

CAUSE NO. D-1-GN-21-003502

**PROTEK CAPITAL, INC. &
EDWARD VAKSER, Individually
Plaintiffs,**

VS.

**BARRY MEZEY, MEZEY
HOLDINGS, DBA, SUPERSTAR
MANAGEMENT GROUP, INC., &
TEXAS SECRETARY OF STATE,
Defendants.**

§ **IN THE DISTRICT COURT**
§
§
§
§
§
§ **TRAVIS COUNTY, TEXAS**
§
§
§
§ **419th JUDICIAL DISTRICT**

PLAINTIFFS' FIRST AMENDED ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Protek Capital, Inc. and Edward Vakser, Individually, Plaintiffs in the above styled and numbered cause, and file this Original Petition for which Plaintiffs would show the Court the following:

I. DISCOVERY

I. Discovery is intended to be conducted under Discovery Control Plan Level 2 per the Texas Rules of Civil Procedure.

II. PARTIES & SERVICE

2. Protek Capital, Inc. ("Protek") is a corporation authorized to do business and doing business in the state of Texas.

3. Edward Vakser ("Vakser") is an individual who is a resident of Collin County, Texas.

4. Defendant, Barry Mezey, ("Mezey") is an individual who is a resident of Miami-Dade County, Florida and who resides at [REDACTED] who has answered and appeared before the Court and no service of process is necessary at this time.

.

5. Defendant, Mezey Holdings, DBA ("Mezey Holdings") is an inactive corporation organized under the laws of the state of Florida and has answered and appeared before the Court and no service of process is necessary at this time.

6. Defendant, Superstar Management Group, Inc, ("Superstar") is an inactive corporation organized under the laws of the state of Florida and has answered and appeared before the Court and no service of process is necessary at this time.

7. Defendant, Texas Secretary of State, has answered and appeared before the Court and no service of process is necessary at this time.

III. JURISDICTION AND VENUE

8. The Court has jurisdiction over this action pursuant to Section 37.001 *et seq.* of the Texas Civil Practice and Remedies Code.

9. Venue is proper in Travis County, Texas pursuant to Section 15.002 (a)(2) of the Texas Civil Practice and Remedies Code.

IV. BACKGROUND FACTS

10. Plaintiff, Protek Capital, Inc. is a corporation authorized to do business in Texas and doing business in Collin County, Texas. Plaintiff, Edward Vakser, is the chief executive officer of Protek and resides in Collin County, Texas.

11. Defendant, Barry Mezey, is an individual who resides in the state of Florida and, to Plaintiffs' knowledge, is the sole shareholder and owner of Mezey Holdings, DBA and Superstar Management Group, Inc., the other two defendants in this suit.

12. In 2013, the parties entered into discussions with the intent that they might ultimately reach agreement to enter into a contract to establish a business relationship. A Confidentiality/Non-Disclosure & Non-Circumvent Agreement ("NDA") and a Letter of Intent ("LOI") (see Exhibits A

& B attached hereto) were prepared for and executed by the parties to facilitate further discussions and negotiations that might lead to an agreement that would be memorialized in the form of a written contract. The NDA was binding on the parties only to the extent that it precluded either party from disclosing to a third-party confidential information of the other party obtained in the course of negotiations. Nothing in the LOI constituted a binding agreement between the parties to do other than engage in exclusive negotiations that could lead to a formal agreement. In fact, the letter of intent specifically set out provisions for its termination in paragraph 5 of the letter set out below:

“5. Termination. This Letter of Intent will expire in fourteen (14) days from the date of execution unless extended at any time by mutual consent of the parties. Upon such termination, this Letter of Intent shall have no force and effect other than under paragraph 2 (Confidentiality).”

13. There are no other written documents memorializing any other agreements between the parties in this case. Subsequently, negotiations between the parties broke down and failed to result in an agreement. The LOI expired under its own provisions set out above not later than March 7, 2013, which date was fourteen (14) days after the LOI was signed by Edward Vakser.

