

**Sample Petition for Dissolution
of
[Name of Company]
under BCL § 1104-a**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

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In the Matter of the Application of

Index No. _____

[NAME(S) OF PETITIONER(S)]

Petitioners,

**VERIFIED PETITION
FOR DISSOLUTION***

For the Judicial Dissolution of

[NAME OF COMPANY]

Pursuant to Section 1104-a of the
Business Corporation Law.

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The petition of _____, pursuant to Section 1104-a of the Business Corporation Law, respectfully shows to this Court and alleges:

1. [Name of Company] (the "Corporation") is a domestic Corporation duly organized and existing under and by virtue of the laws of the State of New York having its principal place of business at [Street Address], in the County of _____, State of New York.

2. The Corporation commenced doing business in the year _____ and was and is engaged in the business of [nature of business].

3. The Corporation is authorized to issue [no.] shares of common stock and there are and have been issued [no.] shares of its common stock which are owned and held by various persons.

4. The petitioners, _____, are holders of more than 20% of the issued and outstanding common stock of the Corporation as follows:

_____ holds: [no.] shares
_____ holds: [no.] shares

* Pursuant to N.Y. Comp. Codes R. & Regs. tit. 22, § 130-1.1-a (hereinafter "N.Y.C.R.R."), an attorney signature is required. An attorney can comply by signing one of the following, as long as it accompanies the papers: a cover page, a litigation back or a separate certification.

Your petitioners hold and control approximately ____% of the common stock of the Corporation.

5. The Corporation is not registered as an investment company under the Federal Investment Company Act of 1940, as amended; no shares thereof are listed on a national securities exchange or regularly quoted on an over-the-counter market.

6. Petitioners, pursuant to Section 1104-a of the Business Corporation Law of the State of New York, demand that the Corporation be dissolved for the reasons hereinafter set forth.

7. The Corporation was formed by _____, petitioners' father, who died on _____, _____. _____, now _____ years old, was employed by the Corporation since it was formed and worked for it continuously until ____; _____, who is _____ years old, worked for it continuously from _____ until _____, when they were both discharged as hereinafter set forth.

The said _____ was the holder of _____ shares of common stock in _____ which constituted _____% of the capital stock of the Corporation; his wife, _____, the petitioner's mother, owned _____ shares or _____%; _____, petitioners' brother, owned _____ shares, or _____% thereof; _____, petitioners' brother, owned _____ shares or _____%; the petitioners' sister, _____, owned _____ shares or _____%; and other nonfamily members owned _____ shares, approximately _____% of the capital stock of the Corporation.

On or about _____, _____, the Corporation entered into an agreement with _____, a copy of which is attached hereto as Exhibit A, wherein and whereby it was agreed that the Corporation would purchase from his estate upon his death all of the shares of the common stock owned by _____ in the corporation at the time of his death. The purchase price was to be based on one and one-half times the net worth of the Corporation divided by the number of the outstanding shares multiplied by the number of shares that he owned at the time of his death. The intention of this agreement was to insure that upon their father's death, the petitioners would become the major stockholders of the Corporation since the corporate redemption of their father's stock would constitute your petitioners as the owners of the majority of the outstanding stock of the Corporation.

In _____ of _____, their father, who had dominated and run the Corporation as he saw fit, suffered a paralyzing stroke. At the time, their father was the President, and petitioner _____ was the Treasurer and _____ was Secretary of the Corporation. Your petitioners also were the sole directors of the Corporation. After their father had the stroke, the family decided to sell the business and actively sought a potential purchaser. At the time and for several years prior thereto, _____ earned an annual salary of \$_____, _____ earned a salary of \$_____, and their brother, _____, JR., who was acting as a salesman, was earning \$_____ per year.

For various reasons, the transaction with the purchaser of the business was not consummated, and this triggered a lawsuit with the purchaser that was waged over a four-year period and nearly wrecked the Corporation financially. Ultimately, the purchaser's action for specific performance was dismissed by the Trial Court and the judgment was affirmed by the Appellate Division, Second Department on _____, ____.

When the litigation by the purchaser was commenced in _____, your petitioners were in full charge of the Corporation and ran it on a daily basis. The expense of the litigation together with union problems with other employees, which had resulted in the plant being closed for six months, severely drained our income and left the Corporation in dire financial straits.

