

IN THE SUPREME COURT OF OHIO

ROBERT SOBIN,

Plaintiff-Appellee,

v.

DR. CHUN BIN LIM AND TRIONIX RESEARCH
LABORATORY, INC.,

Defendant-Appellants.

Case No. **13-0169**

On Appeal From The Cuyahoga
County Court of Appeals,
Eighth Appellate District

Court of Appeals
Case No. CA-12-097952

**DEFENDANT-APPELLANTS DR. CHUN BIN LIM AND TRIONIX RESEARCH
LABORATORY, INC.'S MEMORANDUM IN SUPPORT OF JURISDICTION**

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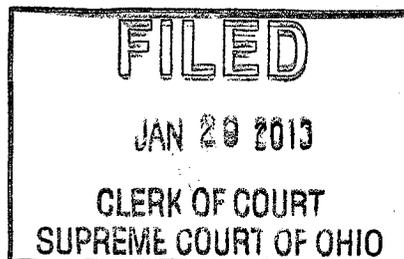


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EXPLANATION OF WHY THIS IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

This case presents one issue of vital interest to all privately held, close corporations in Ohio, as well as two issues of great general interest to all litigants appearing before Ohio's appellate courts. The Eighth District Court of Appeals' ruling essentially permits officers of privately held companies to use their own negligent or intentional failure to perform fiduciary duties as both a shield from liability and a sword for gaining impermissible shareholder advantages. In reaching this unfortunate decision, the Appellate Court also applied an incorrect legal standard of review as to the issue of laches and summary judgment, while denying Defendant-Appellants their Constitutional right to a jury trial on questions of fact.

These issues are of great public and general interest because they impact the ability of small businesses to protect themselves against negligent or unscrupulous officers. In addition, these issues threaten to destroy the uniform application of the law amongst Ohio's appellate courts and are critical to the Constitutional interests of all litigants in Ohio.

The first issue is whether the Plaintiff-Appellee, Robert Sobin ("Sobin"), may be allowed to profit from his failure to perform fiduciary duties as an officer of Defendant-Appellant, Trionix Research Laboratories, Inc. ("Trionix"). Currently, the Court of Appeals' ruling allows Sobin (as the officer of the company required to maintain the stock ledger and secure all redeemed shares on behalf of the company), to use the absence of entries in Trionix's corporate stock ledger and his unauthorized retention of Trionix stock certificates, to establish that he was still a shareholder of Trionix. By negligently or intentionally breaching his fiduciary duties, Sobin was able to secure an unjust windfall at Trionix's expense.

The Appellate Court's affirmation of the trial court's verdict allows officers (particularly corporate secretaries) who do not update corporate ledgers, fail to call shareholder meetings as

required by corporate bylaws, and otherwise do not fulfill their corporate duties, to now cite to the Appellate Court's decision as their shield from accountability for breaches of their fiduciary duties. As such, the appellate decision disregards years of judicial precedent and statutory authority and intent. Most significantly, it works a great injustice on privately held, Ohio companies. The long-term impact of this ruling has the potential to inhibit corporate growth by fostering a legal environment that is inhospitable to small business. The decision discourages investment by failing to protect Ohio's small business owners and shareholders from the negligence and malfeasance of officers. Further, this decision encourages wrongful acts by unscrupulous officers who will be able to profit from fiduciary breaches without fear of civil liability.

The second issue of great public and general interest is the Appellate Court's failure to apply the requisite *de novo* standard of review to Defendant-Appellants' laches defense, raised on summary judgment. Essentially, the Appellate Court held that laches did not bar Sobin's claims despite his waiting over fifteen years to bring an action that he knew accrued as early as 1992. In reaching its conclusion, the Appellate Court applied an erroneous standard of review, providing significant deference to the trial court's summary judgment ruling that laches did not bar Sobin's claims as a matter of law. Rather than applying a *de novo* standard of review to the laches issue, as it was required to do, the Appellate Court applied an abuse of discretion standard.

The Appellate Court's erroneous application of an abuse of discretion standard to an issue raised on summary judgment threatens to destroy the uniformity of law amongst Ohio's appellate districts and create uncertainty in an area of previously well-settled precedent. The Appellate Court's summary denial of Defendant-Appellants' Motion for Reconsideration, which thoroughly addressed this issue, makes it ripe for this Court's review.

Finally, the Appellate Court's affirmation of the trial court's ruling involves a substantial Constitutional question. The Appellate Court's decision ignores that Defendant-Appellants were denied their Constitutional right to a jury trial on questions of fact related to the declaratory judgment action. Defendant-Appellants never consented to a bench trial on the issue of declaratory judgment as to whether Sobin was a Trionix shareholder. Defendant-Appellants specifically demanded a trial by jury in their pleadings. Defendant-Appellants reiterated that demand during a pre-trial with the trial court. The trial court, however, denied that request and later proceeded with a bench trial.

Because a determination of significant questions of fact was necessary to any finding regarding Sobin's status as a Trionix shareholder, Defendant-Appellants were entitled to a jury trial, for which they made a timely demand. The denial of Defendant-Appellants' Constitutional right sets a dangerous precedent which works to erode the guaranteed liberties of all Ohioans.

STATEMENT OF THE CASE

In the late 1980's, Sobin purchased 655 shares of Trionix that were subject to a publicized and documented restriction that only employees of Trionix could hold shares of Trionix. In 1994, Sobin left Trionix's employ, after already having received in 1991 and 1992 approximately \$90,000.00 of extra payments for shares of stock Trionix repurchased from him. In May 25, 2010, over 15 years later, Sobin filed a lawsuit against Trionix and its sole owner, Defendant-Appellant, Dr. Chun Bin Lim ("Dr. Lim"), seeking a declaration that he remained a Trionix shareholder. The complaint also asserted causes of action for breach of fiduciary duty and improper majority control. Defendant-Appellants filed their joint Answer with Affirmative Defenses and Counterclaims on August 2, 2010, requesting a trial by jury and asserting counterclaims for breach of express contract; breach of implied-in-fact contract; unjust enrichment; and promissory estoppel – each of which arose from Sobin's retention of \$90,000.00

without turning over his shares of stock to Trionix when those shares were repurchased from him. Later, in May 2011, Defendant-Appellants sought leave to amend their counterclaims to include a claim for fraudulent inducement. The court allowed the amended complaint – which reiterated the jury demand of Defendant-Appellants on all issues so triable.

Discovery and the case proceeded solely on Sobin's declaratory judgment claim that he remained a shareholder of Trionix (Count I of the Complaint), Defendant-Appellants' defenses that Sobin's claims were time barred by the applicable statute of limitations and laches, and Defendant-Appellants' counterclaims. Sobin filed a motion for partial summary judgment on January 3, 2011 on his declaratory judgment claim. Defendant-Appellants opposed the motion, and cross-moved for summary judgment on their affirmative defenses, arguing that Sobin's declaratory judgment claim was time barred. Despite denying the motions for summary judgment, the trial court affirmatively held that laches and the statute of limitations did not apply. (Trial Court's Order and Opinion Denying Plaintiff's Motion for Partial Summary Judgment, dated September 29, 2011).

At a pretrial, Defendant-Appellants repeated their demand for a jury trial. The trial court, however, denied that request, stating it (not a jury) would preside over Sobin's declaratory judgment claim of whether Sobin remained a shareholder of Trionix. Because the trial court had denied Defendant-Appellants' earlier requests for a jury trial, the case was tried by the bench on January 23-24, 2012, on the sole issue of whether Sobin remained a shareholder of Trionix. On January 27, 2012, the trial court entered its Verdict, declaring Sobin remained a shareholder of Trionix as solely requested in Count I of Plaintiff-Appellee's Complaint. Despite declaring a trial would only proceed on the declaratory judgment claim in the first stage, the trial court also summarily entered judgment against Defendant-Appellants on each of their counterclaims.

Defendant-Appellants timely filed their notice of appeal in the Eighth District on February 14, 2012.

The Appellate Court entered its Journal Entry and Opinion on November 29, 2012, affirming the trial court's judgment, but critically failing to apply a *de novo* standard of review to Defendant-Appellants' summary judgment-laches defense. Subsequently, Defendant-Appellants filed on December 10, 2012, a Motion for Reconsideration of the Journal Entry and Opinion.

Defendant-Appellants' Motion for Reconsideration asked the Appellate Court to reconsider its Verdict because it wrongfully applied an abuse of discretion review to Defendant-Appellants' summary judgment laches defense and resulted in an unjust windfall for Sobin. On December 24, 2012, the Appellate Court summarily denied Defendant-Appellants' Motion for Reconsideration, without any opinion or explanation of its decision. This memorandum in support of jurisdiction is timely filed (i.e., within 45 days of December 24, 2012) pursuant to S.Ct. Prac. R. 2.2 (A)(5)(b).

FACTUAL BACKGROUND

a. Sobin's Purchase of Trionix Shares and the Restrictions on Stock Ownership.

Dr. Lim founded Trionix in September 1986 and personally funded its start-up when his previous employer, Technicare, closed. He hired engineers he had worked with at Technicare, including Sobin, because they needed jobs.

When Sobin joined Trionix, he purchased 655 shares of Trionix pursuant to the company's Employee Investment Plan at \$125 per share. Those shares were subject to Trionix's articles of incorporation and bylaws. The corporate bylaws authorize the board of directors of Trionix to set policies to control the ownership and disposition of those shares, including restrictions on the eligibility to hold or retain shares. One such restriction adopted by the board of directors is that all Trionix shareholders must be Trionix employees. When the employee left

the company, he or she was required to sell his or her shares back to Trionix. This restriction on ownership was confirmed in audited financial statements reviewed and approved by Sobin as a member of Trionix's management and board of directors:

The Company has agreed with its shareholders that upon a stockholder's death or termination of employment with the Company, the stockholder must sell all of his shares of the Company's stock to the Company, and the Company must buy back such shares.¹

(Trial Ex. 4 at Note 10).

When a shareholder-employee left the company, the board of directors enforced the policy. Sobin held significant responsibility for executing that policy. Sobin handled securing the share certificates from the departing shareholder-employees as doing so was one of his duties as Secretary of the company.² Further, it was Sobin's understanding, as late as June 2009, that shareholders must sell their shares back to Trionix when the shareholder ceased being an employee of Trionix.

b. Events Leading Up to Repurchase of Sobin's Shares.

In 1991, Trionix suffered a series of financial hardships and a facility fire that created negative cash flow, led to employee layoffs, and necessitated personal loans to the company by Dr. Lim. The financial issues threatened to cripple the company and, as Sobin himself admitted, Trionix was not in a position to pay any money to any shareholder without getting something in return.

In the midst of Trionix's financial turmoil, all five remaining shareholders of Trionix met in 1991 to discuss the status of the company and the investment each had made in the company.

¹ The well-known ownership restriction was also part of the original draft of the articles of the corporation.

² Other duties Sobin was required to perform included maintaining the stock ledger and the minutes of all meetings.

At the meeting, the shareholders, including Sobin, discussed getting their salary investments back in return for their stock. The employee-shareholders ultimately agreed to sell their stock back so as to avoid losing their salary investment. By agreement among the shareholders, the shares were to be repurchased at the original amount paid for the shares (*i.e.*, \$125 per share).

In conformity with the agreement reached by the shareholders, Trionix made an initial \$60,000 payment to Sobin, which he accepted. The payment was not for any accrued backpay, nor for repayment of any loan. The next month, Trionix made the remaining payment of \$11,875, which Sobin also accepted. The total of the two checks (\$71,875) equals \$125 per share for each of the 575 shares of Trionix stock Sobin purchased *via* his salary investment in 1987 and 1988. The company paid Sobin in two payments because it did not have the cash to pay him for his shares all at once.

In January 1992, during a meeting celebrating the company's survival for five years, the shareholders discussed the repurchase of the remaining shares each held (*i.e.*, the shares bought *via* cash investment). Sobin and the other shareholders agreed to have the company repurchase their remaining shares at the original share price of \$125 per share, plus interest, within 14 to 30 days.³ Two weeks later, true to its promise (and as agreed to by the shareholders), Trionix issued a check to Sobin – which he deposited – for the total amount of his “cash investment” of \$10,000, plus interest of \$6,000. Sobin did not declare any of the \$16,000 payment he received from Trionix as income on his tax return.

³ Sobin's “cash investment” for 80 shares is referred to as “original founding loan” on the notes of the January 1992 meeting. The notes confirm all the shareholders agreed that Trionix should repay the “cash investment.” Sobin, however, attempted to strike that reference from the minute notes. He also took those notes and minutes of the meeting home with him when he left Trionix, where he retained them for over 20 years, in violation of company policy and his fiduciary duty. Interestingly, if the payment of \$16,000 to him in 1992 was made to him unconditionally, as Sobin contends, then he would not have had to strike the reference from the minutes or otherwise hide the minute notes at his home for 20 years.

c. Sobin's Post-Repurchase Conduct.

Although Sobin was obligated to collect all the share certificates repurchased by Trionix in 1991 and 1992, as he had done in the past, he did not do so then. He did not return his share certificates to Trionix, nor did he mark or cross-off his name (or those of the other shareholders from whom shares were repurchased) from the company stock ledger. There were, however, no more shareholder meetings scheduled or noticed by Sobin, despite his having done so for every year from 1987 until January 1992. Nor did he call or notice any more annual meetings after 1991. Sobin never again asked about any shareholder meetings, nor did he ask for any financial information about Trionix.

On August 15, 1994, Sobin abruptly resigned from Trionix. When he left, he did not mention nor ask anything about any stock interest. He did not ask about selling any shares back to Trionix even though he knew, from prior experience, that if he still held any shares, Trionix was obligated to purchase these shares upon his departure. Because Sobin's shares had already been repurchased from him in 1991 and 1992, Sobin never communicated with Trionix again on any matter, other than during a meeting called by Trionix's lone remaining shareholder (*i.e.*, Dr. Lim) in 1997 to officially remove Sobin as an officer (*i.e.*, Secretary) and director of the company.⁴ Sobin abandoned Trionix -- until 2010, when he filed this lawsuit long after memories had faded and evidence had been lost during the ensuing 15 years.⁵

d. Procedural Facts Relevant to the Defendant-Appellants' Denied Jury Right.

⁴ A 1997 mortgage document prepared by lender's counsel, and not Trionix or its counsel, erroneously listed Sobin as a shareholder.

⁵ During those 15 years, it was Sobin's understanding that he was not a shareholder of Trionix. In an email, he wrote to a former colleague and shareholder, Sobin acknowledged he was not a shareholder: "**I don't know where this leaves us as shareholders, as the articles of incorporation state that we are not even supposed to have any stock after all these years.**" (Trial Ex. 7) (emphasis added).

Defendant-Appellants demanded a trial by jury on no less than three occasions. The first demand was included with their answer and counterclaim filed on August 2, 2010. The second demand was made in May 2011, when they sought to amend their counterclaims. The trial court (Judge Richard McMonagle) ultimately granted them leave to amend their counterclaims and, when filed, Defendant-Appellants reiterated their demand for a jury on all issues so triable. Finally, at a pretrial held by the trial court, Defendant-Appellants yet again reiterated their demand for a trial by jury on all claims, including the declaratory judgment claim that Sobin remained a shareholder of Trionix. Without justification, the trial court denied that request, declaring that it would solely preside over the declaratory judgment claim. The trial court also bifurcated that claim from the remainder of the case, and tried that claim in January 2012. Inexplicably, the trial court even went so far as to summarily enter judgment against Defendant-Appellants on their counterclaims despite having declared that only the issue of whether Sobin was a shareholder of Trionix would be tried in January 2012. *See* January 27, 2012 Verdict. In doing all this, the trial court – without justification or legitimate reason, in an apparent predisposition against Defendant-Appellants – denied Defendant-Appellants their constitutional right.⁶ In doing so, the trial court undermined the entire judicial process.

