115,313.24. Given that these are the exact amounts alleged by Cantor as the amounts each Petitioner owed under certain Forgivable Promissory Notes, it must be that the FINRA panel sustained only Cantor’s claim against each Petitioner for breach of each Petitioner’s Forgivable Promissory Note for not paying back those amounts upon their departure from Cantor. But the panel rejected every other claim brought by Cantor.

6. The problem is that the award in favor of Cantor on the Forgivable Promissory Notes was made in manifest disregard of the law. In light of the FINRA panel’s necessary determination that Cantor had first breached other related and integrated agreements with Petitioners before Petitioners departed Cantor, the only available conclusion to the Panel was that Cantor’s breaches of those

agreements actually excused any obligation Petitioners had to pay back the Forgivable Promissory Notes. Accordingly, that part of the Award that requires payment to Cantor should be vacated in part and/or modified.

PARTIES

7. Petitioner Kevin Phillips is an individual who resides in Tampa, Florida. Cantor commenced an arbitration against Phillips on or about November 5, 2021, styled *Cantor Fitzgerald & Co. v. Phillips*, FINRA Arbitration Case Number: 21-02796.

8. Petitioner John Bills is an individual who resides in New York, New York. Cantor commenced an arbitration against Bills on or about November 5, 2021, styled *Cantor Fitzgerald & Co. v. Bills*, FINRA Arbitration Case Number: 21-02792.

9. Petitioner Schuler Fabian is an individual who resides in Mamaroneck, New York. Cantor commenced an arbitration against Fabian on or about November 5, 2021, styled *Cantor Fitzgerald & Co. v. Fabian*, FINRA Arbitration Case Number: 21-02793.

10. Petitioner Robert Kavanagh is an individual who resides in New York, New York. Cantor commenced an arbitration against Kavanagh on or about November 5, 2021, styled *Cantor Fitzgerald & Co. v. Kavanagh*, FINRA Arbitration Case Number: 21-02795.

11. Respondent Cantor Fitzgerald & Co. is a New York partnership and FINRA member firm with an office located at 110 East 59th Street, New York, New York 10022.

JURISDICTION AND VENUE

12. This Court has jurisdiction pursuant to CPLR 7502.

13. Venue in the County of New York is proper pursuant to CPLR 7502 because it is the county in which the arbitration was held.

STATEMENT OF FACTS

14. In 2017, Cantor recruited power, energy and infrastructure banker Petitioner Phillips and his London based partner away from long-time competitive rival Jefferies & Company (“Jefferies”). Cantor’s lift-out plan included Phillips’ colleagues, New York-based Petitioners Bills, Fabian, and Kavanagh, among others (the “NY Team”) and the London based partner and his peers in the U.K., Hong Kong and Dubai (when taken together with the NY Team, the “Global Team”).

15. Petitioner Phillips and Cantor executed contracts regarding Phillips’ new position on November 9, 2017, including, but not limited to the three agreements relevant here: (i) the Employment Agreement, dated November 9, 2017 (Ex. 2); (ii) the Indemnification Agreement, dated November 9, 2017 (Ex. 3); (iii) the First Negotiable Promissory Note and Assignment, dated November 9, 2017 (a and the Second Negotiable Promissory Note and Assignment, dated November 9, 2017 (each a “Forgivable Promissory Note”) (Ex. 4) (the “Phillips Employment Agreements”).

16. Petitioner Bills and Cantor executed contracts regarding Bills’ new position on November 18, 2017, including, but not limited to the three agreements relevant here: (i) the Employment Agreement, dated November 18, 2017 (Ex. 5); (ii) the Indemnification Agreement, dated November 18, 2017 (Ex. 6); and (iii) the First Negotiable Promissory Note and Assignment, dated November 18, 2017 (a “Forgivable Promissory Note”) (Ex. 7) (the “Bills Employment Agreements”).