14. Since 2013, Defendant Mezey has engaged in activities designed to slander and libel both Edward Vakser, individually and Protek Capital, Inc. He has made frivolous claims that there was an enforceable contract between his companies and Plaintiffs. He has repeatedly made baseless accusations that Plaintiffs “defaulted and breached upon a purchase agreement with non-payment to date upon oral and signed agreements (sic)...”. He has made threats of physical violence against Plaintiff Vakser and regularly made false accusations against Plaintiffs Protek Capital, Inc. and Edward Vakser. These allegations, accusations and threats are completely without merit and have been made fraudulently by the Defendant Mezey, both individually and on behalf of the other Defendant business entities.

15. On May 28, 2021, some eight (8) years after the failed negotiations referenced above, Mezey caused to be filed with the Texas Secretary of State's Office a UCC-1 Financing Statement that seeks to assert claims against the assets of both Protek Capital, Inc. and Edward Vakser. This filing alleges that Defendants, Barry Mezey, Mezey Holdings, DBA, and Superstar Management Group, Inc. have a security interest in the assets of both plaintiffs (see Exhibit C attached hereto). Paragraph 4 of the UCC-1 intended to list the specific collateral covered by the UCC-1 appears to be nothing more than a rambling list of allegations and grievances Defendant Mezey has against Protek and Vakser. This claim is fraudulent, baseless and totally without merit.

16. Even assuming that there was a scintilla of truth or merit to the claims and allegations of the Defendants, which is specifically denied, any cause of action that accrued as the result of acts or omissions by the Plaintiffs in 2013 has been long barred by the statute of limitations and is further proof that Defendants claims are baseless and totally without merit.

17. On May 28, 2021, the Texas Secretary of State's Office accepted the filing of the above UCC-1 Financing Statement and assigned it Filing Number: 21-0022186911 and Document Number: 1054969580002, The UCC-1 Financing Statement is posted on the Secretary of State's public website for anyone in the public to access.

V. REQUEST FOR DECLARATORY JUDGMENT AND EQUITABLE RELIEF

18. Plaintiffs incorporates paragraphs 1-17 as though fully set out herein.

19. Pursuant to Section 37.001 *et seq.* of the Texas Civil Practice and Remedies Code, Plaintiffs request that the Court enter a declaratory judgment that the UCC-1 Financial Statement filed by Defendants with the Texas Secretary of State is fraudulent and order that the Texas Secretary of State remove any and all references to the said fraudulent filing from its website and records.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that, upon final hearing in this case, the Court enter declaratory judgment in favor of Plaintiffs and such further relief to which the Court deems Plaintiffs justly entitled.

Respectfully submitted,

LAW OFFICES OF DANIEL P. GARRIGAN
3811 Turtle Creek Blvd., Suite 175
DALLAS, TX 75219
Tel: (214) 219-1000
Fax: (214) 219-1003

By: /s/ Daniel P. Garrigan

Daniel P. Garrigan
State Bar No. 07703500
Michael Theodore Smith
State Bar No. 24117985
dgarrigan@garriganlaw.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that a true copy of the above was served on all parties, *pro se*, and all attorneys of records, by e-file manager, in accordance with the Texas Rules of Civil Procedure on April 12, 2022.

/s/ Daniel P. Garrigan

Daniel P. Garrigan

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Daniel Garrigan
Bar No. 07703500
dgarrigan@garriganlaw.com
Envelope ID: 63493241
Status as of 4/12/2022 4:00 PM CST

Associated Case Party: PROTEK CAPITAL INC

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel Garrigan		dgarrigan@garriganlaw.com	4/12/2022 12:14:22 PM	SENT

Associated Case Party: EDWARD VAKSER

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel Garrigan		dgarrigan@garriganlaw.com	4/12/2022 12:14:22 PM	SENT

Associated Case Party: BARRY MEZEY

Name	BarNumber	Email	TimestampSubmitted	Status
Barry Mezey		barrymezey@yahoo.com	4/12/2022 12:14:22 PM	SENT

Associated Case Party: TEXAS SECRETARY OF STATE

Name	BarNumber	Email	TimestampSubmitted	Status
Kara Kennedy		Kara.Kennedy@oag.texas.gov	4/12/2022 12:14:22 PM	SENT