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

Proposition of Law No. I: An officer of a privately held corporation should not be permitted to utilize his own negligent or intentional failure to perform fiduciary duties as both a shield from liability and a sword for gaining impermissible shareholder advantages.

The Appellate Court affirmed the trial court's finding that Sobin remained a Trionix shareholder. In doing so, the Appellate Court reiterated the trial court's emphasis on Sobin's retention of stock certificates and that the corporate ledger continued to list Sobin as a

⁶ Notably, the appellate court similarly (and also inexplicably) ignored this denial of Defendant-Appellants' constitutional right to a jury trial.

shareholder. (Appellate Opinion at ¶ 13). These findings allow Sobin to benefit directly from his own failure to perform his fiduciary duties.

It was Sobin's responsibility to secure all redeemed stock certificates. He exercised this responsibility in the past. Therefore, finding support in Sobin's retention of his share certificates is not only factually flawed, since it was Sobin himself that bore responsibility for securing redeemed shares, it also is patently unfair to permit Sobin to benefit from having failed to perform his corporate record-keeping obligation. *See, e.g., Fulton Cty Dept. of Human Services v. Dodd*, 276 B.R. 817, 821-822 (U.S. Bankruptcy Ct. N.D. Ohio 2001) (denying petitioners' claim to discharge debt given petitioners' own wrongful acts in failing to account for information they were duty bound to disclose); *Comprehensive Business Systems, Inc. v. Foster*, 119 B.R. 573, 581 (U.S. Bankruptcy Ct. S.D. Ohio 1990) ("The rule is clear and well settled, and founded in absolute justice, that a party to a contract cannot prevent performance by another and derive any benefit, or escape any liability, from his own failure to perform a necessary condition."); *Columbus Homes, Ltd. v. S.A.R. Construction Co.*, 2007 WL 1083254 at *11 (Ohio App. 10th Dist. April 10, 2007) (shareholder cannot benefit from breach of his own self-dealing acts).

Similarly, Sobin bore sole responsibility for maintaining the stock ledger. (Trial Ex. 25). As a result, the Appellate Court erred in affirming the trial court's finding that Sobin remained a shareholder of Trionix because the redemption of his shares was not noted on the stock ledger. Sobin cannot benefit from (and use to his advantage) an unperformed corporate action he was obligated to take. *Dodd*, 276 B.R. at 821-822; *Foster*, 119 B.R. at 581; *Klaustermeyer v. Cleveland Trust Co.*, 89 Ohio St. 142, 148-149 (1913). The presence of Sobin's name on the stock ledger, therefore, has no bearing on whether Sobin is a shareholder of Trionix given that he bore responsibility for noting all cancelled and redeemed shares on the ledger – and he failed to perform that duty after he received approximately \$90,000 in payments for his shares.

Further, the Appellate Court should have recognized that the company stock ledger need not reflect a share transfer, nor do share certificates need to be physically redeemed, to effect a legal change in ownership. *See, e.g., Smith v. Koehler*, 91 Ohio App. 3d 337, 340 (3rd Dist. 1992) (person considered a shareholder even though the corporation's books may not so indicate; delivery of executed share certificate not necessary to effect legal change thereto); *Algren v. Algren*, 183 Ohio App. 3d 114, 120 (2nd Dist. 2009) ("Because a certificate only represents a share, one does not need a certificate in hand to prove ownership."). Consequently, under Ohio law, the failure by Sobin to update the stock ledger and return his shares to Trionix, does not affirmatively establish him as a Trionix shareholder. Most significantly, allowing Sobin to profit from his negligent or bad acts sets a dangerous precedent. The Appellate Opinion will serve as a significant obstacle to Ohio small businesses trying to defend against negligent or unscrupulous officers.

Proposition of Law No. II: The Court Of Appeals erred by failing to apply a *de novo* standard of review to Defendant-Appellants' laches defense which was raised as part of a summary judgment motion.

The Appellate Court erred by applying an abuse of discretion standard of review, rather than properly reviewing the trial court's decision on summary judgment *de novo*. In its September 29, 2011 Order and Opinion Denying Plaintiff's Motion for Partial Summary Judgment ("Order and Opinion"), the trial court affirmatively determined that there were no questions of fact as to the application of laches and that the doctrine did not bar Sobin from bringing his claim as a matter of law. (Order and Opinion p. 3). Accordingly, the trial court found as a matter of law that laches did not apply at all.

a. De Novo Standard of Review

Under Ohio law, an appellate court reviews a trial court's decision on a motion for summary judgment *de novo*. *Grafton v. Ohio Edison Co.*, 77 Ohio St. 3d 102, 105 (1996). A *de*

de novo review requires the appellate court to conduct an independent review of the evidence without deference to the trial court's decision. *Brown v. Cty. Commrs. of Scioto Cty.*, 87 Ohio App.3d 704, 711 (4th Dist. 1993). Accordingly, the Appellate Court should not have addressed the trial court's summary judgment decision on laches under an abuse of discretion standard. The Appellate Court should have afforded no deference to the trial court's summary judgment analysis on the issue of laches. Instead, the Appellate Court should have independently reviewed the record to determine whether summary judgment based on the laches defense was appropriately denied. *See Developers Diversified Realty v. Coventry Real Estate Fund II, LLC*, 2012 WL 913748, * 3 (8th Dist. March 15, 2012).

b. The Court's Improper Application of an Abuse of Discretion Standard in Determining Whether Laches Applies in the Summary Judgment Context Undermines the Uniform Application of the Law in Ohio.

Ohio appellate courts routinely review the application of the doctrine of laches *de novo* when addressed in conjunction with motions for summary judgment. *See In re Collins*, 3rd Dist. No. 1-11-63, 2012-Ohio-5234, ¶¶9 and 20-21; *Jenkins v. Spinnaker Bay Condominium Ass'n*, 6th Dist. No. OT-01-007, 2002 WL 337780, *6-7 (Ohio 6th Dist. March 1, 2002); *Bright Local School Dist. Bd. of Edn. v. Hillsboro School Dist. Bd. of Edn.*, 122 Ohio App.3d 546, 553-555, 702 N.E.2d 449 (4th Dist. 1997). For example, only after a *de novo* review of the record did the *Collins* court affirm the trial court's denial of plaintiff-appellant's motion for summary judgment and corresponding laches defense. *Id.* Similarly, the *Bright* court conducted a *de novo* review and found that a genuine issue of material fact as to the applicability of the doctrine of laches precluded summary judgment in favor of plaintiff school districts. *Bright* at 553-555. Therefore, the Appellate Court erred in considering – via an abuse of discretion standard – the adverse summary judgment ruling on Defendant-Appellants' laches defense.

As justification for employing an abuse of discretion review, the Appellate Court relied upon *Payne v. Cartee*, a case involving a child's paternity action for child support and a county's action against the father for reimbursement of birthing expenses. *Payne*, 111 Ohio App.3d 580, 590, 676 N.E.2d 946 (4th Dist. 1996). That reliance was misplaced for several reasons. First, *Payne* (involving a paternity suit) is factually distinguishable to this case (involving a shareholder dispute). Second, *Payne* did not address the doctrine of laches in the context of summary judgment. Third, the case law relied upon by *Payne* (i.e., *Davis v. Davis*, 5th Dist. No. CA 817, 1995 WL 615734 (Sept. 12, 1995)) is equally distinguishable.

Davis, like *Payne*, involves an action for child support in which laches was invoked as a defense. See *Davis* at *1. However, *Davis* merely stands for the proposition that abuse of discretion is the appropriate standard of review for an "appellate court in a domestic relations matter concerning child support." *Davis* at *2. Neither *Payne*, nor *Davis* reviewed a trial court's decision to deny a defendant's **summary judgment motion** in which laches was raised as a defense, as in the present scenario.

Accordingly, the Appellate Court's improper application of the wrong legal standard threatens to destroy the uniform application of the law in Ohio. Ensuring that this ruling does not create a conflict amongst Ohio's appellate courts is an issue of public and great general interest, worthy of this Court's consideration.

Proposition of Law No. III: The Court Of Appeals denied Defendant-Appellants their Constitutional right to a jury trial on questions of fact related to the declaratory judgment action by which Sobin was determined to be a Trionix shareholder.

The Appellate Court's affirmation of the trial court's ruling involves a substantial Constitutional question. The Appellate Opinion fails to account for the denial of Defendant-Appellants' Constitutional right to a jury trial on questions of fact related to the declaratory

judgment action. The inquiry as to whether Sobin was a Trionix shareholder required the determination of extensive and hotly disputed facts, which should have been conducted by a jury.

Defendant-Appellants did not consent to a bench trial on the issue of declaratory judgment concerning Sobin's status as a Trionix shareholder. In fact, Defendant-Appellants specifically requested a trial by jury no less than three times. First, Defendant-Appellants made that demand in their Answer and Counterclaims. They reiterated it via their Amended Counterclaims. Further, Defendant-Appellants' trial counsel reiterated that request during a pretrial. For reasons not understood, let alone agreed to by counsel for Defendant-Appellants, the trial court denied that jury demand request, dictating that the declaratory judgment claim would proceed via a bench trial.

Because significant questions of fact existed as to the declaratory judgment action concerning the issue of whether Sobin was a Trionix shareholder, Defendant-Appellants were entitled to the jury trial which they timely requested. *Kelley v. Erie Ins. Co.*, Case No. 19409, 2003 Ohio 1563, ¶ 24 (Ohio Ct. App. 2nd Dist. March 28, 2003). The Second District Court of Appeals addressed the circumstances requiring a jury trial in a declaratory judgment setting, in pertinent part:

“Declaratory judgment procedure may not be used to determine an isolated question of fact, but the fact that a controversy turns upon questions of fact does not withdraw it from the court's jurisdiction. Legal consequences flow from the existence of facts, and it is the province of the court to ascertain such facts in order to determine the legal consequences. In such circumstances, the court may exercise its discretion in determining whether or not to entertain the action. Therefore, where a determination of facts is necessary either to a finding as to the construction or validity of a contract or to a declaration of rights, status, or other legal relations, the determination can be made in a declaratory judgment proceeding, in the same manner as issues of fact are tried and determined in other civil actions in the court in which the action is pending. **That is, there is a right to trial by jury in an action for declaratory judgment in cases in which the right otherwise**

exists, and a party who makes a timely demand for a jury trial in a declaratory judgment action in which a question of fact is to be decided is entitled to trial by jury on that question; denial of trial by jury in such a case would be reversible error.” 35 Ohio Jurisprudence 3d, Declaratory Judgments, Section 15, at pp. 22-23, 710 N.E.2d 1116.

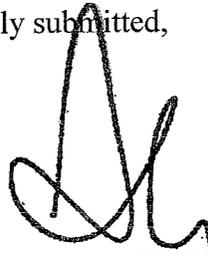
Id.

Here, Defendant-Appellants made a timely jury request as part of their Answer and Counterclaims for additional common law causes of action. That request was repeated when Defendant-Appellants filed their amended counterclaim, and again when in front of the court during a pretrial. The reason for the demand was because extensive questions of fact related to the determination of Sobin's status as a shareholder. Accordingly, the trial court's denial of Defendant-Appellants' request for a jury trial, along with the accompanying summary dismissal of the counterclaims via the trial court's bench trial (when the trial court declared the only claim at issue in the first stage of the trial was Sobin's declaratory judgment claim), constituted a reversible error that should have been addressed by the Appellate Court. The denial of Defendant-Appellants' constitutional right to a jury trial by the trial court (and which the appellate court further ignored) sets an unfortunate precedent, jeopardizing the guaranteed liberties of all Ohioans.

CONCLUSION

For the foregoing reasons, this Court should exercise its discretion to hear this cause and resolve these issues of public and great general interest and a substantial Constitutional question.

Respectfully submitted,



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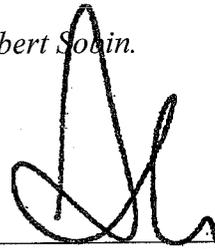
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CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing *Memorandum in Support of Jurisdiction* was served via electronic and regular U.S. Mail, postage prepaid, this 29th day of January, 2013, upon the following individuals at the address listed:

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H. Alan Rothenbuecher (0041883)

STATE OF OHIO)
) SS:
CUYAHOGA COUNTY)
)
)
ROBERT SOBIN,)
)
)
Plaintiff,)
)
)
v.)
)
)
CHUN BIN LIM, et al.,)
)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
CASE NO. CV-10-727635

**ORDER AND OPINION DENYING
PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Richard J. McMonagle, J:

The plaintiff, Robert Sobin, moves this Court to grant his Motion for Partial Summary Judgment as to Count I of the Complaint declaring that he is the owner of 655 shares of common stock of defendant Trionix Research Laboratory, Inc. Based on the foregoing Opinion, the Court DENIES the Plaintiff's Motion.

I. Factual Background

Defendant Lim founded Trionix in September 1986. The Plaintiff was an employee of Trionix from 1987 until 1994. During that time the Plaintiff also served as Secretary of the Board of Directors until January 1997. While working at Trionix the Plaintiff purchased 655 shares of Trionix in three transactions during 1987 and 1988.¹ In August and September of 1991 the Plaintiff received a payment of \$71,875.00 from Trionix. On January 16, 1992 the Plaintiff received an additional payment of \$16,000 from Trionix. The dispute centers on whether the Plaintiff sold his stock and received payments in 1991 and 1992 or

¹ Plaintiff's Motion, Exh. A, Certificate No. 4 for 277 shares issued on April 17, 1987; Certificate No. 14 for 80 shares issued on June 25, 1987; and Certificate No. 17 for 298 shares issued on April 22, 1988.

whether Plaintiff did not receive those payments for the sale of his stock and remains the owner of 655 shares of Trionix.

II. Argument

The Plaintiff advances four arguments in support of his Motion. First, the Plaintiff asserts that his possession of the stock certificates coupled with the fact that the Trionix Share Journal lists him as a shareholder creates a presumption of stock ownership. Plaintiff's Motion, Exh. A, B. Second, the Plaintiff maintains that Trionix recognized his ownership by listing him as a shareholder on a mortgage deed entered into and signed January 22, 1997 and because he was invited to a shareholder meeting on January 20, 1997. *Id.* at Exh. I, H. Third, the Plaintiff argues that he never orally agreed to sell his shares and even if he did the six year statute of limitations for an action upon a contract not in writing bars the Defendants from relying on such a promise. R.C. 2305.07. Finally, the Plaintiff acknowledges receipt of the payments from Trionix in 1991 and 1992, but states that the payment in 1991 was for back pay and the payment in 1992 was for the repayment of a loan, plus interest, that he had made to Trionix.

In response, the Defendants argue that the Plaintiff had orally agreed to sell his shares and the payments made in 1991 and 1992 by Trionix establish that the Plaintiff was in fact paid for said shares as the Plaintiff was not entitled to back pay and never made a loan to Trionix. Defendant's Opposition, Exh. GGG, ¶ 14, 15. Aside from the Plaintiff's promise to sell his shares the Defendants assert that the Plaintiff could not continue to own shares after he stopped working for Trionix in 1994 as the company had a policy, which the Plaintiff was aware of, that only employees could own stock. *Id.* at Exh. KK, LL. As to the statute of limitations argument presented by the Plaintiff, the Defendants assert that the substantive nature of the Plaintiff's claim is for breach of a written contract such that the fifteen years statute of limitations applies.

R.C. 2305.06. Instead, it is the Plaintiffs, the Defendants argue, who are barred from bringing this action under the Doctrine of Laches.