In order to protect the Corporation and keep it solvent, your petitioners agreed to temporarily reduce their salaries from the amounts above stated to \$_____ each until the Corporation could afford to pay us the previously earned salary. Their brother, _____, who performed no work and no services, was permitted to draw the same salary, which resulted in a \$_____ increase to him while we took a substantial reduction.

Your petitioners slaved long and arduous hours and scrimped and saved in order to restore the Corporation to financial health and put it back on a successful basis. As a result of our prodigious labors, your petitioners succeeded in putting the Corporation into the black and built sales up to more than \$_____ per year.

During all that time, their brothers, _____, who was not performing any work and refused to do any work, was scheming with their brother, _____, and sister, _____, to gain control of the Corporation. The latter two had absolutely no connection with the business of the Corporation at all; they did not perform any work for the Corporation.

Ultimately, their brother, _____, with the aid of _____ and _____, managed to maneuver their parents to give them over proxies so that _____, could gain control of the Corporation. He annoyed, harassed, cajoled, bullied and threatened their parents until he succeeded in forcing them to execute proxies in his favor.

In _____, _____, a stockholders' meeting was called by _____ and _____ for the election of directors. Based upon the proxies that had been executed by _____ and _____, _____ and _____ were elected directors. They then proceeded to elect _____, as President, _____ as Vice President and _____ as Secretary. The election of directors was confirmed by this Court on _____, _____ and affirmed by the Appellate Division, Second Department on _____, ____.

Virtually simultaneously with the takeover of the Corporation by _____, your petitioners were discharged by the Corporation and their employment terminated. Since that time, neither petitioner has been employed by the Corporation.

Subsequently, the new directors cancelled the agreement with _____, which provided for the redemption of his capital stock at the time of his death.

8. Since _____, _____, your petitioners have not been employed by the Corporation, have had no voice in the management and operation of the Corporation, have not been consulted by the officers and the directors concerning any aspect of the business of the Corporation, have been denied access to and an examination of the books and records of the Corporation, have been barred from the premises of the Corporation under the threat of bodily harm, and have been completely frozen out of the business of the Corporation despite their substantial equity therein and their lifelong devotion to the business and affairs of the Corporation.

9. As a result thereof, the Corporation has been deprived and denied the services of the petitioners and of qualified and effective management of the Corporation, has been irreparably harmed and damaged by the hostility toward the petitioners by the Corporation's officers and directors, who have sacrificed the welfare of the Corporation and its stockholders for their own personal gain and self-aggrandizement.

10. It was the reasonable expectation of the petitioners and the other stockholder-members of their family, including their father, _____, that petitioners would be key employees of the Corporation, have a voice in the management and operation of the business of the Corporation, that upon the death of their father they would become the majority stockholders of this family-run Corporation, and that they would derive substantial salaries as a result of their successful operation of the business as well as the dividends on their capital stock.

11. That relying upon said reasonable expectations, the petitioners devoted their entire working lives to the business of the Corporation and were successful, good, efficient, devoted and loyal officers, directors and employees under whose control the Corporation prospered and made large profits. Notwithstanding the foregoing, in _____, _____, your petitioners were improperly and unjustly discharged by the Corporation, severed from the business and removed as officers and directors, as signatories of the corporate bank account, denied access to information concerning the operation of the Corporation and barred from access to the premises of the Corporation.

12. The action of the Corporation, its officers and directors toward the petitioners constitutes a freeze-out from the business and affairs of the Corporation, and the directors and those in control of the Corporation have been and are guilty of oppressive, harsh and wrongful actions toward the petitioners.

13. Liquidation of the Corporation is the only feasible means whereby the petitioners may reasonably expect to obtain a fair return on their investment.

14. Liquidation is reasonably necessary for the protection of the rights and interests of the petitioners.

15. Judicial dissolution is, therefore, warranted and required pursuant to Section 1104-a of the Business Corporation Law.

16. In the interim, an immediate appointment of a receiver is essential and mandated in order to prevent further oppressive, harsh and wrongful conduct by the Corporation, its officers and directors against the petitioners.

17. No previous application for the relief sought herein has been made to any other Court of Justice thereof.

WHEREFORE, _____ petitioners, _____ and _____, respectfully request that the instant order show cause be signed, that the [Name of Company], its officers and directors and stockholders show cause before this Court why it should not be dissolved and liquidated pursuant to the applicable provisions of Section 1104-a of the Business Corporation Law of the State of New York.

Dated: _____, New York
[date]

[NAME OF PETITIONER]

[NAME OF PETITIONER]