RETURN DATE: SEPTEMBER 26, 2017:		**SUPERIOR COURT**
SEAN M. MCHUGH	:	**J.D. OF MIDDLESEX**
VS.	:	**AT MIDDLETOWN**
DAVID D. CHAPMAN and MCHUGH, CHAPMAN & VARGAS, LLC	:	**AUGUST 31, 2017**

APPLICATION FOR APPOINTMENT OF TEMPORARY RECEIVER

The plaintiff/applicant, Sean M. McHugh ("McHugh"), hereby applies for the immediate appointment of a temporary receiver of the defendant/respondent McHugh, Chapman & Vargas, LLC (the "Firm"), and respectfully requests that the defendant/ respondent David D. Chapman ("Chapman") and the Firm be ordered to appear at an early date to show cause why the receiver should not be appointed. This application is filed contemporaneously with McHugh's complaint for judicial dissolution of the Firm (the "Verified Complaint").

As alleged in the Verified Complaint:

- the Firm is a law firm in Middletown, serving several hundred clients;
- McHugh is the founding member of the Firm and claims to be the sole member of the Firm;
- Chapman claims to be a 1/3 member of the Firm, while McHugh contends that any legal or equitable interest that Chapman owns in the Firm does not constitute a membership interest;
- Chapman has commenced proceedings, in the name of the Firm, against McHugh, claiming improprieties by McHugh relating to Firm financial matters;

- On August 15, 2017, Chapman threatened to "kick [McHugh's] ass" – a threat made in the courthouse, in the presence of a court marshal and a paralegal – and about six weeks before that he told McHugh that he hates McHugh and McHugh's wife, Lori McHugh (an attorney employee at the Firm) and hopes that they die;
- There have been other recent incidences of physical and/or verbal aggression directed by Chapman toward McHugh and Lori McHugh;
- It is not tenable for McHugh and Lori McHugh to serve clients and otherwise perform their duties while Chapman is present, and major decision-making for the Firm is effectively paralyzed;
- It is not reasonably practicable to carry on the Firm's activities and affairs; and
- Good cause exists for judicial dissolution of the Firm, pursuant to C.G.S. §34-267(a)(4)(B).

Connecticut's Uniform Limited Liability Companies Act, C.G.S. §34-243 *et seq.* (the "New Act"), took effect on July 1, 2017. C.G.S. §34-243i(a). While not using the term "receiver," the New Act provides that the court "may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities and affairs … [o]n application of a member, if the applicant establishes good cause." C.G.S. §34-267a(e)(1).

Even under prior LLC law, which did not include an express provision for the appointment of receiver, a "common circumstance in which a receiver may be appointed is the dissolution of a limited liability company." W. Horton & K. Knox, 1 Connecticut

Practice Series, Superior Court Civil Rules, authors' comments, introduction to Chapter 21, p. 1006 (2015-2016 Ed.). *See, e.g.*, Warren v. Cuseo Family, LLC, 165 Conn.App. 230 (2016); Zampa v. Sandora, 2008 WL 4210773 (Conn.Super.).

Furthermore, our courts have the inherent authority to appoint receivers for business entities doing business in Connecticut, in connection with a dissolution proceeding or not. *See, e.g.*, Krall v. Krall, 141 Conn. 325 (1954) (permanent receiver of Connecticut corporation; no dissolution); Horton v. Hydra Systems International, Inc., 16 Conn.App. 420 (1988) (court has inherent authority to appoint receiver of foreign corporation doing business in Connecticut, even though court would lack jurisdiction to order dissolution). "A receiver of a corporation will be appointed by a court of equity as a measure ancillary to the enforcement of some recognized equitable right. The determinative inquiry is whether, considering all the circumstances, the affairs of the corporation should continue to be managed and wound up by those in control of it or, instead, it appears that those in control are so using their power that the property of the corporation should be taken over and administered under the direction of the court." *Id.* at 431 (citations and internal punctuation omitted).

The court's inherent power to appoint a receiver is not limited to the dissolution context. "A receiver is properly appointed when there are such dissentions in the governing body of a corporation ... that the corporation ceases to function in the manner provided for by its own by-laws and in accordance with the statutes relating to corporations." Krall v. Krall, 141 Conn. 325, 335 (1954).

In the present situation, the level of dissent, distrust and dysfunction is extreme. Management of the Firm's dissolution, and of its operations in the meantime, needs to be vested in a competent, dispassionate neutral, accountable to the court, so that the Firm's attorneys can continue to focus their time and attention on protecting the interests of the Firm's clients.

For these reasons, the plaintiff/applicant, Sean M. McHugh, respectfully requests that the court immediately appoint a receiver of the defendant/respondent McHugh, Chapman & Vargas, LLC.

PLAINTIFF/APPLICANT,
SEAN M. MCHUGH

By: _____

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