III. Analysis

As an initial matter this Court finds that the Plaintiff is not barred by R.C. 2305.06 from bringing his claim before this Court. According to R.C. 2305.06 a party must bring an action upon a written contract within fifteen years after the cause accrued. Although it is true that a stock certificate is evidence of a written contract and the appropriate statute of limitations for bringing a written contract evidenced by a stock certificate is fifteen years as provided in R.C. 2305.06², here, the Plaintiff is not seeking to enforce a contractual right evidenced by the stock certificates. The real issue at hand concerns the disposition of personal property, the stock³, and whether Trionix had purchased the stock from the Plaintiff in 1991 and 1992 or whether the Plaintiff remains the owner of the 655 shares. Therefore, R.C. 2305.06 does not apply to the Plaintiff's claim of ownership.

Additionally, the Doctrine of Laches does not bar the Plaintiff from bringing his claim. "The elements of laches are (1) unreasonable delay or lapse of time in asserting a right, (2) absence of an excuse for the delay, (3) knowledge, actual or constructive, of the injury or wrong, and (4) prejudice to the other party." *State ex rel. Ascani, et al. v. Stark Cty. Bd. Of Elections, et al.*, 83 Ohio St.3d 490, 493 (quoting *State ex rel. Polo v. Cuyahoga Cty. Bd. of Elections*, 74 Ohio St.3d 143, 145). Here, the Plaintiff has maintained he is the owner of the 655 shares in Trionix and had no reason to know there was a question regarding his ownership status until it was challenged in December of 2009. Thus, the Plaintiff is not barred from bringing his claim under the Doctrine of Laches as the elements of the doctrine cannot be met.

² *Bitonte v. Tiffin Savings Bank*, 65 Ohio App.3d 734, at Syllabus.

³ R.C. 1701.24(A) "The shares of a corporation are personal property."

Further, the Defendants are entitled to rely upon the alleged oral agreement made by the Plaintiff to sell his shares. R.C. 2305.07 imposes a six-year statute of limitations upon a contract not in writing. However, accrual of a cause of action under R.C. 2305.07 occurs when the complaining party suffers actual damages as a result of the alleged breach. *Midwest Specialties, Inc. v. Firestone Tire & Rubber Co.*, 42 Ohio App.3d 6. There is no evidence that Defendants suffered actual damage until the present suit was filed in May 2010 because until the filing of the suit both parties operated under the assumption that they were the owner of the shares.

Having determined that the parties' arguments are properly before this Court, the next question is whether a genuine issue of material fact exists as to whether the Plaintiff is the owner of 655 shares of defendant Trionix. Ohio recognizes that "the fact that a person's name appears on the books of the corporation as an owner of its shares is not conclusive evidence of the relationship. The general rule, however, is that the appearance of a person's name upon the books of the corporation is presumptive evidence that he is the owner of shares in the corporation. In addition, the possession of a share certificate bearing the genuine signature of the secretary and president of the corporation, and the corporate seal, creates a presumption that the holder is the owner of the number of shares of the stated capital therein named. If the corporation disputes that ownership, it has the burden of proof to overcome that presumption by the production of evidence sufficient for that purpose." *Bitonte v. Tiffin Savings Bank*, 65 Ohio App.3d 734, 737.

Here, the Plaintiff has established a presumption of ownership by evidencing his possession of the stock certificates and that he is listed in the Trionix Share Journal as a shareholder. Plaintiff's Motions, Exh. A, B. In addition to this evidence, the Plaintiff has also offered proof

that Trionix continued to recognize him as a shareholder after he departed the company in 1994 by listing him as a shareholder on a mortgage deed entered into and executed on January 22, 1997 and that he was invited to a special meeting of the Board as a shareholder on January 20, 1997. Plaintiff's Response to Defendant's Opposition, Exh. O, R.

Having established a presumption of ownership, the Defendants have the burden of proof to overcome the presumption by production of evidence sufficient to disprove the Plaintiff's ownership claim. The Defendants have met their burden by producing such evidence. In particular, the Defendants have provided evidence that the Plaintiff cannot own shares of Trionix due to the corporation's policy that only employees can be shareholders and that the Plaintiff was aware of this policy. Defendants' Opposition, Ex. KK, LL. The Defendants have also provided evidence that calls into question the Plaintiff's assertion that the payments he received in 1991 and 1992 from Trionix were not for the sale of his shares but for back pay and reimbursement of a loan as the Plaintiff admitted in his Interrogatory Answers that he did not know why he received the payment in 1991 and that he never made a loan to Trionix. *Id.* at Exh. GGG, ¶ 14, 15. The Defendants have also called into question the Plaintiff's reliance of the Share Journal as it was his duty, as Secretary, to update and maintain the books and records of Trionix and any failure to do so on his part cannot now be relied upon him to bolster his argument. *Id.* at Exh. Z, Art. XIV(b).

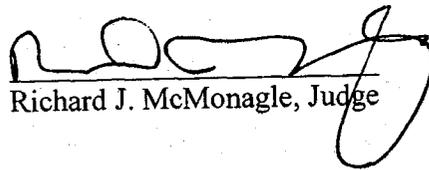
Based upon the evidence presented by the Defendants rebutting the Plaintiff's ownership claim, the Court finds that there exists a genuine issue of material fact as to whether the Plaintiff is the owner of 655 shares of Trionix. Therefore, Plaintiff's Motion for Partial Summary Judgment is hereby DENIED.

IV. Conclusion

The Court, having considered all the evidence and having construed the evidence most strongly in favor of the non-moving party, determines that reasonable minds can come to but one conclusion, that there are no genuine issues of material fact, and that the Plaintiff is not entitled to judgment as a matter of law.

Therefore, it is Ordered, Adjudged, and Decreed that the Plaintiff's Motion for Partial Summary Judgment be DENIED.

IT IS SO ORDERED this the 28th day of September, 2011.


Richard J. McMonagle, Judge

Copies To:

Alan J. Rapoport
55 Public Square, Suite 1717
Cleveland, OH 44113
Attorney for Plaintiff

David N. Truman
Truman Law, LLC
6100 Oak Tree Blvd., Suite 200
Independence, OH 44131
Attorney for Defendants

RECEIVED FOR FILING

SEP 29 2011

GERALD E. BIERST, CLERK
BY Williams DEP.

| | | |
|--|-------|---|
| THE STATE OF OHIO Cuyahoga County | } SS. | I, THE CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY, |
| HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL <u>CV 927635</u> <u>Order of Seizure dated 9/29/11</u> | | |
| NOW ON FILE IN MY OFFICE. | | |
| WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>25th</u> DAY OF <u>Jan.</u> A.D. 20 <u>13</u> | | |
| CUYAHOGA COUNTY CLERK OF COURTS | | |
| By <u>C. Shorts</u> , Deputy | | |

STATE OF OHIO)
) SS:
CUYAHOGA COUNTY)

IN THE COURT OF COMMON PLEAS

CASE NUMBER: CV-10-727635

ROBERT SOBIN,)
)
Plaintiff)
)
vs)
)
CHUN BIN LIM, *et al.*,)
)
Defendants.)

VERDICT

RICHARD J. McMONAGLE, JUDGE

This matter came before this Court on January 23rd and 24th of 2012 on the sole issue of whether Plaintiff Robert Sobin (hereinafter "Sobin") is still a shareholder of Defendant Trionix Research Laboratory, Inc. (hereinafter "Trionix"). Upon careful review of the evidence presented to this Court, this Court finds that Plaintiff Sobin is still a shareholder of 655 shares of Defendant Trionix stock. This Court finds as follows:

While working at Trionix, Plaintiff Sobin purchased 655 shares of Trionix over three transactions during 1987 and 1988. Later, Plaintiff received payments totaling \$71, 875.00 in August and September of 1991. On January 16, 1992, Plaintiff received an additional payment of \$16,000.00. This dispute centers on whether those payments Plaintiff received in 1991 and 1992 were for the sale of stock, or whether those payments to Plaintiff were not meant for the sale of stock and therefore Plaintiff remains the owner of 655 shares of Trionix.

The Plaintiff received payments in 1991 and 1992 via corporate checks. Defendants' corporate records indicate that the purpose of these payments were for "back-pay" and "loan

reimbursement," respectively. Additionally, Plaintiff believed these payments were made for the purpose of reimbursing him for back-pay from 1987-1988, and for repayment for the founder's loan he gave to Trionix. Plaintiff argues that at no time did he either agree to sell his stock or believe these payments were for the sale of his Trionix stock.

Conversely, Defendant Chun Bin Lim (hereinafter "Lim") contends that those payments were the result of an oral agreement between him and the Plaintiff for the sale of Plaintiff's stock. However, outside of Defendant Lim's contention, the evidence shows before those payments were made, there was no agreement between the parties that Defendant Lim would be purchasing back Plaintiff Sobin's Trionix stock with the 1991 and 1992 payments. In other words, there was never a meeting of the minds. The evidence also shows that even after the payments were made, both parties neither treated the money transferred in 1991 and 1992 as payments for the sale of stock nor acted consistent with the contention that the payments were made for the sale of stock.

Specifically, there is no documentation evidencing that the parties ever agreed that the payments were for the sale of stock. Rather the Defendants' own corporate records concerning these transactions show that the checks were designated as payments for "back-pay" and "loan reimbursement." In a corporate document prepared by Trionix in October of 1992 to confirm Plaintiff Sobin's employment, Defendants identify that Plaintiff Sobin received \$71, 875.00 as "back-pay" from the 1987-1988 working year. See Pltf. Ex. K, *Request For Verification of Employment dated Oct. 5, 1992*, attached hereto as **Exhibit A**. Additionally, in a corporate memorandum prepared by Defendant Lim, he identified the \$16,000.00 paid to the Plaintiff on January 16, 1992 as repayment for Plaintiff's original "founding cash loan" plus "accrued interest"; a characterization of the payment that is supported by Trionix's 1992 check registry. See Def. Ex. 23,

Trionix Interoffice Memorandum From Defendant Lim to David Houston Dated January 16, 1992, attached hereto as **Exhibit B**; *Pltf. Ex. L, Check dated January 16, 1992 and partial check registry,* attached hereto as **Exhibit C**.

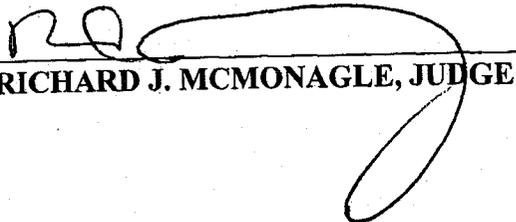
The payments were not only labeled as "back-pay" and "loan reimbursement," but were treated as such by both parties on their Federal Income Tax Returns. Plaintiff Sobin declared the \$71, 875.00 he received from the 1991 payments as wages and salaries for tax purposes. *See Def. Ex. 24, Federal Income Tax Return of Robert E. Sobin for 1992,* attached hereto as **Exhibit D**. Likewise, Defendant Lim declared the payments he made to himself on January 16, 1992 for repayment of his own "founding cash loan" and "accrued interest" as wages, salaries, and taxable interest income. *See Pltf. Exs. U and V, Federal Income Tax Returns of Chun Bin Lim for 1991 and 1992,* attached hereto as **Exhibit E and F**. At no time did either party treat the money being paid out in 1991 and 1992 as proceeds from the sale of stock.

Furthermore, after the payments were made in full, neither party acted as if a sale of stock occurred. Namely, Plaintiff never surrendered his stock certificates, and Defendants neither demanded return of the stock certificates nor made any changes to the Share Journal. To date, Plaintiff Sobin still possesses stock certificates for 655 Trionix shares, and the corporate records still identify Plaintiff Sobin as a shareholder of Trionix. *See Pltf. Ex. T, Certificates Held By Robert Sobin,* attached hereto as **Exhibit G**.

Therefore, this Court finds the evidence shows that Plaintiff Sobin is still the valid shareholder of 655 shares of Trionix stock. This Court further finds in favor for the Plaintiff on Defendants' counterclaims for breach of express contract, breach of implied-in-fact contract, unjust

enrichment, promissory estoppel, and fraud in the inducement. A hearing is set for February 27, 2012 at 9:30 AM to address the value of Plaintiff's 655 shares of Trionix.

IT IS SO ORDERED this the 26 day of January, 2012.


RICHARD J. MCMONAGLE, JUDGE

Copies To:

Alan J. Rapoport
55 Public Square, Suite 1717
Cleveland, OH 44113
Attorney for Plaintiff

David N. Truman
Truman Law, LLC
6100 Oak Tree Blvd., Suite 200
Independence, OH 44131
Attorney for Defendants

RECEIVED FOR FILING

JAN 27 2012

GERALD E. FUERST, CLERK
By CP Shorto Deputy

THE STATE OF OHIO }
Cuyahoga County } SS. I, THE CLERK OF THE COURT
OF COMMON PLEAS WITHIN
AND FOR SAID COUNTY.

HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY
TAKEN AND COPIED FROM THE ORIGINAL CV 72-7635
Verdict dated 1/27/12

NOW ON FILE IN MY OFFICE.

4 WITNESS MY HAND AND SEAL OF SAID COURT THIS 25th
DAY OF Jan. A.D. 20 13

CUYAHOGA COUNTY CLERK OF COURTS

By CP Shorto, Deputy



Fannie Mae

Request for Verification of Employment

Privacy Act Notice: This information is to be used by the agency, including its or its assignee in determining whether you qualify as a prospective mortgage servicer or borrower. It will not be disclosed outside the agency except as requested and permitted by law. You do not have to provide this information, but if you do not, your application for approval as a prospective mortgage servicer or borrower may be delayed or rejected. The information requested in this form is authorized by Title 38, USC, Chapter 37 (U.S.A.), by 12 USC, Section 1721 et seq. (HUD/CPD) or by 12 USC, Section 1462a (HUD/PHS) and Title 42 USC, 4211 et seq., 42 USC 1462, 1462i et seq. (USDA/FHFA).

Instructions: Lender, Complete Items 1 through 7. Please attach copies from 8, forward directly to employer named in item 1. Employer, Please complete either Part II or Part III as applicable. Complete Part IV and return directly to lender named in item 2. The form is to be transmitted directly to the lender and is not to be transmitted through the applicant or any other party.

Part I: Request

| | |
|--|--|
| 1. To Name and address of employer: Trionix Research Lab., Inc. 8037 Bavaria Road Twinsburg, OH 44087 | 2. From Name and address of lender: Principal Mutual Life Insurance Company 5990 West Creek Rd. Suite 151 Independence, OH 44131 |
|--|--|

I hereby certify that the verification has been sent directly to the employer and has not passed through the hands of the applicant or any other interested party.

| | | | |
|--|----------------------------------|---------------------|---------------------------------------|
| 3. Signature of Lender <i>Robert E. Sobin</i> | 4. Title Authorized Signature | 5. Date 10/01/92 | 6. Lender's No. (Optional) 8073383 |
|--|----------------------------------|---------------------|---------------------------------------|

I have applied for a mortgage loan and stated that I am now in the company employed by you. My signature below authorizes verification of the information.

| | |
|---|--|
| 7. Name and Address of Applicant (include employee or badge number): Robert E. Sobin 3889 E. 50th Street Newburgh Hts., OH 44105 | 8. Signature of Applicant X See Attached |
|---|--|

Part II: Verification of Present Employment

| | | |
|--|---|---|
| 9. Applicant's Date of Employment: 12-15-86 | 10. Present Position: Director, Operations | 11. Probability of Continued Employment: Very Good |
|--|---|---|

| | | |
|--|---|--|
| 12. Current Gross Base Pay (Enter Amount and Check Period): \$ 85,200.00 <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Monthly <input type="checkbox"/> Weekly <input type="checkbox"/> Other (Specify): | 13. For Military Personnel Only: Pay Grade _____ Type _____ Monthly Amount _____ | 14. Is Overtime or Bonus a portion of the Compensation Check? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
|--|---|--|

| 15. Gross Earnings | | 16. Date of applicant's next pay include | |
|--------------------|------------------------------|--|------------------------------|
| Type | Year To Date | Year 91 | Year 90 |
| Base Pay | Thru 9-30-92 \$ 53,065.44 | Thru 9-30-91 \$ 142,508.29 | Thru 9-30-90 \$ 73,866.71 |
| Overtime | \$ | \$ | \$ |
| Commissions | \$ | \$ | \$ |
| Bonus | \$ | \$ | \$ |
| Total | \$ 53,065.44 | \$ 142,508.29 | \$ 73,866.71 |

17. Projected amount of next pay include: unknown

18. Date of applicant's next pay include: off. 7-1-92

19. Amount of net pay include: 20,000/yr

20. Remarks: If employee was off work for any length of time, please indicate time period and reason:
1991 approximately three weeks sick leave.

