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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Inquiry by LETITIA JAMES,
Attorney General of the State of New York,

Petitioner,

Pursuant to Article 23-A of the New York General
Business Law in regard to the acts and practices of

EASTMAN KODAK COMPANY and JAMES V.
CONTINENZA,

Respondents,

in promoting the issuance, distribution, exchange,
advertisement, negotiation, purchase, investment advice
or sale of securities in or from New York State.

At the *Ex Parte* Part of
the Supreme Court of the
State of New York, 60
Centre Street, City and State
of New York, on the 15th
of June 2021.

Present:
Hon. BARBARA JAFFE

Index No.: 451652/2021

**[PROPOSED] EX PARTE
ORDER PURSUANT TO
GENERAL BUSINESS LAW
§ 354**

Date Filed:

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Upon the application in writing of Letitia James, Attorney General of the State of New York (the "Attorney General" or "OAG"), for an Order pursuant to the General Business Law ("GBL") § 354, and upon reading and filing the Affirmation of Jeffrey A. Novack, Assistant Attorney General, and the accompanying Memorandum of Law in Support of the Attorney General's *Ex Parte* Application for an Order Pursuant to General Business Law § 354; it being shown that

WHEREAS the Attorney General has determined to commence an action under Article 23-A of the GBL against the above-captioned Respondents Eastman Kodak Company ("Kodak")

and James V. Continenza (“Continenza”), and the Attorney General has shown, upon the Attorney General’s information and belief, that the testimony of certain of Respondent Kodak’s employees and the production of certain documents, books, and records are material and necessary to the action that the Attorney General has determined to bring; and

WHEREAS, pursuant to GBL § 354, the Attorney General’s application for an “order shall be granted by the justice of the supreme court to whom the application has been made” directing the persons mentioned in the application to appear before the Justice of the Supreme Court or Referee designated in such order and answer such questions as may be put to them or to any of them under oath, or to produce such papers, documents, and books and records; and it is hereby

ORDERED that Respondent Continenza appear before the Special Referee Elizabeth Shamahs, ~~Justice~~ of the Supreme Court, or any other Justice or Referee of this Court as may be directed, at Part 85R in Room 324, at the courthouse located at 60 Centre Street, New York, New York, or at any other place as this Court may direct, on the 1st of October, 2021, at 10:00 a.m./p.m., and on any adjourned date and time thereafter, or on such other date stipulated by the parties or directed by the assigned Referee, to testify under oath and answer such questions as may be put to him by the Attorney General or a designated Assistant Attorney General; and it is further

ORDERED that Respondent Kodak produce Kodak General Counsel Roger Byrd to appear before the Special Referee Elizabeth Shamahs, ~~Honorable~~ Justice of the Supreme Court, or any other Justice or Referee of this Court as may be directed, at Part 85R in Room 324, at the courthouse located at 60 Centre Street, New York, New York, or at any other place as this Court may direct, on the 24th - ~~20th~~ of September, 2021, at 10:00 a.m./p.m., and on any adjourned date and time thereafter, or on such date stipulated by the parties or directed by the assigned Referee, to testify under oath and answer such questions as may be put to him by the Attorney General or a designated Assistant Attorney General; and it is further

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ORDERED that Respondents Kodak and Continenza, appear before the ~~Honorable~~
~~New York State Attorney General, Investor Protection Bureau,~~
~~Justice of the Supreme Court, or any other Justice or Referee of this Court as may~~
~~28 Liberty Street, 21st Floor, New York, New York 10005, Attention:~~
be directed, at Part _____ in Room _____, at the courthouse located at 60 Centre Street, New York,
Mary Kay Dunning, senior Enforcement Counsel
New York, or at any other place as this Court may direct, on the 30th of June, 2021, at 12:00
a.m./p.m., or on such other date stipulated by the parties or directed by the assigned Referee
to turn over originals, wherever located, or if the originals are unavailable, copies, of
the following Documents and Communications, in the possession, custody, or control of Kodak,
Continenza, and Kodak's Chief Financial Officer David Bullwinkle, General Counsel Roger Byrd,
Managing Director of Corporate Development Paula Gutkin, Chief Accounting Officer Richard
Michaels, and Chief Technical Officer Terry Taber:

1. All Documents and Communications responsive to the Subpoena *Duces Tecum* from the State of New York Office of the Attorney General to Eastman Kodak Company, dated November 25, 2020 (hereinafter, the "November 25, 2020 Subpoena") that have not been produced previously to the OAG;¹
2. All Documents and Communications Concerning Kodak's statements regarding the Attorney General's investigation in the May 17, 2021 Form 10-Q, the May 17, 2021 Amended Proxy Statement, and during the May 19, 2021 Annual Meeting, including, but not limited to, Communications with public relations consultants or advisors, the media, and investors or potential investors, amongst Kodak employees and/or agents, and/or to any other Person or Entity, other than solely with counsel representing Kodak in this matter; and
3. All Communications with non-Kodak employees from June 1, 2020 through August 31, 2020 Concerning Kodak securities, Project Tiger, and/or any Kodak actual or potential Covid-19-related project, and All Documents Concerning such Communications;

and it is further

ORDERED that if Respondents withhold or redact any Document or Communication responsive to this Order on the basis of a legal privilege, Respondents shall submit with the

¹ All capitalized terms not otherwise defined herein shall have the meanings contained in the November 25, 2020 Subpoena and in the Memorandum of Law in Support of the Attorney General's *Ex Parte* Application for an Order Pursuant to General Business Law § 354.

Documents and Communications produced to the OAG on the 30th of June, 2021, at 12:00 a.m./p.m., a statement in writing under oath, stating: (a) the document control number(s) of the Document or Communication withheld or redacted; (b) the type of Document or Communication; (c) the date and time (Eastern Time) of the Document or Communication; (d) the author(s) and recipient(s) (including recipients copied and blind copied) of the Document or Communication; (e) the name of the attorney(s) whose legal advice is sought or provided in the Document or Communication; (f) the general subject matter of the Document or Communication; and (g) the legal privilege for withholding or redacting the Document, including relevant precedent in support of the claimed privilege; and it is further

ORDERED that service by email on Counsel for Respondents of this Order, together with the papers upon which it was granted, on or before the 23 of June, 2021, at 10:00 a.m./p.m., be deemed sufficient service thereof.

Dated: ~~June _____, 2021~~
~~New York, New York~~

ENTER:

J.S.C.

BARBARA JAFFE