

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GIL DWECK, on her own behalf,	§
as Trustee of the NAOMI DWECK	§
KIDS INTERNATIONAL TRUST	§ No. 65, 2013
and MAURICE DWECK KIDS	§
INTERNATIONAL TRUST and in	§ Court Below – Court of Chancery
her capacity as a shareholder of and	§ of the State of Delaware
on behalf of KIDS	§ C.A. No. 1353
INTERNATIONAL CORPORATION,	§
SUCCESS APPAREL LLC and	§
PREMIUM APPAREL BRANDS	§
LLC,	§
	§
Plaintiffs Below,	§
Appellants,	§
	§
v.	§
	§
ALBERT NASSER,	§
	§
Defendant/Third Party	§
Plaintiff Below,	§
Appellee,	§
	§
and	§
	§
KIDS INTERNATIONAL	§
CORPORATION,	§
	§
Nominal Defendant,	§
Below, Appellee,	§
	§
v.	§
	§
KEVIN TAXIN and BRUCE FINE,	§
	§
Third-Party Defendants	§
Below, Appellants,	§

Submitted: August 21, 2013

Decided: October 31, 2013

Before **STEELE**, Chief Justice, **HOLLAND, BERGER, JACOBS** and **RIDGELY**, Justices, constituting the Court *en Banc*.

ORDER

This 31st day of October 2013, the Court having considered this matter on the briefs filed by the parties and after oral argument, has decided that with one exception, the final judgment of the Court of Chancery should be affirmed on the basis of and for the reasons stated in its Memorandum Opinion dated January 18, 2012; Post-Trial Order dated February 8, 2012; Order Granting Motion For Clarification dated February 27, 2012; Memorandum Opinion dated August 2, 2012; Accounting Order dated September 10, 2012; Order Resolving Issues Related to Final Order dated January 15, 2013; and Final Order and Judgment dated January 15, 2013.

The one exception to a complete affirmance is found in the Order Resolving Issues Related to the Final Order dated January 15, 2013. After Nasser refused to provide Dweck with access to her share of the foreign funds, Dweck asked the Court of Chancery to, at least, order Nasser to comply with his representation to the court and to pay Dweck's share of the \$15.1 million, equal to \$4,533,147, plus interest, in partial satisfaction of Dweck's damages. The Court of Chancery noted that "Nasser's

involvement or knowledge of Kellerman's theft" has not been litigated. The Court of Chancery refused to "revisit" its decision, stating instead that "Plaintiff's remedy lies in appeal." The Court of Chancery should not have left it to this Court to address Nasser's misrepresentations when those misrepresentations were the basis for the Court of Chancery's ruling. Therefore, this matter is remanded to the Court of Chancery to determine whether Nasser is personally liable to Dweck for \$4,533,147 plus interest.

NOW, THEREFORE, IT IS HEREBY ORDERED that the final judgment of the Court of Chancery is affirmed in part, reversed in part, and remanded for further proceedings in accordance with this order. Jurisdiction is not retained.

BY THE COURT:

/s/ Randy J. Holland
Justice