Part III: Verification of Previous Employment

| | | |
|------------------------|---------------------|--|
| 21. Date Hired | 22. Date Terminated | 23. Salary/Wage at Termination Per Year (Specify Month/Week): Base _____ Overtime _____ Commissions _____ Bonus _____ |
| 24. Reason for Leaving | 25. Position Held | |

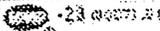
Warning: Authorized Signatory: Federal statutes provide severe penalties for any fraud, intentional misrepresentation, or other fraudulent conspiracy purposed to influence the issuance of any guaranty or insurance by the VA Secretary, the USDA, Fannie Mae, PHA, Commissioner, or HUD/CPD Assistant Secretary.

| | | |
|---|---|----------------------|
| 26. Signature of Employer <i>Elizabeth L. Hale</i> | 27. Title (Please print or type) Personnel Manager | 28. Date 10-05-92 |
|---|---|----------------------|

29. Print or type name signed in item 26:
Elizabeth L. Hale

| |
|-------------------------------|
| 30. Phone No. 216 425-9055 |
|-------------------------------|

Fannie Mae Form 1005 Mar. 90



VAE MORTGAGE FORMS - (31) 21293-8100 - (800) 821-2251
38008473



INTEROFFICE MEMO

23
January 16, 1992

TO: David Huston
FROM: Chun Lim *CBL*
SUBJECT: Payment of Original Founding Loan

XX

Please pay for the original founding cash loan made this month five years ago by three founders, Chun Lim, Bob Sobin, and David Huston. This is to be paid with simple interest at the rate of 12% per year as follows:

| <u>Name</u> | <u>Original Loan Amount</u> | <u>Interest</u> | <u>Total to be Paid</u> |
|--------------|-----------------------------|-----------------|-------------------------|
| Chun Lim | \$70,000 | \$42,000 | \$112,000 |
| Bob Sobin | 10,000 | 6,000 | 16,000 |
| David Huston | 10,000 | 6,000 | 16,000 |

CBL/en

cc: RESobin
DAHuston

DEFENDANT'S EXHIBIT

E 1/28/11 *SP*

Sub. "B"

23

| | | | | | | |
|-------|----------|--------------------------|-----------|----|------|----------------------------------|
| 14877 | 01/16/92 | ROSEVILLE MOTOR EXPRESS | 54.78 | NA | 4940 | SHIPPING CHARGES-CONTOUR FORMING |
| 14878 | 01/16/92 | ROBERT NORIN | 10,000.00 | NA | 8130 | LOAN PAYMENT |
| 14879 | 01/16/92 | ROBERT NORIN | 5,000.00 | NA | 8130 | INTEREST PAYMENT |
| 14878 | 01/16/92 | SOCIETY NATIONAL BANK | 493.72 | NA | 3824 | LEASE PAYMENT |
| 14880 | 01/16/92 | TAZHMANIAN FREIGHT FORWD | 508.83 | NA | 6391 | SHIPPING CHARGES |
| 14881 | 01/16/92 | TEXAS EMPLOYMENT COMM | 14.04 | NA | 1542 | TEXAS EMPLOYMENT COMM |
| 14882 | 01/16/92 | UNITED PARCEL SERVICE | 79.18 | NA | 4840 | SHIPPING CHARGES |
| 14882 | 01/16/92 | UNITED PARCEL SERVICE | 5.00 | NA | 3730 | SERVICE CHARGES |

TRIONIX RESEARCH LABORATORY INC.
8037 BAVARIA ROAD
TWINSBURG, OHIO 44087

SOCIETY NATIONAL BANK
CLEVELAND OHIO
6-103/410

014

DATE

01/16/92

CHECK NO

014878

SIXTEEN THOUSAND AND NO/100 DOLLARS

AMOUNT

*****16,000.00

PAY
TO THE
ORDER OF

ROBERT SERRES

Chen Bin Lim

PRESI

A. H. West

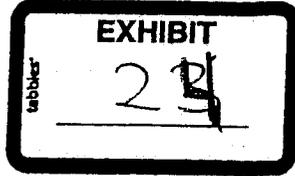
DIREC

16000.00

| | | | | | | |
|-------|----------|-------------------|-----------|------|------|-------------------------|
| 14897 | 01/16/92 | MINNESOTA | 123.18 | NA | 1145 | MINNESOTA STATE TAX-NOV |
| 14897 | 01/16/92 | MINNESOTA | 143.18 | NA | 1145 | MINNESOTA STATE TAX-NOV |
| 14898 | 01/16/92 | NEBRASKA DEPT REV | 107.39 | NA | 1545 | STATE W/H TAX |
| 14898 | 01/16/92 | PERFORMANCE TECH | 12,080.00 | 8784 | 4410 | ACQUISITION |
| 14898 | 01/16/92 | PERFORMANCE TECH | 59.50 | 6784 | 4940 | SHIPPING CHARGES |
| | 01/16/92 | PAYROLL | 3,816.80 | NA | 1110 | ADMINISTRATIVE |
| | 01/16/92 | PAYROLL | 16,848.18 | NA | 1310 | PRODUCTION |
| | 01/16/92 | PAYROLL | 1,810.10 | NA | 1410 | SALES |
| | 01/16/92 | PAYROLL | 501.82 | NA | 1510 | SERVICE |
| | 01/16/92 | PAYROLL | 12,935.02 | NA | 1310 | SYSTEM TEST |
| | 01/16/92 | PAYROLL TAX | 555.48 | NA | 1148 | ADMINISTRATIVE |
| | 01/16/92 | PAYROLL TAX | 3,297.78 | NA | 1348 | PRODUCTION |
| | 01/16/92 | PAYROLL TAX | 264.87 | NA | 1448 | SALES |
| | 01/16/92 | PAYROLL TAX | 92.53 | NA | 1548 | SERVICE |
| | 01/16/92 | PAYROLL TAX | 2,354.56 | NA | 1348 | SYSTEM TEST |
| | 01/16/92 | PAYROLL TAX | 800.88 | NA | 1141 | ADMINISTRATIVE |
| | 01/16/92 | PAYROLL TAX | 3,488.94 | NA | 1341 | PRODUCTION |
| | 01/16/92 | PAYROLL TAX | 369.08 | NA | 1441 | SALES |
| | 01/16/92 | PAYROLL TAX | 117.36 | NA | 1541 | SERVICE |
| | 01/16/92 | PAYROLL TAX | 2,626.42 | NA | 1341 | SYSTEM TEST |
| | 01/16/92 | STATE W/H | 1,444.37 | NA | 1145 | STATE W/H |
| 1 | 01/17/92 | NUMBER ONE SALES | (143.95) | NA | 4820 | VOID |
| 14900 | 01/17/92 | U.S. POSTMASTER | 85.00 | NA | 3710 | POSTAGE EXPENSE |
| 14901 | 01/17/92 | PERRY BEABOUT | 194.98 | NA | 4950 | TRAINING EXPENSES |
| 14902 | 01/17/92 | STEVE BLASKIS | 291.15 | NA | 5950 | PRECISE VISIT |
| 14903 | 01/17/92 | RICHARD BRAHOT | 12.00 | NA | 6310 | AIRPORT MILEAGE |
| 14904 | 01/17/92 | DON BYARS | 141.31 | NA | 5310 | FAS FOR AEROSTAR |



Yem 92



COMMERCIAL ENTERPRISES II
5720 FLEET AVENUE
CLEVELAND, OHIO 44105
(216) 883-7411

24

4/03/93

ROBERT E SOBIN
3859 EAST 50 ST
NEWBURGH HTS, OH 44105

Your tax returns have been completed. Please review them to insure accuracy and remember to sign all returns before mailing. If you have any questions please call us.

FEDERAL TAX RETURN:
Your refund is \$1,942

STATE:
Your refund is ~~\$273~~ 173 4/11/93

CITY:
The amount due by April 30th 1993 is: \$415.49

If you are satisfied with our services please recommend us to a friend or relative. Thank you and have a very good year.

The Domzalski's

EXH. "D"

For the year Jan. 1- Dec. 31, 1992, or other tax year beginning 1992, ending

OMB No. 1545-0074

ROBERT E SOBIN
3859 EAST 50 ST
NEWBURGH HTS, OH 44105

Your social security number

Spouse's social security number

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Presidential Election Campaign (See page 10.)

Do you want \$1 to go to this fund? Yes X No
If a joint return, does your spouse want \$1 to go to this fund? Yes No

Filing Status

- 1 X Single
2 Married filing joint return (even if only one had income)
3 Married filing separate return. Enter spouse's SSN above & full name here.
4 Head of household (with qualifying person). (See page 11.) If the qualifying person is a child but not your dependent, enter this child's name here.
5 Qualifying widow(er) with dependent child (year spouse died > 18). (See page 11.)

Exemptions

6a X Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2. No. of boxes checked on 6a and 6b 1

Table with 5 columns: (1) Name (first, initial, and last name), (2) CL if under age 1, (3) If age 1 or older, dependent's social security number, (4) Dependent's relationship to you, (5) No. of months lived in your home in 1992. Includes rows for Spouse and Dependents.

d If your child didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here. Add numbers entered on lines above 1
e Total number of exemptions claimed

Table of income sources: 7 Wages, salaries, tips, etc. Attach Form(s) W-2. 74,366
8a Taxable interest income. Attach Schedule B if over \$400. 3,730
b Tax-exempt interest income (see pg. 15). DON'T include on line 8a 17,658
9 Dividend income. Attach Schedule B if over \$400. 6,220
10 Taxable refunds, credits, or offsets of state and local income taxes from worksheet on page 16. 675
11 Alimony received.
12 Business income or (loss). Attach Schedule C or C-EZ.
13 Capital gain or (loss). Attach Schedule D. 1,109
14 Capital gain distributions not reported on line 13 (see page 15).
15 Other gains or (losses). Attach Form 4797.
16a Total IRA distributions. 16a b Taxable amount (see page 16) 16b
17a Total pensions and annuities. 17a b Taxable amount (see page 16) 17b
18 Rents, royalties, partnerships, estates, trusts, etc. Attach Schedule E. 18
19 Farm income or (loss). Attach Schedule F. 19
20 Unemployment compensation (see page 17). 20
21a Social security benefits. 21a b Taxable amount (see page 17) 21b
22 Other income. List type and amount - see page 18. 22
23 Add the amounts in the far right column for lines 7 through 22. This is your total income 86,100

Table of adjustments: 24a Your IRA deduction from applicable worksheet on page 19 or 20. 2,000
24b Spouse's IRA deduction from applicable worksheet on page 19 or 20.
25 One-half of self-employment tax (see page 20).
26 Self-employed health insurance deduction (see page 20).
27 Keogh retirement plan and self-employed SEP deduction.
28 Penalty on early withdrawal of savings.
29 Alimony paid. Recipient's SSN >
30 Add lines 24a through 29. These are your total adjustments 2,000

31 Subtract line 30 from line 23. This is your adjusted gross income. If this amount is less than \$22,370 and a child lived with you, see page EIC-1 to find out if you can claim the "Earned Income Credit" on line 58. 84,100

32 Amount from line 31 (adjusted gross income) 32 84,100

33a Check if: You were 65 or older, Blind; Spouse was 65 or older, Blind.
Add the number of boxes checked above and enter the total here. 33a

b If your parent (or someone else) can claim you as a dependent, check here. 33b

c If you are married filing a separate return and your spouse itemizes deductions, or you are a dual-status alien, see page 22 and check here. 33c

34 Enter the larger of:
Itemized deductions from Schedule A, line 26, OR
Standard deduction (shown below for your filing status). Caution: If you checked any box on line 33a or b, go to page 22 to find your standard deduction. If you checked box 33c, your standard deduction is zero.
• Single - \$3,600 • Head of household - \$5,250
• Married filing jointly or Qualifying widow(er) - \$6,000
• Married filing separately - \$3,000 34 7,915

35 Subtract line 34 from line 32 35 76,185

36 If line 32 is \$78,950 or less, multiply \$2,300 by the total number of exemptions claimed on line 6e. If line 32 is over \$78,950, see worksheet on page 23 for the amount to enter. 36 2,300

37 Taxable Income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0-. 37 73,885

38 Enter tax. Check if from a Tax Table, b Tax Rate Schedules, c Schedule D, or d Form 8815 (see page 23). (Amount, if any, from Form(s) 8814 38 18,526

39 Additional taxes (see page 23). Check if from a Form 4970 b Form 4972 39

40 Add lines 38 and 39 40 18,526

41 Credit for child and dependent care expenses. Attach Form 2441 41

42 Credit for the elderly or the disabled. Attach Schedule R. 42

43 Foreign tax credit. Attach Form 1116 43

44 Other credits (see page 24). Check if from a Form 3800 b Form 8398 c Form 8801 d Form (specify) 44

45 Add lines 41 through 44. 45

46 Subtract line 45 from line 40. If line 45 is more than line 40, enter -0-. 46 18,526

47 Self-employment tax. Attach Schedule SE. Also, see line 25. 47

48 Alternative minimum tax. Attach Form 6251. 48

49 Recapture taxes (see page 25). Check if from a Form 4255 b Form 8811 c Form 8828 49

50 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137 50

51 Tax on qualified retirement plans, including IRAs. Attach Form 5329. 51

52 Advance earned income credit payments from Form W-2 52

53 Add lines 46 through 52. This is your total tax 53 18,526

54 Federal income tax withheld. If any is from Form(s) 1099, check 54 17,253

55 1992 estimated tax payments and amount applied from 1990 return. 55 3,215

56 Earned income credit. Attach Sch EIC. 56

57 Amount paid with Form 4868 (extension request) 57

58 Excess social security, Medicare, and RRTA tax withheld (see page 26). 58

59 Other payments (see page 26). Check if from a Form 2439 b Form 4136 59

60 Add lines 54 through 59. These are your total payments 60 20,468

61 If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID 61 1,942

62 Amount of line 61 you want REFUNDED TO YOU 62 1,942

63 Amt of line 61 you want APPLIED TO YOUR 1993 ESTIMATED TAX 63

64 If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE. Attach check or money order for full amount payable to "Internal Revenue Service." Write your name, address, social security number, daytime phone number, and "1992 Form 1040" on it 64

65 Estimated tax penalty (see pg 28). Also include on line 84 65

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature: _____ Date: _____ Your occupation: ENGINEER

Spouse's signature (if joint return, BOTH must sign): _____ Date: _____ Spouse's occupation: _____

Preparer's signature: *Thomas J. Douglas* Date: 4/03/93 Check if self-employed: Preparer's social security no.:

Firm's name (or yours, if self-employed) and address: COMMERCIAL ENTERPRISES II
5720 FLEET AVE
CLEVELAND OH E.I. No. 34-1571743
ZIP Code 44105

If you want the IRS to figure your tax, see page 23.

Credits See page 3.

Payments Attach Forms 1099-R, 1099-ER, 1099-NEC, etc., on page 1.

Amount you owe or refund. Attach check or money order on Form(s) 1040-ES, etc., on page 1.