17. Petitioner Fabian and Cantor executed contracts regarding Fabian’s new position on November 18, 2017, including, but not limited to the three agreements relevant here: (i) the Employment Agreement, dated November 18, 2017 (Ex. 8); (ii) the Indemnification Agreement, dated November 18, 2017 (Ex. 9); and (iii) the First Negotiable Promissory Note and Assignment, dated November 18, 2017 (a “Forgivable Promissory Note”) (Ex. 10) (the “Fabian Employment Agreements”).

18. Petitioner Kavanagh and Cantor executed contracts regarding Kavanagh's new position on November 18, 2017, including, but not limited to the three agreements relevant here: (i) the Employment Agreement, dated November 18, 2017 (Ex. 11); (ii) the Indemnification Agreement, dated November 18, 2017 (Ex. 12); and (iii) the First Negotiable Promissory Note and Assignment, dated November 18, 2017 (a "Forgivable Promissory Note") (Ex. 13) (the "Kavanagh Employment Agreements").

19. After starting at Cantor in the spring and summer of 2018, the Global Team's performance quickly earned accolades from the press, with the Global Team winning *Infrastructure Journal and Project Finance Magazine's* 2020 Financial Advisor of the Year and other awards. Not surprisingly, the Global Team also demonstrated a promising revenue trajectory for Cantor. Despite the first full calendar year of 2019 being a "ramp up" year wherein the Global Team's compensation was fixed, it achieved revenues of over [REDACTED]. This was followed with more success in 2020, when the Global Team essentially doubled this number upon booking over [REDACTED] in revenues, of which Cantor retained over [REDACTED]. By the end of 2020, Cantor was well beyond break-even on its investment in the Global Team and had already made more than double its initial investment in the NY Team, which constituted only one-third of Global Team headcount but approximately half of 2019 and 2020 revenue.

20. But then, after luring Phillips and the other members of the Global Team with representations, promises, and contractual obligations in respect of compensation, revenue participation and legal protection from claims in a series of integrated agreements, Cantor systematically began to renege on its obligations and promises. Among other things, Cantor (i) breached the Petitioners' Employment Agreements by implementing a permanent change to a Revenue Share formula, in order to eliminate the Global Team's 2021 bonus pool, and (ii) repudiated an Indemnification Agreement that

obligated Cantor to indemnify Petitioners in respect of an arbitration commenced by Jefferies against Petitioners and Cantor (the “Jefferies Litigation”).

21. First, Cantor breached each Petitioner’s Employment Agreement. In April 2021, Cantor unilaterally implemented a change to the fundamental structure of the Revenue Share designed to eviscerate the Global Team’s 2021 bonus pool. In particular, Cantor reformulated the basis for the Global Team’s revenue recognition from an accrual basis to the receipt of cash. This change contravened not only the Employment Agreement, but also industry standards, Cantor’s own financial statement reporting, and the booking practices employed to date. Assuming the timing and amount of 2021 cash receipts would have matched 2020, Respondents – and Cantor – knew this seemingly innocuous change would have the effect of reducing by 100% the cash portion of the Global Team’s expected March 2022 bonus pool for performance in 2021.

22. Second, in June 2021, Cantor breached each Petitioner’s Indemnification Agreement. The Indemnification Agreements embodied Cantor’s promise to provide protection to each Petitioner from the personal litigation risk that leaving Jefferies would entail. Because Cantor and the Global Team anticipated that Jefferies would sue if they resigned to join Cantor, Cantor agreed to indemnify and hold harmless each member of the Global Team for any claims arising from their resignations from Jefferies, including the unconditional commitment to pay for any defense costs and financial settlement ultimately negotiated as a result of any claim filed by Jefferies. However, after a settlement in principle was reached to resolve the Jefferies Litigation, Cantor sought to re-trade the terms of the Indemnification Agreements, demanding that Petitioners and others bear the lion’s share of the cost of the settlement rather than Cantor. After Petitioners protested, Cantor expressly repudiated the Indemnification Agreements and settled with Jefferies but excluded the Petitioners.

