

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

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 EVE MANCUSO, TERI GABEL,  
 RAYMOND KOZMA, SUZANNE ROCHELEAU,  
 SUSANNE FLOWER, and the NEW YORK  
 CHAPTER, INC. OF THE  
 ADIRONDACK MOUNTAIN CLUB, INC.,

Index No. \_\_\_\_\_/21

Petitioners/Plaintiffs,

VERIFIED PETITION  
AND COMPLAINT

v.

ADIRONDACK MOUNTAIN CLUB, INC.,

Respondent/Defendant.  
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Petitioners/Plaintiffs, Eve Mancuso, Teri Gabel, Raymond Kozma, Suzanne Rocheleau, Susanne Flower, and the New York Chapter, Inc. of The Adirondack Mountain Club, Inc. ("NY ADK"), by their attorneys, The Bachman Law Firm PLLC, for their Verified Petition and Complaint for judgment pursuant to Article 78 of the New York Civil Practice Law and Rules and New York statutory and common law, against Respondent/Defendant, Adirondack Mountain Club, Inc. ("ADK"), allege as follows:

## Parties

1. Petitioner/Plaintiff, Eve Mancuso ("Mancuso"), is an individual residing in Rockland County, New York and is (or was) a member of NY ADK and ADK and a director and officer of NY ADK.
2. Petitioner/Plaintiff, Teri Gabel ("Gabel"), is an individual residing in Rockland County, New York and is (or was) a member of NY ADK and ADK and a director and officer of NY ADK.
3. Petitioner/Plaintiff, Raymond Kozma ("Kozma"), is an individual and is (or was) a

member of NY ADK and ADK and a director of NY ADK.

4. Petitioner/Plaintiff, Suzanne Rocheleau ("Rocheleau"), is an individual and is (or was) a member of NY ADK and ADK and a director and officer of NY ADK.
5. Petitioner/Plaintiff, Susanne Flower ("Flower"), is an individual and is (or was) a member of NY ADK and ADK and a director of NY ADK.
6. Petitioner/Plaintiff, the New York Chapter, Inc. of The Adirondack Mountain Club, Inc. (NY ADK), is a not for profit corporation organized and existing under the laws of State of New York and which maintains and operates a camp which is located in Rockland County, New York.
7. Upon information and belief, Defendant/Respondent, Adirondack Mountain Club, Inc. (ADK) is a not for profit corporation organized and existing under the laws of State of New York.

#### ADK

8. ADK was founded in 1922 as an organization for people interested in promoting conservation, recreation, and education in the Adirondack Mountain region of New York State.
9. Upon information and belief, many of ADK's members are also members of local chapters of ADK.
10. As ADK describes it, the chapters provide opportunities for ADK members to participate in governance, programs, and activities.
11. Members of any chapter of ADK are members of ADK, itself.
12. NY ADK is associated with ADK as a chapter of ADK.

## NY ADK

13. Upon information and belief, NY ADK grew out of a request from ADK, in 1922, to organize local walks for people in the Metropolitan area.
14. Upon information and belief, to formalize the local organization, NY ADK was separately incorporated in 1931.<sup>1</sup>
15. Over the years, NY ADK hosted many activities so that its members could enjoy and work to preserve the local environment including: maintaining miles of trails, holding hiking, skiing, camping and canoeing trips, and picnics, and nature study.
16. In addition to these ongoing activities, upon information and belief, since the early 1920's through today, NY ADK has coordinated with the Palisades Interstate Parks Commission and leased access and provided maintenance and capital improvements to various camps in and around Harriman, New York.
17. NY ADK has a full slate of previously scheduled activities, including publicly announced hosted events at its camp location, for members and third parties for the summer 2021 season and beyond.
18. With all of this, NY ADK has built a dedicated membership who have generously supported NY ADK's efforts.
19. ADK has acknowledged and supported the wide range of activities, good works, and vibrant membership of NY ADK.

ADK'S AUTOCRACY  
AND DEMANDS OF NY ADK

20. In 2019, it seemed that ADK shifted away from being a collegial membership

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<sup>1</sup> ADK's by-laws provide that any chapter which was incorporated prior to the effective date of the by-laws, may remain as such. NY ADK was incorporated before the effective date of the by-laws.

organization.