Preparer's signature and date.

Firm's name and address.

SCHEDULES A&B
(Form 1040)

Schedule A - Itemized Deductions

OMB No. 1545-0074

1992

(Schedule B is on page 2)

07

Department of the Treasury
Internal Revenue Service

▶ Attach to Form 1040. ▶ See instructions for Schedules A and B (Form 1040).

Name(s) shown on Form 1040

Your social security number

ROBERT E SOBIN

| | | | | |
|--|---|----|-------|-------|
| Medical and Dental Expenses | Caution: Do not include expenses reimbursed or paid by others. | | | |
| 1 | Medical and dental expenses (see page A-1) | 1 | | |
| 2 | Enter amount from Form 1040, line 32. 2 | 2 | | |
| 3 | Multiply line 2 above by 7.5% (.075) | 3 | | |
| 4 | Subtract line 3 from line 1. If zero or less, enter -0- | 4 | | |
| Taxes You Paid (See page A-1.) | 5 State and local income taxes | 5 | 3,783 | |
| 6 | Real estate taxes (see page A-2) | 6 | | |
| 7 | Other taxes. List - include personal property taxes ▶ <u>ADDL LOCAL TAX</u> | 7 | 1,200 | |
| 8 | Add lines 5 through 7 | 8 | | 4,983 |
| Interest You Paid (See page A-2.) | 9a Home mortgage interest and points reported to you on Form 1098 | 9a | | |
| | b Home mortgage interest not reported to you on Form 1098. If paid to an individual, show that person's name and address. ▶ | | | |
| Note: Personal interest is not deductible. | 10 Points not reported to you on Form 1098. See page A-3 for special rules. | 10 | | |
| | 11 Investment interest. If required, attach Form 4952. (See page A-3) | 11 | | |
| | 12 Add lines 9a through 11 | 12 | | |
| Gifts to Charity (See page A-3.) | Caution: If you made a charitable contribution and received a benefit in return, see page A-3. | | | |
| 13 | Contributions by cash or check | 13 | 1,650 | |
| 14 | Other than by cash or check. If over \$500, you MUST attach Form 8283 | 14 | 1,282 | |
| 15 | Carryover from prior year | 15 | | |
| 16 | Add lines 13 through 15 | 16 | | 2,932 |
| Casualty and Theft Losses | 17 Casualty or theft loss(es). Attach Form 4684. (See page A-4.) | 17 | | |
| Moving Expenses | 18 Moving expenses. Attach Form 3903 or 3903F. (See page A-4.) | 18 | | |
| Job Expenses and Most Other Miscellaneous Deductions (See page A-5 for expenses to deduct here.) | 19 Unreimbursed employee expenses - job travel, union dues, job education, etc. If required, you MUST attach Form 2106. (See page A-4.) ▶ | 19 | | |
| 20 | Other expenses--investment, tax preparation, safe deposit box, etc. List type and amount ▶ | 20 | | |
| 21 | Add lines 19 and 20. | 21 | | |
| 22 | Enter amount from Form 1040, line 32. 22 | 22 | | |
| 23 | Multiply line 22 above by 2% (.02) | 23 | | |
| 24 | Subtract line 23 from line 21. If zero or less, enter -0- | 24 | | |
| Other Miscellaneous Deductions | 25 Other--from list on page A-5. List type and amount ▶ | 25 | | |
| Total | 26 Is the amount on Form 1040, line 32, more than \$105,250 (more than \$52,625 if married filing separately)? • NO. Your deduction is not limited. Add lines 4, 8, 12, 16, 17, 18, 24, and 25. • YES. Your deduction may be limited. See page A-5 for the amount to enter. | 26 | | 7,915 |
| Caution: Be sure to enter on Form 1040, line 34, the LARGER of the amount on line 26 above or your standard deduction. | | | | |

ROBERT E SOBIN

Schedule B - Interest and Dividend Income

Part I If you had over \$400 in taxable interest income OR you are claiming the exclusion of interest from series EE U.S. savings bonds issued after 1989, you must complete this part. List ALL interest you received. If you had over \$400 in taxable interest income, you must also complete Part III. If you received, as a nominee, interest that actually belongs to another person, or you received or paid accrued interest on securities transferred between interest payment dates, see page B-1.

(See pages 14 and B-1.)

Note: If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

| Interest Income | | Amount |
|-----------------|---|--|
| 1 | List name of payer - if any interest income is from seller-financed mortgages, see page B-1 and list this interest first ▶ MERRILL LYNCH MERRILL LYNCH N/T OH MERRILL LYNCH N/T OH MERRILL LYNCH N/T OH THIRD FEDERAL INTEREST SUBTOTAL | 2,173 15,656 1,550 2,002 7 21,388 |
| | TAX-EXEMPT INTEREST | 17,658 |
| 2 | Add the amounts on line 1 | 3,730 |
| 3 | Excludable savings bond interest, if any, from Form 8815, line 14. Attach Form 8815 to Form 1040 | |
| 4 | Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a ▶ | 3,730 |

Part II If you had over \$400 in gross dividends and/or other distributions on stock, you must complete this part and Part III. If you received, as a nominee, dividends that actually belong to another person, see page B-1.

(See pages 15 and B-1.)

(See pages 15 and B-1.)

Note: If you received a Form 1099-DIV or substitute statement, from a brokerage firm, list the firm's name as the payer and enter the total dividends shown on that form.

| Dividend Income | | Amount |
|-----------------|---|-----------------------|
| 5 | List name of payer - include on this line capital gain distributions, nontaxable distributions, etc. ▶ MERRILL LYNCH MERRILL LYNCH DIVIDEND SUBTOTAL | 6,441 888 7,329 |
| 6 | Add the amounts on line 5 | 7,329 |
| 7 | Capital gain distributions. Enter here and on Schedule D* | 1,109 |
| 8 | Nontaxable distributions. (See the inst. for Form 1040, line 8.) | |
| 9 | Add lines 7 and 8 | 1,109 |
| 10 | Subtract line 9 from line 6. Enter the result here and on Form 1040, line 8a ▶ | 6,220 |

* If you received capital gain distributions but do not need Schedule D to report any other gains or losses, see the instructions for Form 1040, lines 13 and 14.

| Part III Foreign Accounts and Investments | | Yes | No |
|---|--|-----|----|
| 11a At any time during 1982, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See page B-2 for exceptions and filing requirements for Form TD F 80-22.1 | | | X |
| b If "Yes," enter the name of the foreign country ▶ | | | |
| 12 Were you the grantor of, or transferor to, a foreign trust that existed during 1982, whether or not you have any beneficial interest in it? If "Yes," you may have to file Form 3520, 3520-A, or 828 | | | X |

1040

1040

Department of the Treasury - Internal Revenue Service
U.S. Individual Income Tax Return

1991

PLAINTIFF'S EXHIBIT
U.

For the year Jan.-Dec. 31, 1991 or other tax year beginning

1991 ending

OMB No. 1545-0047

Label (See instructions on page 11).
Use IRS label. Otherwise, please print or type.

Label
CHUN B & HYANG H LIM
5251 CHESWICK DR
OLON OHIO 44139

COPY FOR YOUR FILES

Your social security number

Spouse's social security number

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Presidential Election Campaign (See page 11)

Do you want \$1 to go to this fund? X Yes
If joint return, does your spouse want \$1 to go to this fund? X Yes

No No
Note: Checking "Yes" will not change your tax or reduce your refund.

Filing Status

1 Single.
2 X Married filing joint return (even if only one had income)
3 Married filing separate return. Enter spouse's SSN above & full name here.
4 Head of household (with qualifying person). (See page 12.) If the qualifying person is a child but not your dependent, enter this child's name here.
5 Qualifying widow(er) with dependent child (your spouse died > 19). (See page 12.)

Exemptions

6a X Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2. No. of boxes checked on 6a and 6b 2

(See page 12.)

6b X Spouse
c Dependents:
(1) Name (first, initial, and last name) (2) CK. if under age 1 (3) If age 1 or older, dependent's social security number (4) Dependent's relationship to you (5) No. of months lived in your home in 1991
SANDY LIM DAUGHTER 12
GRACE LIM DAUGHTER 12
No. of your children on 6c who: * lived with you 2 * didn't live with you due to divorce or separation (see page 14)
No. of other dependents on 6c

If more than six dependents, see page 13.

d If your child didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here
e Total number of exemptions claimed 4

Income

7 Wages, salaries, tips, etc. (attach Form(s) W-2) 7 293,250.
8a Taxable interest income (also attach Schedule B if over \$400) 8a 3,147.
8b Tax-exempt interest income (see pg. 16; DON'T include on line 8a) 8b
9 Dividend income (also attach Schedule B if over \$400) 9 1,777.
10 Taxable refunds of state and local income taxes, if any, from worksheet on page 16 10 2,659.
11 Alimony received 11
12 Business income or (loss) (attach Schedule C) 12
13 Capital gain or (loss) (attach Schedule D) 13 45,076.
14 Capital gain distributions not reported on line 13 (see page 17) 14
15 Other gains or (losses) (attach Form 4787) 15
16a Total IRA distributions 16a 16b Taxable amount (see page 17)
17a Total pensions and annuities 17a 17b Taxable amount (see page 17)
18 Rents, royalties, partnerships, estates, trusts, etc. (attach Schedule E) 18
19 Farm income or (loss) (attach Schedule F) 19
20 Unemployment compensation (insurance) (see page 10) 20
21a Social security benefits 21a 21b Taxable amount (see page 19)
22 Other income (list type and amount - see page 19) 22
23 Add the amounts shown in the far right column for lines 7 thru 22. This is your total income 23 345,909.

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 10.

Attach check or money order on top of any Forms W-2, W-2G, or 1099-R.

Adjustments to Income

24a Your IRA deduction, from applicable worksheet on page 20 or 21 24a 2,000.
24b Spouse's IRA deduction, from applicable worksheet on page 20 or 21 24b
25 One-half of self-employment tax (see page 21) 25
26 Self-employed health insurance deduction, from worksheet on page 22 26
27 Keogh retirement plan and self-employed SEP deduction 27
28 Penalty on early withdrawal of savings 28
29 Alimony paid. Recipient's SSN 29
30 Add lines 24a through 29. These are your total adjustments 30 2,000.

See page 19.)

Adjusted Gross Income

31 Subtract line 30 from line 23. This is your adjusted gross income. If this amount is less than \$21,250 and a child lived with you, see page 45 to find out if you can claim the "Earned Income Credit" on line 56. 31 343,909.

Form 1040 (1991)

343,909.

Tax Computation

If you want the IRS to figure your tax, see page 24.

| | | | |
|-----|---|-----|----------|
| 32 | Amount from line 31 (adjusted gross income) | 32 | 343,909. |
| 33a | Check if: <input type="checkbox"/> You were 65 or older, <input type="checkbox"/> Blind, <input type="checkbox"/> Spouse was 65 or older, <input type="checkbox"/> Blind. Add the number of boxes checked above and enter the total here. | 33a | |
| 33b | If your parent (or someone else) can claim you as a dependent, check here. | 33b | |
| 33c | If you are married filing a separate return and your spouse itemizes deductions, or you are a dual-status alien, see page 23 and check here. | 33c | |
| 34 | Enter the larger of: Itemized deductions (from Schedule A, line 28), OR Standard deduction (shown below for your filing status). Caution: If you checked any box on line 33a or b, go to page 23 to find your standard deduction. If you checked box 33c, your standard deduction is zero. • Single - \$3,400 • Married filing jointly or Qualifying widow(er) - \$5,700 • Married filing separately - \$2,850 | 34 | 27,492. |
| 35 | Subtract line 34 from line 32 | 35 | 316,417. |
| 36 | If line 32 is \$75,000 or less, multiply \$2,150 by the total number of exemptions claimed on line 6e. If line 32 is over \$75,000, see page 24 for the amount to enter. | 36 | 0. |
| 37 | Taxable income. Subtract line 36 from line 35. (If line 36 is more than line 35, enter -0-.) | 37 | 316,417. |
| 38 | Enter tax. Check if from a <input type="checkbox"/> Tax Table, b <input type="checkbox"/> Tax Rate Schedules, c <input checked="" type="checkbox"/> Schedule D, or d <input type="checkbox"/> Form 8815 (see page 24). (Amount, if any, from Form(s) 8814 ▶ a) | 38 | 89,852. |
| 39 | Additional taxes (see page 24). Check if from a <input type="checkbox"/> Form 4970 b <input type="checkbox"/> Form 4972 | 39 | |
| 40 | Add lines 38 and 39 | 40 | 89,852. |

Credits
(See page 25.)

| | | | |
|----|--|----|---------|
| 41 | Credit for child and dependent care expenses (attach Form 2441) | 41 | |
| 42 | Credit for the elderly or the disabled (attach Schedule R) | 42 | |
| 43 | Foreign tax credit (attach Form 1116) | 43 | |
| 44 | Other credits (see p. 25). Check if from a <input type="checkbox"/> Form 3600 b <input type="checkbox"/> Form 8320 c <input type="checkbox"/> Form 8801 d <input type="checkbox"/> Form (specify) | 44 | |
| 45 | Add lines 41 through 44 | 45 | |
| 46 | Subtract line 45 from line 40. (If line 45 is more than line 40, enter -0-.) | 46 | 89,852. |

Other Taxes

| | | | |
|----|---|----|---------|
| 47 | Self-employment tax (attach Schedule SE) | 47 | |
| 48 | Alternative minimum tax (attach Form 6251) | 48 | |
| 49 | Recapture taxes (see page 26). Check if from a <input type="checkbox"/> Form 4255 b <input type="checkbox"/> Form 4211 c <input type="checkbox"/> Form 8828 | 49 | |
| 50 | Social security and Medicare tax on tip income not reported to employer (attach Form 4137) | 50 | |
| 51 | Tax on an IRA or a qualified retirement plan (attach Form 5329) | 51 | |
| 52 | Advance earned income credit payments from Form W-2 | 52 | |
| 53 | Add lines 46 through 52. This is your total tax | 53 | 89,852. |

Payments

Attach Forms W-2, W-2G, and 1099-R to page 1.

| | | | |
|----|--|----|---------|
| 54 | Federal income tax withheld (if any is from Form(s) 1099, check <input type="checkbox"/>) | 54 | 70,630. |
| 55 | 1991 estimated tax payments and amount applied from 1990 return | 55 | |
| 56 | Earned income credit (attach Sch EIC) | 56 | |
| 57 | Amount paid with Form 4868 (extension request) | 57 | |
| 58 | Excess social security, Medicare, and RRTA tax withheld (see page 27) | 58 | 130. |
| 59 | Other payments (see page 27). Check if from a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136 | 59 | |
| 60 | Add lines 54 through 59. These are your total payments | 60 | 70,760. |

Refund or Amount You Owe

| | | | |
|----|---|----|---------|
| 61 | If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID | 61 | 0. |
| 62 | Amount of line 61 to be REFUNDED TO YOU | 62 | |
| 63 | Amount of line 51 to be APPLIED TO YOUR 1992 ESTIMATED TAX ▶ 63 | 63 | |
| 64 | If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE. Attach check or money order for full amount payable to "Internal Revenue Service." Write your name, address, social security number, daytime phone number, and "1991 Form 1040" on it | 64 | 19,092. |
| 65 | Estimated tax penalty (see pg 28). Also include on line 84 | 65 | |

Sign Here

(Keep a copy of this return for your records.)

| | |
|---|--|
| Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge. Your signature: <i>[Signature]</i> Date: 3/16/92 | Your occupation: RADIATION PHYSICIST |
| Spouse's signature (if joint return, BOTH must sign): <i>[Signature]</i> Date: | Spouse's occupation: HOUSEWIFE |
| Preparer's signature: <i>[Signature]</i> Date: 03-16-92 | Check if self-employed: <input type="checkbox"/> Preparer's social security no.: |