23. Once Cantor breached these obligations (and others) to Petitioners, Petitioners left Cantor in September 2021 before their contractual employment terms expired. But then Cantor continued its relentless campaign against Petitioners by commencing arbitrations against them and asserting numerous specious and unsustainable claims.

24. On or about November 5, 2021, Cantor commenced five separate arbitrations before FINRA against Petitioners Phillips, Bills, Fabian, Kavanagh, and a non-party to this proceeding. On or about February 10, 2022, Cantor commenced an arbitration against non-party PEI NY. On or about March 3, 2022, the six arbitrations were administratively consolidated under *Cantor Fitzgerald & Co. v. PEI Global Partners, LLC*, FINRA Arbitration Case No. 22-00316.

25. In the Statements of Claim, Cantor asserted the following causes of action against each Petitioner: (1) breach of contract by failing to devote best efforts to Cantor during his employment; (2) breach of contract by refusing to serve the full employment term; (3) breach of the implied covenant of good faith and fair dealing with respect to his Employment Agreement; (4) breach of his Indemnification Agreement; (5) breach of the implied covenant of good faith and fair dealing with respect to the Indemnification Agreement; (6) breach of the duty of loyalty; (7) faithless servant; and (8) breach of a Forgivable Promissory Note or Notes. Cantor also brought a claim against Petitioners Phillips, Bills, and Fabian for tortious interference with prospective business relations, and a claim against Petitioner Phillips for tortious interference with contracts. Cantor's claims against PEI NY were (1) unfair competition; (2) aiding and abetting breach of fiduciary duty; (3) tortious interference with the employment agreements; (4) tortious interference with prospective business prospects; and (5) unjust enrichment.

26. Evidentiary hearings in the consolidated proceeding were held on June 29, 2023; June 30, 2023; July 10, 2023; July 12, 2023; July 13, 2023; July 14, 2023; August 7, 2023; August 9, 2023; August 14, 2023; August 15, 2023; September 8, 2023; September 13, 2023; and September 22, 2023.

27. The FINRA panel issued its Award on October 30, 2023. The relevant decretal language of the Award provides:

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Bills is liable for and shall pay to Claimant the sum of \$378,750.00 in compensatory damages.
2. Respondent Fabian is liable for and shall pay to Claimant the sum of \$282,656.25 in compensatory damages.
3. Respondent Sener is liable for and shall pay to Claimant the sum of \$259,406.25 in compensatory damages.
4. Respondent Kavanagh is liable for and shall pay to Claimant the sum of \$115,313.24 in compensatory damages.
5. Respondent Phillips is liable for and shall pay to Claimant the sum of \$3,085,045.26 in compensatory damages.
6. Claimant's claim against Respondent PEI NY is denied.
7. Respondents Bills, Fabian, Sener, Kavanagh, and Phillips Counterclaim is denied.
8. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, are denied.

Ex. 1 at 5-6.

28. The amounts awarded to Cantor are the exact amounts Cantor sought in connection with its claim that each individual breached his Forgivable Promissory Note or Notes. In the relevant portion of Cantor's Closing Argument Presentation Deck, attached hereto as Exhibit 14, Cantor lists the amounts owed by each individual under his Forgivable Promissory Note (Ex. 14 at 85), and those

amounts are the exact same as the amounts set forth in the Award. The FINRA panel rejected all of the rest of Cantor's claims as well as its request for [REDACTED] in damages. (Ex. 1 at 6; Ex. 14 at 107.)

29. Therefore, it is clear that Cantor succeeded on its claim for breach of the Forgivable Promissory Notes, but failed on every other claim.