Preparer's Use Only

| | |
|---|---|
| Firm's name (or yours, if self-employed) and address: JAY W. REU & INGIL KIM ASSOCIATES 32750 SOLON ROAD SOLON OHIO | E.I. No. 34-1537032 ZIP Code 44139 |
|---|---|

| | | | | | | | |
|---|--|---|--|---|---------------|---|-------------------------------|
| 1 Control number 005001 | | OMB No. 1545-0008 | | Copy C For EMPLOYEE'S RECORDS (See Notice on back.) | | | |
| 2 Employer's name, address, and ZIP code TRIONIX RESEARCH LABORATORY INC. 8037 BAVARIA ROAD TWINSBURG, OH 44087 | | | | 6 Statutory employee | Deceased emp. | Pension plan | Legal rep. |
| 3 Employer's identification number 34-1541310 | | | | 4 Employer's state I.D. number 51 | | 7 Allocated tips 0.00 | 8 Advance EIC payment 0.00 |
| 5 Employee's social security number | | | | 11 Social security tax withheld 3441.00 | | 10 Wages, tips, other compensation 293250.00 | |
| 19 Employee's name, address, and ZIP code CHUN BIN LIM 5251 CHESWICK DR SOLON, OH 44139 | | | | 13 Social security tips 0.00 | | 14 Medicare wages and tips 125000.00 | |
| 20 | | | | 21 | | 15 Medicare tax withheld 1682.30 | |
| 22 Dependent care benefits 0.00 | | | | 23 Benefits included in Box 10 0.00 | | 16 Nonqualified plans 0.00 | |
| 24 State income tax 19188.57 | | 25 State wages, tips, etc. 293250.00 | | 26 Name of state OH | | 17 See Instrs. for Box 17 | |
| 27 Local income tax 0.00 | | 28 Local wages, tips, etc. 0.00 | | 29 Name of locality | | 18 Other | |

Form **W-2 Wage and Tax Statement 1991**
 Department of the Treasury—Internal Revenue Service
 INS App. 13-2078053

This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

| | | | | | | | |
|--|--------------------------------|--|--|---|--|--|--------------------------------------|
| 1 Form being corrected W-2 | 2 Employer's use | | 3 Previously Reported Stat. emp. Deceased emp. Pension plan Legal rep. Def'd. comp. emp. Medicare IRA/SEP | | 4 Corrected Stat. emp. Deceased emp. Pension plan Legal rep. Def'd. comp. emp. Medicare IRA/SEP | | OMB No. 1545-0008 Expires 1-31-93 |
| 5 Employee's correct SSN | 6 Employer's SSA number 69- | | 7 Employer's Federal EIN 34-1541310 | | 8 Employer's state I.D. number 51-853601 6 | | |
| 9 Employee's name, address, and ZIP code Chun Bin Lim 5251 Cheswick Dr. Solon, OH 44139 | | | | 10 Employer's name, address, and ZIP code Trionix Research Laboratory, Inc 8037 Bavaria Road Twinsburg, OH 44087 | | | |
| 11 Employee's incorrect SSN (a) As Previously Reported | | | | 12 Employee's name (as incorrectly shown on previous form) no I-901 | | | |
| 13 Social security wages 557,500.00 | | | | 13 Social security wages 597,400.00 | | | |
| 14 Social security tips | | | | 14 Social security tips | | | |
| 15 Social security tax withheld | | | | 15 Social security tax withheld | | | |
| 16 Wages, tips, other comp. | | | | 16 Wages, tips, other comp. | | | |
| 17 Federal income tax withheld | | | | 17 Federal income tax withheld | | | |
| 18 Allocated tips | | | | 18 Allocated tips | | | |
| 19a | | | | 19a | | | |
| 19b | | | | 19b | | | |
| 19c | | | | 19c | | | |
| 20 Gross annuity, etc. (W-2P) | | | | 20 Gross annuity, etc. (W-2P) | | | |
| 21 Taxable amount (W-2P) | | | | 21 Taxable amount (W-2P) | | | |
| 22 State wages | | | | 22 State wages | | | |
| 23 State tax withheld | | | | 23 State tax withheld | | | |
| 24 Local wages | | | | 24 Local wages | | | |
| 25 Local tax withheld | | | | 25 Local tax withheld | | | |

Name(s) shown on Form 1040. (Do not enter name and social security number if shown on page 1.)

Your social security number.

CHUN B & HYANG H LIM

Schedule B - Interest and Dividend Income

Part I If you received more than \$400 in taxable interest income, or you are claiming the exclusion of interest from series EE U.S. savings bonds issued after 1989 (see page 43), you must complete Part I. List ALL interest received in Part I. If you received more than \$400 in taxable interest income, you must also complete Part III. If you received, as a nominee, interest that actually belongs to another person, or you received or paid accrued interest on securities transferred between interest payment dates, see page 43.

(See pages 15 and 43.)

Note: If you received a Form 1099-INT, Form 1099-DIV, or substitute statement, from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

Table with 2 columns: Interest Income, Amount. Rows include interest from Society Bank (3,011) and N.Y. Life Insurance (136), totaling 3,147.

Part II If you received more than \$400 in gross dividends and/or other distributions on stock, you must complete Parts II and III. If you received, as a nominee, dividends that actually belong to another person, see page 43.

(See pages 16 and 43.)

Note: If you received a Form 1099-DIV, or substitute statement, from a brokerage firm, list the firm's name as the payer and enter the total dividends shown on that form.

Table with 2 columns: Dividend Income, Amount. Rows include dividends from Merrill Lynch (1,573) and Johnson & Johnson Co (204), totaling 1,777.

Part III Foreign Accounts and Foreign Trusts. Questions 11a and 12 regarding foreign accounts and trusts.

1003721

SCHEDULE D (Form 1040)

Department of the Treasury Internal Revenue Service

Capital Gains and Losses

(And Reconciliation of Forms 1099-B for Bartering Transactions)

Attach to Form 1040. See instructions for Schedule D (Form 1040).

For more space to list transactions for lines 1a and 8a, get Schedule D-1 (Form 1040).

OMB No. 1545-0074

1991

12A

Name(s) shown on Form 1040

CHUN B & HYANG H LIM

Your social security number

CAUTION: Add the following amounts reported to you for 1991 on Forms 1099-B and 1099-S (or on substitute statements): (a) proceeds from transactions involving stocks, bonds, and other securities, and (b) gross proceeds from real estate transactions not reported on another form or schedule. If this total does not equal the total of lines 1c and 8c, column (d), attach a statement explaining the difference.

Part I Short-Term Capital Gains and Losses - Assets Held One Year or Less

Table with 7 columns: (a) Description of property, (b) Date acquired, (c) Date sold, (d) Sales price, (e) Cost or other basis, (f) LOSS, (g) GAIN. Includes rows for 1a Stocks, Bonds, Other Securities, and Real Estate, 1b Amounts from Schedule D-1, 1c Total of All Sales Price Amounts, 1d Other Transactions, and summary rows 2-7.

Part II Long-Term Capital Gains and Losses - Assets Held More Than One Year

Table with 7 columns: (a) Description of property, (b) Date acquired, (c) Date sold, (d) Sales price, (e) Cost or other basis, (f) LOSS, (g) GAIN. Includes row 8a Stocks, Bonds, Other Securities, and Real Estate, 8b Amounts from Schedule D-1, 8c Total of All Sales Price Amounts, 8d Transactions, and summary rows 9-16.

1040

Department of the Treasury - Internal Revenue Service
 U.S. Individual Income Tax Return 1992

IRS Use Only - Do not write

OMB No. 1545-0047

Label (See instructions on page 10.) Use the IRS label. Otherwise, please print or type.

CHUN B & HYANG H LIM
 55 W JUNIPER LN
 MORELAND HILLS OHIO 44022

COPY FOR YOUR FILES

Your social security number
 Spouse's social security number
 For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Presidential Election Campaign (See page 10.) Do you want \$1 to go to this fund? Yes No
 If a joint return, does your spouse want \$1 to go to this fund? Yes No

Filing Status
 1 Single
 2 Married filing joint return (even if only one had income)
 3 Married filing separate return. Enter spouse's SSN above & full name here.
 4 Head of household (with qualifying person). (See page 11.) If the qualifying person is a child but not your dependent, enter this child's name here.
 5 Qualifying widow(er) with dependent child (your spouse died 1992-1995). (See page 11.)

Exemptions (See page 11.)
 6a Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2.
 b Spouse
 c Dependents:

| (1) Name (first, initial, and last name) | (2) Child under age 17 | (3) If age 17 or older, dependent's social security number | (4) Dependent's relationship to you | (5) No. of months lived in your home in 1992 | No. of your children on dc who: |
|--|------------------------|--|-------------------------------------|--|---|
| SANDY LIM | 35 | | DAUGHTER | 12 | lived with you 2 |
| GRACE LIM | 3 | | DAUGHTER | 12 | didn't live with you due to divorce or separation (see page 13) |
| OK-NAM KIM | 5 | | MOTHER | | |

 No. of other dependents on 6c: 1

d If your child didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here
 e Total number of exemptions claimed: 5

Income
 7 Wages, salaries, tips, etc. Attach Form(s) W-2: 146,550.
 8a Taxable interest income. Attach Schedule B if over \$400: 46,626.
 8b Tax-exempt interest income (see pg. 16). DON'T include on line 8a: 524.
 9 Dividend income. Attach Schedule B if over \$400.
 10 Taxable refunds, credits, or offsets of state and local income taxes from worksheet on page 18.
 11 Alimony received.
 12 Business income or (loss). Attach Schedule C or C-EZ.
 13 Capital gain or (loss). Attach Schedule D.
 14 Capital gain distributions not reported on line 13 (see page 15).
 15 Other gains or (losses). Attach Form 4787.
 16a Total IRA distributions: 16a
 16b Taxable amount (see page 16): 16b
 17a Total pensions and annuities: 17a
 17b Taxable amount (see page 16): 17b
 18 Rents, royalties, partnerships, estates, trusts, etc. Attach Schedule E.
 19 Farm income or (loss). Attach Schedule F.
 20 Unemployment compensation (see page 17).
 21a Social security benefits: 21a
 21b Taxable amount (see page 17): 21b
 22 Other income. List type and amount - see page 18.
 23 Add the amounts in the far right column for lines 7 through 22. This is your total income: 193,700.

Adjustments to Income (See page 18.)
 24a Your IRA deduction from applicable worksheet on page 18 or 20: 2,000.
 24b Spouse's IRA deduction from applicable worksheet on page 18 or 20.
 25 One-half of self-employment tax (see page 20).
 26 Self-employed health insurance deduction (see page 20).
 27 Keogh retirement plan and self-employed SEP deduction.
 28 Penalty on early withdrawal of savings.
 29 Alimony paid. Recipient's SSN
 30 Add lines 24a through 29. These are your total adjustments: 2,000.

Adjusted Gross Income 31 Subtract line 30 from line 23. This is your adjusted gross income. If this amount is less than \$22,370 and a child lived with you, see page EIC-1 to find out if you can claim the "Earned Income Credit" on line 58: 191,700.

| | | | |
|--|---|----------|----------|
| 32 Amount from line 31 (adjusted gross income) | | 32 | 191,700. |
| Tax Compu- tation (See page 22.) | 33a Check if: <input type="checkbox"/> You were 65 or older, <input type="checkbox"/> Blind; <input type="checkbox"/> Spouse was 65 or older, <input type="checkbox"/> Blind. Add the number of boxes checked above and enter the total here. ▶ 33a | | |
| | b If your parent (or someone else) can claim you as a dependent, check here. ▶ 33b | | |
| | c If you are married filing separately and your spouse itemizes deductions or you are a dual-status alien, see page 22 and check here. ▶ 33c | | |
| | 34 Enter the larger of: Itemized deductions from Schedule A, line 26, OR Standard deduction shown below for your filing status. But if you checked any box on line 33a or b, go to page 22 to find your standard deduction. If you checked box 33c, your standard deduction is zero. • Single - \$3,600 • Head of household - \$5,250 • Married filing jointly or Qualifying widow(er) - \$6,000 • Married filing separately - \$3,000 | 34 | 64,259. |
| 35 Subtract line 34 from line 32 | 35 | 127,441. | |
| 36 If line 32 is \$78,950 or less, multiply \$2,300 by the total number of exemptions claimed on line 6e. If line 32 is over \$78,950, see the worksheet on page 23 for the amount to enter. | 36 | 8,280. | |
| 37 Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0- | 37 | 119,161. | |
| 38 Enter tax. Check if from: a <input type="checkbox"/> Tax Table, b <input checked="" type="checkbox"/> Tax rate Schedules, c <input type="checkbox"/> Schedule D, or d <input type="checkbox"/> Form 9915 (see page 23). Amount, if any, from Form(s) 9914 ▶ a | 38 | 29,691. | |
| 39 Additional taxes (see page 23). Check if from: a <input type="checkbox"/> Form 4970 b <input type="checkbox"/> Form 4972 | 39 | | |
| 40 Add lines 38 and 39 | 40 | 29,691. | |
| Credits (See page 23.) | 41 Credit for child and dependent care expenses. Attach Form 2441 | 41 | |
| | 42 Credit for the elderly or the disabled. Attach Schedule R. | 42 | |
| | 43 Foreign tax credit. Attach Form 1116 | 43 | |
| | 44 Other credits (see page 24). Check if from: a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8396 c <input type="checkbox"/> Form 8811 d <input type="checkbox"/> Form (specify) | 44 | |
| 45 Add lines 41 through 44 | 45 | | |
| 46 Subtract line 45 from line 40. If line 45 is more than line 40, enter -0- | 46 | 29,691. | |
| Other Taxes | 47 Self-employment tax. Attach Schedule SE. Also, see line 25 | 47 | |
| | 48 Alternative minimum tax. Attach Form 6251. | 48 | |
| | 49 Recapture taxes (see page 25). Check if from: a <input type="checkbox"/> Form 4255 b <input type="checkbox"/> Form 6011 c <input type="checkbox"/> Form 8820 | 49 | |
| | 50 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137. | 50 | |
| | 51 Tax on qualified retirement plans, including IRAs. Attach Form 5329. | 51 | |
| | 52 Advance earned income credit payments from Form W-2 | 52 | |
| | 53 Add lines 46 through 52. This is your total tax | 53 | 29,691. |
| Payments | 54 Federal income tax withheld. If any is from Form(s) 1099, check ▶ <input type="checkbox"/> | 54 | 27,794. |
| | 55 1992 estimated tax payments and amount applied from 1991 return. | 55 | |
| | 56 Earned income credit. Attach Schedule EIC. | 56 | |
| | 57 Amount paid with Form 4868 (extension request) | 57 | |
| | 58 Excess social security, Medicare, and RRTA tax withheld (see page 20). | 58 | |
| | 59 Other payments (see page 26). Check if from: a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136 | 59 | |
| 60 Add lines 54 through 59. These are your total payments | 60 | 27,794. | |
| Refund or Amount You Owe | 61 If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID ▶ | 61 | 0. |
| | 62 Amount of line 61 you want REFUNDED TO YOU ▶ | 62 | |
| | 63 Amt. of line 61 you want APPLIED TO YOUR 1993 ESTIMATED TAX ▶ | 63 | |
| 64 If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE. Attach check or money order for full amount payable to "Internal Revenue Service." Write your name, address, social security number, daytime phone number, and "1992 Form 1040" on it | 64 | 1,897. | |
| 65 Estimated tax penalty (see pg 27). Also include on line 64 ▶ | 65 | | |

Sign
Here
Keep a copy
of this return
or your
records.