30. The award in favor of Cantor on the Forgivable Promissory Notes, however, was made in manifest disregard of the law. As relevant here, among the claims it filed, Cantor brought claims against each Petitioner, alleging that the Petitioner had breached three contracts each Petitioner had signed when he agreed to join Cantor in 2017: (1) his Employment Agreement; (2) an Indemnification Agreement; and (3) his Forgivable Promissory Note. Each of these agreements were (i) executed at the same time; (ii) executed by the same parties; and (iii) executed for the same purpose. Importantly, Cantor never disputed these facts. Under New York law, therefore, these three separate documents constitute a single legal instrument. *See, e.g., Marsh v. Dodge*, 66 N.Y. 533, 537-38 (1876); *Nau v. Vulcan Rail & Const. Co.*, 286 N.Y. 188, 197 (1941) (citing *Marsh*, 66 N.Y. at 537-38); *BWA Corp. v. Alltrans Express U.S.A.*, 112 A.D.2d 850, 851-53 (N.Y. App. Div. 1st Dep't 1985) (citing *Nau*, 286 N.Y. at 197); *Fernandez v. Cohen*, 110 A.D.3d 557, 557-58 (N.Y. App. Div. Dep't 2013) (citing *BWA Corp.*, 112 A.D.2d at 852).

31. Because these three documents constitute a single legal instrument, Cantor's breach of one of these contracts constitutes a breach of all three. And, "[u]nder New York law, a party's performance under a contract is excused where the other party has substantially failed to perform its side of the bargain or, synonymously, where that party has committed a material breach." *Merrill Lynch & Co., Inc. v. Allegheny Energy, Inc.*, 500 F.3d 171, 186 (2d Cir. 2007). In other words, if Cantor breached at least of these contracts, the Petitioners were excused from further performance of the remaining contracts.

32. Here, the FINRA panel necessarily found that Cantor had materially breached either the Employment Agreement or the Indemnification Agreement or both.

33. Cantor alleged that each Petitioner breached his Employment Agreement by, inter alia, departing Cantor before the contractual term of employment ended. And the Petitioners did not dispute that they had, in fact, departed Cantor before their contractual term of employment ended. Petitioners' only defenses to this claim were either that Cantor materially breached the Employment Agreement first, and/or that Cantor had materially breached the Indemnification Agreement first. In either scenario, the legal effect of Cantor's direct prior breach of the Employment Agreement or its prior breach of the Indemnification Agreement (which was integrated with the Employment Agreement) would be that the Petitioners were excused from further performing the Employment Agreement and they could freely depart Cantor before the end of the contractual term of employment. *Merrill Lynch & Co.*, 500 F.3d at 186. Because the FINRA panel rejected Cantor's claim that each Petitioner breached his Employment Agreement by leaving early, the FINRA panel necessarily determined that Cantor had first breached either the Employment Agreement or the Indemnification Agreement or both.

34. Once the FINRA panel determined (as it did) that Cantor had first breached either or both of the Employment Agreement and the Indemnification Agreement before the Petitioners departed Cantor, it was obligated to conclude that Cantor had also first breached the Forgivable Promissory Notes because, as shown above, all three agreements constitute a single legal instrument under New York law. That conclusion required that Cantor's claim that each Petitioner breached the Forgivable Promissory Notes be denied.

35. The FINRA panel's mistake in not rejecting Cantor's breach of the Forgivable Promissory Notes claim constitutes "manifest disregard of the law" under the FAA, which provides grounds to vacate in part and/or modify the Award. The FAA governs the confirmation and vacatur of

an award rendered in a FINRA arbitration. *See, e.g., Ameriprise Financial Services Inc v. Silverman*, No. 19 CIV. 7812 (NRB), 2019 WL 6728862, at *2 (S.D.N.Y. Dec. 11, 2019); *see also Cantor Fitzgerald Securities v. Refco Securities, LLC*, 83 A.D.3d 592, 592 (1st Dep’t 2011) (“[T]he judicially created ‘manifest disregard of the law’ ground for vacating an arbitration award under the FAA is still viable . . .”).

36. According to the First Department, “[t]o modify or vacate an award on the ground of manifest disregard of the law, a court must find both that (1) the arbitrators knew of a governing legal principle yet refused to apply it or ignored it altogether, and (2) the law ignored by the arbitrators was well defined, explicit, and clearly applicable to the case.” *Daesang Corp. v. NutraSweet Co.*, 167 A.D.3d 1, 16 (1st Dep’t 2018). Both criteria are satisfied here.