Under penalties of perjury, I declare that I have examined this return and accompanying Schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

| | | |
|--|----------|--|
| Your signature | Date | Your occupation |
| X | | RADIATION PHYSICIST |
| Spouse's signature. If a joint return, BOTH must sign. | Date | Spouse's occupation |
| X | | HOUSEWIFE |
| Preparer's signature | Date | Check if self-employed <input type="checkbox"/> Preparer's social security no. |
| | 04-12-93 | |

Preparer's
Use Only

| | |
|--|----------------|
| Firm's name (or yours, if self-employed) and address | E.I. No. |
| JAY W. REU & INGIL KIM ASSOC., CPA 32750 SOLON ROAD SOLON OHIO | 34-1537032 |
| | ZIP Code 44139 |

27] SCHEDULES A&B (Form 1040)

Schedule A - Itemized Deductions

(Schedule B is on page 2)

OMB No. 1545-0074

1992

07

Department of the Treasury Internal Revenue Service

Attach to Form 1040. See Instructions for Schedules A and B (Form 1040).

Name(s) shown on Form 1040

Your social security number

CHUN B & HYANG H LIM

| | | | | | |
|---|---|---|----------|--|---------|
| Medical and Dental Expenses | | Caution: Do not include expenses reimbursed or paid by others. | | | |
| 1 | Medical and dental expenses (see page A-1) | 1 | 35,224. | | |
| 2 | Enter amount from Form 1040, line 32 | 2 | 191,700. | | |
| 3 | Multiply line 2 above by 7.5% (.075) | 3 | 14,378. | | |
| 4 | Subtract line 3 from line 1. If zero or less, enter -0- | 4 | | | 20,846. |
| Taxes You Paid | | 5 | 15,252. | | |
| 5 | State and local income taxes | 6 | 10,240. | | |
| 6 | Real estate taxes (see page A-2) | 7 | | | |
| 7 | Other taxes. List - Include personal property taxes | 7 | | | |
| 8 | Add lines 5 through 7 | 8 | | | 25,492. |
| Interest You Paid | | 9a | 16,594. | | |
| 9a | Home mortgage interest and points reported to you on Form 1098 | 9b | | | |
| b | Home mortgage interest not reported to you on Form 1098. If paid to an individual, show that person's name and address | 10 | | | |
| 10 | Points not reported to you on Form 1098. See page A-3 for special rules | 11 | | | |
| 11 | Investment interest. If required, attach Form 4952. (See page A-3) | 12 | | | 16,594. |
| 12 | Add lines 9a through 11 | 12 | | | |
| Gifts to Charity | | 13 | | | |
| 13 | Contributions by cash or check | 14 | 250. | | |
| 14 | Other than by cash or check. If over \$500, you MUST attach Form 8283 | 15 | | | |
| 15 | Carryover from prior year | 16 | | | 250. |
| 16 | Add lines 13 through 15 | 16 | | | |
| Casualty and Theft Losses | | 17 | | | |
| 17 | Casualty or theft losses. Attach Form 4684. (See page A-4) | 17 | | | |
| Moving Expenses | | 18 | | | |
| 18 | Moving expenses. Attach Form 3903 or 3903F. (See page A-4) | 18 | | | |
| Job Expenses and Most Other Miscellaneous Deductions | | 19 | 7,505. | | |
| 19 | Unreimbursed employee expenses - job travel, union dues, job education, etc. If required, you MUST attach Form 2106. (See page A-4) | 20 | | | |
| 20 | Other expenses--investment, tax preparation, safe deposit box, etc. List type and amount | 21 | 7,505. | | |
| 21 | Add lines 19 and 20 | 22 | 191,700. | | |
| 22 | Enter amount from Form 1040, line 32 | 23 | 3,834. | | |
| 23 | Multiply line 22 above by 2% (.02) | 24 | | | 3,671. |
| 24 | Subtract line 23 from line 21. If zero or less, enter -0- | 24 | | | |
| Other Miscellaneous Deductions | | 25 | | | |
| 25 | Other--from list on page A-5. List type and amount | 25 | | | |
| Total Itemized Deductions | | 26 | | | 64,259. |
| 26 | Is the amount on Form 1040, line 32, more than \$105,250 (more than \$52,625 if married filing separately)? | 26 | | | |
| | | <ul style="list-style-type: none"> NO. Your deduction is not limited. Add lines 4, 8, 12, 16, 17, 18, 24, and 25. YES. Your deduction may be limited. See page A-5 for the amount to enter. | | | |
| Caution: Be sure to enter on Form 1040, line 34, the LARGER of the amount on line 26 above or your standard deduction. | | | | | |

Name(s) shown on Form 1040

Your social security number

CHUN B & HYANG H LIM

Schedule B - Interest and Dividend Income

Part I If you had over \$400 in taxable interest income OR you are claiming the exclusion of interest from series EE U.S. savings bonds issued after 1989, you must complete this part. List ALL interest you received. If you had over \$400 in taxable interest income, you must also complete Part III. If you received, as a nominee, interest that actually belongs to another person, or you received or paid accrued interest on securities transferred between interest payment dates, see page B-1.

(See pages 14 and B-1.)

Note: If you received a Form 1099-INT, Form 1099-DIV, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

| Interest Income | | Amount |
|-----------------|--|-------------------|
| 1 | List name of payer - if any interest income is from a loan-financed mortgage, see page B-1 and list this interest first SOCIETY BANK TRIONIX RESEARCH CO | 4,625. 42,000. |
| 2 | Add the amounts on line 1 | 46,626. |
| 3 | Excludable savings bond interest, if any, from Form 8815, line 14. Attach Form 8815 to Form 1040 | |
| 4 | Subtract line 3 from line 2. Enter the result here and on Form 1040, line 6a | 46,626. |

Part II If you had over \$400 in gross dividends and/or other distributions on stock, you must complete this part and Part III. If you received, as a nominee, dividends that actually belong to another person, see page B-1.

(See pages 15 and B-1.)

Note: If you received a Form 1099-DIV or substitute statement, from a brokerage firm, list the firm's name as the payer and enter the total dividends shown on that form.

| Dividend Income | | Amount |
|-----------------|--|--------------|
| 5 | List name of payer - include on this line capital gain distributions, nontaxable distributions, etc. MERRILL LYNCH NY LIFE | 368. 156. |
| 6 | Add the amounts on line 5 | 524. |
| 7 | Capital gain distributions. Enter here and on Schedule D* | |
| 8 | Nontaxable distributions. (See the Inst. for Form 1040, line 9.) | |
| 9 | Add lines 7 and 8 | |
| 10 | Subtract line 9 from line 6. Enter the result here and on Form 1040, line 9. | 524. |

* If you received capital gain distributions but do not need Schedule D to report any other gains or losses, see the instructions for Form 1040, lines 13 and 14.

| Part III Foreign Accounts and Foreign Trusts | | Yes | No |
|--|--|-----|----|
| 11a | At any time during 1992, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See page B-2 for exceptions and filing requirements for Form TD F 90-22.1. | | X |
| 12 | Were you the grantor of, or transferor to, a foreign trust that existed during 1992, whether or not you have any beneficial interest in it? If "Yes," you may have to file Form 3520, 3520-A, or 926 | | X |

| | | | | | | | | | | | | | |
|--|----------------------------|--------------------------------|---------------------|---------------------------------|---------------------|-----------------|---------------|---|-------------------------|--|--|--|--|
| 1 Control number 005001 | | OMB No 1545-0008 | | | | | | Copy C For EMPLOYEE'S RECORDS (See Notice on back.) | | | | | |
| 2 Employer's name, address, and ZIP code TRIONIX RESEARCH LABORATORY, INC. 8037 BAVARIA ROAD TWINSBURG, OH 44087 | | | | 6 Statutory employee | Decreased | Pension plan | Legal rep. | 942 emp. | Defered compensation | | | | |
| | | | | 7 Allocated tips | | | | 8 Advance EIC payment | | | | | |
| | | | | 0.00 | | | | 0.00 | | | | | |
| | | | | 9 Federal income tax withheld | | | | 10 Wages, tips, other compensation | | | | | |
| | | | | 27794.38 | | | | 146549.50 | | | | | |
| 3 Employer's identification number 34-15 | | 4 Employer's state I.D. number | | 11 Social security tax withheld | | | | 12 Social security wages | | | | | |
| | | | | 5441.00 | | | | 55500.00 | | | | | |
| 5 Employee's social security number | | | | 13 Social security tips | | | | 14 Medicare wages and tips | | | | | |
| | | | | 0.00 | | | | 130200.00 | | | | | |
| 19 Employee's name, address, and ZIP code CHUN BIN LIM 55 W. JUNIPER MORELAND HILLS, OH 44022 | | | | 15 Medicare tax withheld | | | | 16 Nonqualified plans | | | | | |
| | | | | 1387.90 | | | | 0.00 | | | | | |
| | | | | 17 See instrs. for Box 17 | | | | 18 Other | | | | | |
| | | | | | | | | | | | | | |
| 20 | | 21 | | 22 Dependent care benefits | | | | 23 Benefits included in Box 10 | | | | | |
| | | | | 0.00 | | | | 0.00 | | | | | |
| 24 State income tax | 25 State wages, tips, etc. | 26 Name of state | 27 Local income tax | 28 Local wages, tips, etc. | 29 Name of locality | | | | | | | | |
| 8083.28 | 146549.50 | OH | 0.00 | 0.00 | | | | | | | | | |

Department of the Treasury—Internal Revenue Service

Form **W-2 Wage and Tax Statement 1992 (Rev. 4-92)**

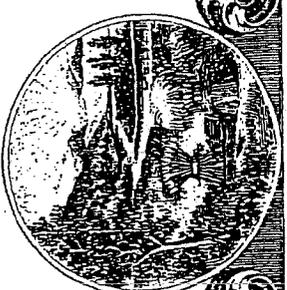
13-2578063

This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

PLAINTIFF'S EXHIBIT
T
Case No. 8113

PLAINTIFF'S DEPOSIT
EXHIBIT
A
PENGAD-Byronic, N. J.
Page 102

SHARES
277



NUMBER
4

INCORPORATED UNDER THE LAWS OF THE STATE OF OHIO

TRIONIX RESEARCH LABORATORY, INC.

SEE REVERSE FOR CERTAIN DEFINITIONS

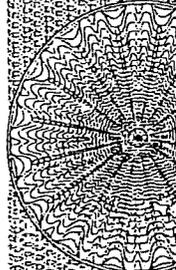
This Certifies that Robert Sobin is the owner of

Two Hundred Seventy Seven Shares fully paid, and non-assessable, shares
of NO PAR value
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

transferable only on the books of the Corporation by the holder hereof in person or by duly authorized
Attorney upon surrender of this Certificate, properly endorsed.

Witness the seal of the Corporation, and the signatures of its duly authorized officers.

Dated April 17, 1987



Robert Sobin
CHIEF FINANCIAL OFFICER

Robert Sobin

THE UNIVERSITY STATE PRINT COMPANY, CLEVELAND

14

INDUSTRY UNDER THE AUSPICES OF THE STATE OF OHIO

80



TRIONIX RESEARCH LABORATORY, INC.

This Certificate
Eighty (80)

Robert Sobin

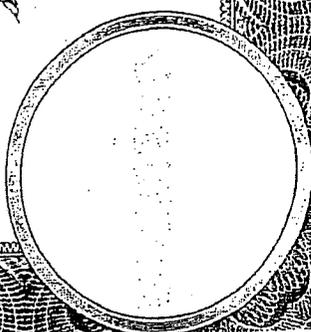
is the owner of
fully paid and non-assessable Shares of the
Capital Stock of the above named Corporation, transferable only upon the books of the
Corporation, by the holder thereof in person or by duly authorized Attorneys upon
surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers
and its Corporate Seal to hereunto affixed this 25th *day of* June *A.D. 1987*

Robert Sobin
Robert Sobin

SECRETARY XXXXXXXXX

Chun Lim
Chun Lim
PRESIDENT



PALL STATE LEGAL SUPPLY CO.
4650 West 100th Street, Cleveland, Ohio 44135 98C13-07

PENGAD-Bayonnc, N. J.
PLAINTIFF'S DEPOSITION
EXHIBIT
A

EXPLANATION OF ABBREVIATIONS

The following abbreviations, when used in the inscription of ownership on the face of this certificate shall be construed as if they were written out in full according to applicable laws or regulations. Abbreviations, in addition to those appearing below, may be used.

| | | | |
|---------|--|------------------------------|---|
| JT TEN | As joint tenants with right of survivorship and not as tenants in common | TEN ENT UNIF GIFT MIN ACT | As tenants by the entireties Uniform Gifts to Minors Act |
| TEN COM | As tenants in common | CUST | Custodian for |

For Value Received, _____ *hereby sell, assign, and transfer, with*
PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____ *Shares*
represented by the within Certificate, and do hereby
irrevocably, constitute and appoint

_____ *Attorney*
to transfer the said Shares on the books of the within named
Corporation, with full power of substitution, in the premises.

Dated _____ *19* _____

In presence of _____

MUST COMPREHEND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR DISCREPANCY ON ANY CHANGE WHATSOEVER.

THE STATE OF OHIO



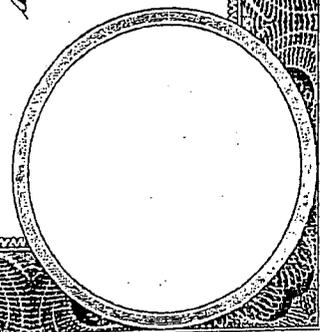
TRITONEX RESEARCH LABORATORY, INC.

This Certificate that
Two Hundred and Ninety-Eight (298) _____ is the owner of
fully paid and non-assessable shares of
the Capital Stock of the above named Corporation transferable only on the books of the
Corporation by the holder hereof in person or by duly authorized Attorney upon
surrender of this Certificate properly endorsed.

*In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers
and its Corporate Seal to be hereunto affixed, this 22nd day of April 19 88*

Robert E. Sobin
SECRETARY-TREASURER

Chas. Ben Lane
PRESIDENT



PLAINTIFF'S DEPOSITION
EXHIBIT
FF
FENGAD-Bayonne, N. J.

"The shares of stock represented by this certificate are subject to provisions of the Amended Articles of Incorporation and Code of Regulation a copy of which the Corporation will mail to the holder of this certificate without charge, within five (5) day of receipt of a written request there and said shares may not be sold, transferred, assigned, pledged, hypothecated or otherwise disposed of except in strict accordance with the terms of the agreement."

8/10/11

EXPLANATION OF ABBREVIATIONS

The following abbreviations, when used in the inscription of ownership on the face of this certificate, shall be construed as if they were written out in full according to applicable laws or regulations. Abbreviations, in addition to those appearing below, may be used.

| | | | |
|---------|--|-------------------|------------------------------|
| JT TEN | As joint tenants with right of survivorship and not as tenants in common | TEN ENT | As tenants by the entireties |
| TEN COM | As tenants in common | UNIF GIFT MIN ACT | Uniform Gifts to Minors Act |
| | | CUST | Custodian for |

For Value Received, hereby sell, assign, and transfer, unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint

Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated 19

In presence of

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE. IN EVERY PARTICULAR, WITHOUT ATTENTION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

The State of Ohio, }
COUNTY OF CUYAHOGA } ss.

I, *Andrea F. Rocco*, Clerk of the

Common Pleas Court within and for said County, and in whose custody the Files, Journals and Records of said Court are required by the laws of the State of Ohio, to be kept, hereby certify that the foregoing is taken and copied from the Journal Vol. 764 Pgs. 59-70 DATED Nov. 29, 2012
CA # 97952

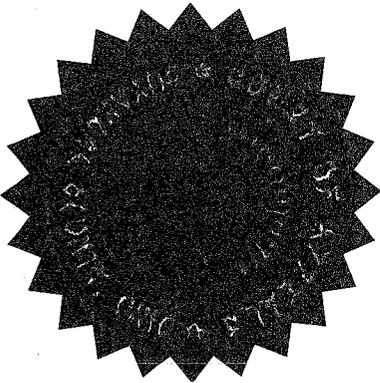
of the proceedings of the Common Pleas Court within and for said Cuyahoga County, and that the said foregoing copy has been compared by me with the original entry on said Journal Vol. 764 Pgs. 59-70 Dated Nov. 29, 2012 and that the same is a correct transcript thereof.

In Testimony Whereof, I do hereunto subscribe my name officially and affix the seal of said Court, at the Court House in the City of Cleveland, in said County, this 25th

day of, January, A.D. 20 13

Andrea F. Rocco, Clerk of Courts

By *[Signature]* Deputy Clerk



Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 97952

ROBERT SOBIN

PLAINTIFF-APPELLEE

vs.

CHUN BIN LIM, ET AL.

DEFENDANTS-APPELLANTS

**JUDGMENT:
AFFIRMED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-727635

BEFORE: Stewart, P.J., Boyle, J., and Kilbane, J.

RELEASED AND JOURNALIZED: November 29, 2012

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ON RECONSIDERATION¹

MELODY J. STEWART, P.J.:

{¶1} Plaintiff-appellee Robert Sobin, a former employee of defendant-appellant Trionix Research Laboratory and its majority shareholder, defendant-appellant Chun Bin Lim, filed this declaratory judgment seeking a declaration that he was a shareholder of Trionix. Sobin alleged that he purchased 655 shares of Trionix stock in 1987 and 1988, but Trionix and Lim argued that Sobin sold his shares back to the corporation in 1991 and 1992 and that Sobin should in any event be estopped from making claims based on his ownership rights because he had ceased exercising any rights as a shareholder after 1992. The court denied cross-motions for summary judgment and conducted a trial. It held that Sobin is a Trionix shareholder and payments Trionix made to Sobin were not to buy back the stock, but were instead treated by both parties as “back-pay” and a “loan reimbursement.”

I

{¶2} We originally dismissed this appeal as non-final because the court’s declaration that Sobin owned 655 shares contained a further order setting a date for a hearing “to address the value of Plaintiff’s 655 shares of Trionix.” We

¹The original announcement of decision, *Sobin v. Lim*, 8th Dist. No. 97952, 2012-Ohio-4060, released September 6, 2012, is hereby vacated. This opinion, issued upon reconsideration, is the court’s journalized decision in this appeal. See App.R. 22(C); see also S.Ct.Prac.R. 2.2(A)(1).

found the court's decision to hold a hearing to value Sobin's shares invoked well-established precedent that the resolution of a party's liability without a determination of damages is non-final because it does not affect a substantial right as required by R.C. 2505.02. *State ex rel. White v. Cuyahoga Metro. Hous. Auth.*, 79 Ohio St.3d 543, 546, 684 N.E.2d 72 (1997), citing *State ex rel. A & D Ltd. Partnership v. Keefe*, 77 Ohio St.3d 50, 53, 671 N.E.2d 13 (1996).

{¶3} On reconsideration, we now conclude that the court's order is final despite the court setting the matter of valuation for a later hearing. There is no question that the court's declaration of ownership affected a substantial right under R.C. 2505.02(A)(1). Indeed, absent any language on valuation, the court's order would have clearly been final. Sobin's complaint did not seek a valuation of the shares nor was there any argument at trial concerning the valuation of the shares. The parties both agree that the trial court acted on its own in deciding to value the shares, an action that was extraneous and wholly unnecessary to the question of whether Sobin was a shareholder in Trionix. For purposes of the declaratory judgment part of the litigation, the case terminated with the finding that Sobin owned the shares, coupled with the court's later Civ.R. 54(B) certification of no just reason for delay separating the declaratory action from the remaining counts. We thus have a final, appealable order.

II

{¶4} We begin with Lim's second assignment of error — a number of complaints that essentially raise the issue of whether the court's judgment that Sobin was a shareholder of Trionix was against the manifest weight of the evidence.

{¶5} The weight of the evidence concerns “the inclination of the *greater amount of credible evidence*, offered in a trial, to support one side of the issue rather than the other.” (Emphasis sic.) *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 12, quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541. When reviewing an argument that a judgment is against the manifest weight of the evidence, the reviewing court must engage in every reasonable presumption in favor of the judgment and the finding of facts. *Id.* at ¶ 21. “If the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment * * *.” *Id.*

{¶6} The parties agree that Sobin, a former Trionix employee, was a founding shareholder in the corporation and was named a director. At the time of incorporation in 1987, Sobin received 277 shares of “founders stock.” Later that same year, Sobin acquired 80 shares of stock. In 1988, Sobin acquired another 298 shares of stock, for a total holding of 655 shares. The parties also agree that in 1991 and 1992, Sobin received two payments from Trionix in the

amount of \$71,875 and \$16,000. As noted by the court, the dispute is whether these payments to Sobin were to buy back his shares or were for some other purpose.

{¶7} To prove his contention that Trionix repurchased Sobin's shares, Lim claimed that Trionix's by-laws precluded anyone but current employees of the corporation from holding Trionix shares. Although the corporate by-laws did not actually contain any such restriction, Lim claimed that the board adopted the restriction on stock ownership and cited a financial statement prepared in 1988 that memorialized this policy. What is more, Lim offered evidence showing that Sobin knew that Trionix demanded and received the shares held by four employees who left the corporation.

{¶8} Sobin offered evidence showing that not only did Trionix never adopt a formal policy requiring a departing employee/shareholder to sell back shares, minutes from a March 1988 Trionix shareholder meeting showed that Lim (as chairman of the board) "[r]eaffirmed that 20% of the corporate stock is available to outside investors."

{¶9} Sobin also offered evidence showing that Trionix continued to consider Sobin a shareholder long after he terminated his employment. For example, in January 1997, Trionix sent Sobin a letter giving him notice of a special meeting of shareholders. While it is true that Sobin's presence at the meeting might have been required because he was still a member of the board

of directors, other evidence confirmed his status as a shareholder. A mortgage deed recorded just days after the January 1997 shareholder meeting listed Sobin as a "current shareholder" in the corporation. Other evidence showed that the four former shareholders who sold their shares back to Trionix were removed from the corporate shareholder's roll, but that Sobin's name remained on the shareholder's roll years past the point when Lim claimed that Sobin sold back his shares.

{¶10} Lim's primary evidence that Sobin sold his shares back to the corporation consisted mainly of the \$71,875 payments made in 1991 and 1992, which he maintained were for 575 shares of Sobin's stock that were given to him through the Trionix employee investment plan. Under that plan, Sobin agreed to work for a lower salary in exchange for shares in the corporation. Lim argued that these were in essence cash loans to the corporation and the shares of stock issued in return were the equivalent of promissory notes valued at \$125 per share. He pointed out that the \$71,875 in payments made to Sobin in 1991 and 1992 represented the exact value of the 575 shares that Sobin received at \$125 per share.

{¶11} Sobin characterized this receipt of shares under the employee investment plan as compensation for agreeing to work for a lower salary at a point when Trionix was having cash flow problems. Indeed, Trionix's check register called its payments to Sobin "back-pay" and "loan reimbursement."

Additionally, both Sobin and Lim, who received similar payments, treated those payments as income for tax purposes rather than proceeds from the sale of stock. And at no point did Sobin surrender his stock certificates nor did Trionix demand their return in a manner consistent with the claim that the payments were intended to repurchase the shares. The court held as much when deciding the action in Sobin's favor.

{¶12} Competent, credible evidence supports the court's verdict and, in fact, contradicted even the most basic assertions made by Trionix. For example, Trionix offered no documentation to show that stock ownership was restricted to current employees, relying instead on the testimony of Lim. His recollections were flatly contradicted by evidence showing that Trionix actually contemplated that 20 percent of shares could be held by persons outside the corporation.

{¶13} While it is true that Trionix could document that some former Trionix employees were told they had to sell their shares back to Trionix when they left, no such documentation existed to show that Trionix made the same demand on Sobin. In fact, Trionix not only failed to make any written demand that Sobin return his shares, its claim that Sobin took payment in exchange for returning his shares was contradicted by corporate documents that continued to list Sobin as a shareholder long after he left employment with the corporation.

{¶14} Finally, Trionix's claim that payments to Sobin were reimbursements for loans were contradicted by its own treatment of those payments, characterizing them as "back pay." Tellingly, even Lim failed to treat similar payments as the sale of stock on his federal income tax return.

{¶15} Trionix did offer evidence showing that Sobin was aware that other departing employees were required to sell their stock back to the corporation. And the total amount it paid Sobin — consistent with the stock being valued at \$125 per share — made Trionix's theory of the case plausible. Certainly, many years passed from the time Sobin left the corporation until the time he asserted his ownership rights. Better documentation may well have turned the case in Trionix's favor. But the court found the inconsistencies in Trionix's case that we have detailed did not tip the balance of evidence. As a reviewing court, we are obligated to give the evidence the construction most consistent with upholding the verdict. We conclude that the court's verdict was not against the manifest weight of the evidence.

III

{¶16} Trionix next argues that the court erred as a matter of law by failing to grant summary judgment on its affirmative defense of laches. It argues that Sobin is equitably barred from asserting his ownership of the Trionix shares when he waited 18 years from receiving payment from Trionix to demanding redress for violations of his shareholder rights. It also argues

that the court erred by refusing to grant judgment because the statute of limitations for Sobin's claims had expired.

A

{¶17} Laches is an equitable doctrine that bars the delayed assertion of claims when the delay has caused circumstances to change so much that it is no longer just to grant the plaintiff's claim. "The elements of a laches defense are (1) unreasonable delay or lapse of time in asserting a right, (2) absence of an excuse for the delay, (3) knowledge, actual or constructive, of the injury or wrong, and (4) prejudice to the other party." *Portage Cty. Bd. of Comm. v. Akron*, 109 Ohio St.3d 106, 2006-Ohio-954, 846 N.E.2d 478, ¶ 81, quoting *State ex rel. Polo v. Cuyahoga Cty. Bd. of Elections*, 74 Ohio St.3d 143, 145, 1995-Ohio-269, 656 N.E.2d 1277. Because laches is a component of equity, we review claimed error in the application of the doctrine for an abuse of discretion. *Payne v. Cartee*, 111 Ohio App.3d 580, 590, 676 N.E.2d 946 (4th Dist.1996).

{¶18} When denying Trionix's partial motion for summary judgment on the defense of laches, the court found there were questions of fact because Sobin maintained he was the owner of the 655 shares and had no reason to know that there was a question regarding his ownership status until 2009, when he requested that Trionix supply him with documentation that would enable him to value his shares.

{¶19} We find no error in the court's refusal to grant summary judgment on the affirmative defense of laches. As the court noted, Sobin had no reason to question his status as a shareholder until 2009 — when Trionix refused to grant him access to corporate records. While Sobin had not made any demands on the corporation for many years, that fact says nothing about his ownership of the stock. Many shareholders like Sobin quietly retain their stock for investment purposes, content to let their investment mature. That investors of this type do not assert claims on corporate directors is therefore unremarkable.

{¶20} Trionix also argues that Sobin failed to assert ownership "rights" like calling meetings of the board of directors or attending shareholder meetings. We are aware of no general rule that stock ownership can grow stale, much less a rule that requires shareholders to actively participate in the running of a corporation as a means of preventing their stock ownership from going stale. Sobin was a member of the Trionix board of directors until he was removed from the board in a 1997 shareholder meeting where Lim, acting as majority shareholder, named a new board of directors of his own choosing. Trionix offered no evidence to show that any other shareholder meetings were called after 1997. It is disingenuous for it to argue that Sobin had the responsibility to call for a shareholder meeting post-1997 when no other shareholder of the corporation, including Lim, was so required.

{¶21} We need not dwell on Trionix's claim that the 15-year statute of limitations for written contracts expired, arguing that Sobin's claims accrued in 1992 when Trionix failed to hold the annual shareholder meeting but that he did not file suit until 2010. We agree with the court that Sobin had no reason to doubt his ownership of the shares until December 2009, when Trionix refused to provide the information he requested. Indeed, it was not until December 2009 that Trionix, inconsistent with its own records, manifested any indication that Sobin did not own the shares. On this basis, the court did not err by refusing to grant judgment on the statute of limitations.

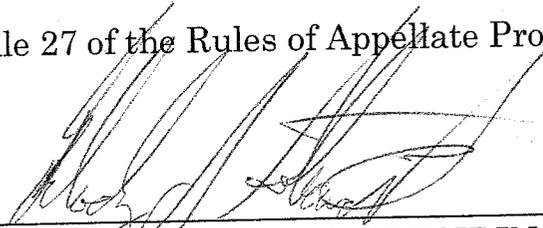
{¶22} Judgment affirmed.

It is ordered that appellee recover of appellants his costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cuyahoga County Court of Common Pleas to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.



MELODY J. STEWART, PRESIDING JUDGE

MARY J. BOYLE, J., and
MARY EILEEN KILBANE, J., CONCUR

The State of Ohio, }
COUNTY OF CUYAHOGA } ss.

I, **Andrea F. Rocco**, Clerk of the

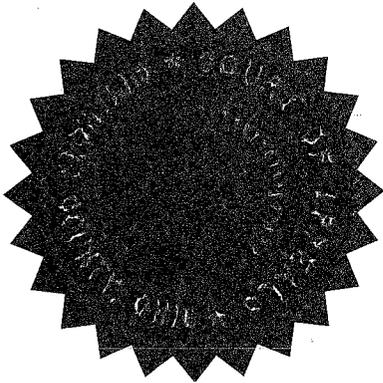
Common Pleas Court within and for said County, and in whose custody the Files, Journals and Records of said Court are required by the laws of the State of Ohio, to be kept, hereby certify that the foregoing is taken and copied from the Journal VOL. 765 Pg. 389 DATED Dec 18, 2012
CA# 97952

of the proceedings of the Common Pleas Court within and for said Cuyahoga County, and that the said foregoing copy has been compared by me with the original entry on said Journal VOL 765 Pg 389 Dated Dec. 18, 2012 and that the same is a correct transcript thereof.

In Testimony Whereof, I do hereunto subscribe my name officially and affix the seal of said Court, at the Court House in the City of Cleveland, in said County, this 25th day of, January, A.D. 20 13

Andrea F. Rocco, Clerk of Courts

By *[Signature]* Deputy Clerk



Court of Appeals of Ohio, Eighth District

County of Cuyahoga
Gerald E. Fuerst, Clerk of Courts

ROBERT SOBIN

Appellee

COA NO.
97952

LOWER COURT NO.
CP CV-727635

COMMON PLEAS COURT

-vs-

CHUN BIN LIM, ET AL.

Appellant

MOTION NO. 460836

Date 12/18/12

Journal Entry

Motion by appellants for reconsideration filed December 10, 2012 is denied.

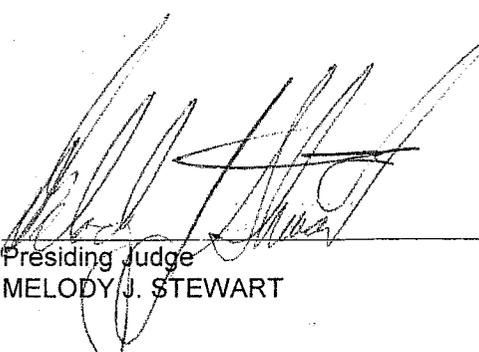
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GERALD E. FUERST
CLERK OF THE COURT OF APPEALS
BY _____ DEP.

Judge MARY J. BOYLE, Concur

Judge MARY EILEEN KILBANE, Concur


Presiding Judge
MELODY J. STEWART

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