37. First, the arbitrators knew of the governing legal principle, because Petitioners raised this ground to the arbitrators. For example, in their pre-hearing brief, Petitioners argued:

[REDACTED]

Ex. 15 (Respondents’ Pre-Hearing Brief), at 26-27.

38. In addition, during their closing argument, Petitioners raised this very issue:

[REDACTED]



Ex. 16 (September 22, 2023 Hearing Transcript), at 210:8-211:12.

39. Because Petitioners argued to the arbitrators that applicable law required them to reject Cantor's claim for breach of the Forgivable Promissory Notes, Petitioners have satisfied the first criterion of the manifest disregard analysis. *Cf. Morgan Stanley DW Inc. v. Afridi*, 13 A.D.3d 248, 250 (1st Dep't 2004) ("Accordingly, the subject award cannot be vacated for manifest disregard of the law, since Morgan Stanley's counsel never argued to the arbitrators that applicable law required either a finding of liability against both Morgan Stanley and Adel or, alternatively, dismissal of the claims against both.").

40. Petitioners also satisfy the second criterion: that the law ignored by the arbitrators was well defined, explicit, and clearly applicable to the case.

41. Under New York law, the multiple agreements that together constituted each Petitioner's employment agreements with Cantor must be read together. In the absence of anything to indicate a contrary intention, instruments executed at the same time, by the same parties, for the same purpose, and in the course of the same transaction will be read and interpreted together, it being said that they are, in the eye of the law, one instrument. *See, e.g., Nau v. Vulcan Rail & Construction Co.*, 286 N.Y. 188, 197 (1941); *In re Brandreth's Estate*, 169 N.Y. 437, 440 (1902); *BWA Corp. v. Alltrans Exp. U.S.A., Inc.*, 112 A.D.2d 850, 852 (1st Dep't 1985). The issue of whether separate documents executed simultaneously should be treated as a single contract is governed by the intent of the parties manifested at the time of contracting, *see, e.g., Commander Oil Corp. v. Advance Food Service Equipment*, 991 F.2d 49, 52-53 (2d Cir. 1993) (applying New York law); *Rudman v. Cowles Communications, Inc.*, 30

N.Y.2d 1, 13 (1972); *G.K. Alan Assoc., Inc. v. Lazzari*, 44 A.D.3d 95, 102 (2d Dep't 2007), *aff'd*, 10 N.Y.3d 941 (2008); *National Union Fire Ins. Co. of Pittsburgh, Pa. v. Robert Christopher Associates*, 257 A.D.2d 1, 5-6 (1st Dep't 1999), and viewed in light of all the surrounding circumstances, *see, e.g., Dynamics Corp. of America v. International Harvester Co.*, 429 F. Supp. 341, 345-46 (S.D.N.Y. 1977) (applying New York law); *Rudman*, 30 N.Y.2d at 13; *G.K. Alan Assoc.*, 44 A.D.3d at 102; *National Union Fire Ins. Co. of Pittsburgh, Pa.*, 257 A.D.2d at 5-7.

42. Each Petitioner's employment agreements were signed on the same date, involved the same parties, and were related to the same subject matter: the terms and conditions pursuant to which the Petitioner joined Cantor.

43. As the evidence at the hearings showed, all parties viewed the Phillips Employment Agreements, the Bills Employment Agreements, the Fabian Employment Agreements, and the Kavanagh Employment Agreements as an integrated whole. For example, Sage Kelly, the head of Investment Banking at Cantor, testified on his direct testimony led by Cantor's own counsel, that [REDACTED]

[REDACTED] Ex. 17 (June 20, 2023 Hearing Transcript at 120:20-121:23). In other words, given that other parts of each Petitioner's guaranteed compensation package were contained in the Employment Agreement and the Indemnification Agreement, even Cantor agreed that the Forgivable Promissory Notes were one of several contracts that comprised the terms and conditions under which each Petitioner accepted employment at Cantor.

44. In light of the fact that there was no factual dispute that the relevant contracts were executed at the same time, by the same parties, for the same purpose, and in the course of the same transaction, the FINRA panel was required to treat them as a single contract. Accordingly, Cantor's breach of either the Employment Agreement or the Indemnification Agreement or both, a finding which

was necessary to the FINRA panel's conclusion that the Petitioners did not breach the Employment Agreement when they departed Cantor prior to the end of their employment term, also served as a breach of the Forgivable Promissory Notes, excusing the Petitioners from paying Cantor amounts that would have been due in the absence of Cantor's breach.

45. The FINRA panel ignored this well-defined, explicit, and clearly applicable legal principle. Accordingly, the Award should be vacated in part or modified so that the Petitioners owe nothing to Cantor.

**FIRST CAUSE OF ACTION
(VACATUR IN PART/MODIFICATION OF ARBITRATION AWARD)**

46. Petitioners repeat and reallege paragraphs 1 through 45 above, as if fully set forth herein.

47. Petitioners were parties to an arbitration that resulted in an Award in which Cantor was awarded sums of money from each Petitioner.

48. As set forth in this Petition, the portion of the Award awarding Cantor sums of money from each Petitioner was made in manifest disregard of the law.

49. Accordingly, under the FAA, that portion of the Award should be vacated or modified to remove any award of money to Cantor.

PRAYER FOR RELIEF

Petitioners respectfully requests that this Court:

- (a) Enter an Order pursuant to the FAA vacating in part or modifying that portion of the arbitration Award dated October 30, 2023 that awarded Cantor sums of money from each Petitioner;
- (b) Award Petitioners their costs in this proceeding; and
- (c) Award Petitioners such other and further relief as the Court deems just and proper.

Dated: New York, New York
November 27, 2023

Respectfully submitted,
BEYS LISTON & MOBARGHA

By: /s/ Joshua D. Liston
Joshua D. Liston
Michael P. Beys

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VERIFICATION

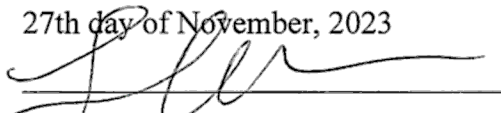
Kevin Phillips, being duly sworn, deposes and says:

- I am Kevin Phillips.
- I have read the foregoing petition and its factual contents are true to my personal knowledge, except as to those matters alleged therein to be upon information and belief, and as to those matters, I believe them to be true.

Kevin Phillips

Sworn to before me this

27th day of November, 2023


Notary Public

[NOTARY PUBLIC STAMP]




SAVANNA MUNYAN
Notary Public
State of Florida
Comm# HH340293
Expires 12/12/2026

VERIFICATION

John Bills, being duly sworn, deposes and says:

- I am John Bills
- I have read the foregoing petition and its factual contents are true to my personal knowledge, except as to those matters alleged therein to be upon information and belief, and as to those matters, I believe them to be true.



John Bills, Partner

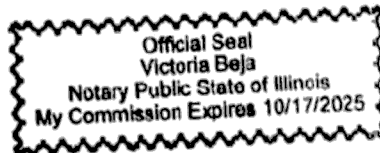
Sworn to before me this

28th day of November 2023



Notary Public

[NOTARY PUBLIC STAMP]



VERIFICATION

SCHUYLER FABIAN, being duly sworn, deposes and says:

- I am SCHUYLER FABIAN.
- I have read the foregoing petition and its factual contents are true to my personal knowledge, except as to those matters alleged therein to be upon information and belief, and as to those matters, I believe them to be true.

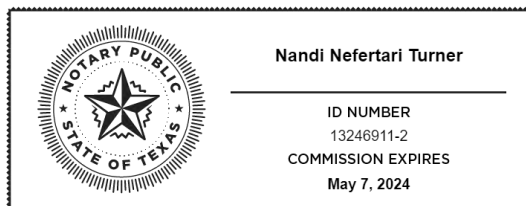
Schuyler Fabian

SCHUYLER FABIAN, PARTNER

Sworn to before me this

28th day of November 2023

Notary Public



Notarized online using audio-video communication