21. In October of 2019, Michael Barrett ("Barrett"), a former political appointee and attorney, became the Executive Director of ADK.
22. In 2020, ADK announced that chapter representatives, who had previously comprised the ADK's Board of Directors, would be replaced with "a professional board structure."
23. Upon information and belief, Barrett had control over the newly constituted Board of ADK and who would serve on it.
24. Even as chapters were being disenfranchised by ADK, ADK demanded, without basis, that the chapters make financial contributions to ADK, notwithstanding that ADK is supposed to support the chapters, not the other way around.
25. In particular, when the pandemic hit, Barrett demanded financial support from the chapters, perhaps to ensure that ADK could meet its payroll, i.e., his own salary.
26. Upon information and belief, Barrett targeted NY ADK knowing that it had garnered generous support from its members.
27. Because NY ADK was facing its own financial pressures, as was its prerogative, it declined to provide any gift to ADK (even so, Flower did personally provide a donation to ADK).
28. Thereafter, Barrett targeted NY ADK and the individual Petitioners/Plaintiffs by wrongfully expelling the individual Petitioners/Plaintiffs from membership, dissolving the chapter and demanding it cease all activities, and threatening the Petitioners/Plaintiffs with criminal prosecution if they did not accede to his wrongful demands.

**ADK WRONGFULLY EXPELS  
INDIVIDUAL PETITIONERS/PLAINTIFFS FROM MEMBERSHIP**

29. On June 21, 2021, ADK through Barrett sent each of the individual Petitioners/Plaintiffs

an email of an identical<sup>2</sup> letter ("June 21 Letter") explicitly stating that it was being sent to the named individual only pursuant to Article IV, Section 1.2(b) of ADK's by-laws. A true and correct copy of the June 21 Letter, this copy addressed to Mancuso, is attached hereto as Exhibit 1.

30. Section 1.2(b) of ADK's by-laws provides that:

A member may be temporarily suspended from the membership or expelled from membership for violation of the Bylaws of ADK or for conduct prejudicial to the best interests of ADK as determined by the Board, provided charges in writing are proffered against such member, a copy thereof served upon such member, and an opportunity afforded such member for a hearing before the Board.

A true and correct copy of ADK's by-laws is attached hereto as Exhibit 4.

31. While the June 21 Letter purports to "pursuant to Section 1.2. (b) of ADK's bylaws

[regarding suspension or expulsion of an individual member], . . . provid[e] written notice and opportunity to be heard [at a June 26 Board Meeting ("Hearing")] regarding . . . charges [{"Charges"}]":

- a. It is dated June 21, 2021, a mere five (5) days prior to the Hearing (the June 21 Letter itself acknowledges the inadequacy of the short "proximity" of the June 26 Hearing);
- b. The Charges make no allegations of wrongdoing by any individual and make no mention of the individual Petitioners/Plaintiffs other than the "Dear \_\_\_\_" salutation;
- c. The June 21 Letter does not list who the witnesses against the individual Petitioners/Plaintiffs would be at the Hearing;
- d. The June 21 Letter did not provide the individual Petitioners/Plaintiffs with the

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<sup>2</sup> Except for the "Dear \_\_\_\_" salutation.

right to cross-examine such witnesses at the Hearing;

- e. The June 21 Letter prohibited the individual Petitioners/Plaintiffs from bringing witnesses of their own ("[o]nly those individually noticed will have the right to appear at this meeting.");
- f. The June 21 Letter did not provide any of the documentary evidence to be used against the individual Petitioners/Plaintiffs;
- g. The June 21 Letter did not allow for the individual Petitioners/Plaintiffs to question any such documentary evidence at the Hearing;
- h. The June 21 Letter calls for production by Petitioners/Plaintiffs of documentary evidence after the Hearing; and
- i. The June 21 Letter prohibited the individual Petitioners/Plaintiffs from having counsel appear at the Hearing ("[o]nly those individually noticed will have the right to appear at this meeting.")

32. On June 25, 2021, counsel advised ADK that the June 21 Letter and the scheduled Hearing failed to meet legal due process requirements and that the June 21 Letter and Hearing were rejected as invalid, defective, and a nullity. A true and correct copy of Counsel's letter is attached hereto as Exhibit 2.

33. Counsel further noted that beyond the obvious due process failings, both NY ADK and the individual Petitioners/Plaintiffs vigorously deny the vague, unspecified and conclusory statements in the June 21 Letter and reserved all of their rights and remedies. Counsel advised that should charges be properly noticed and heard in an appropriate manner and forum, the allegations would be shown to be false and the expulsion effort shown to be unreasonable and undertaken in bad faith.

34. Nonetheless, ADK apparently proceeded on June 26.
35. On June 28, 2021, ADK through Barrett sent a letter (mysteriously dated June 29) by email only addressed to the individual Petitioners/Plaintiffs stating that “following notice and hearing, *in absentia*, that the Board has voted to remove you from ADK membership. Given that both the bylaws of ADK Inc. and the NY Chapter require ADK membership as a condition precedent for membership in the chapter, the decision to terminate your membership with ADK thereby also terminates your membership with the NY Chapter. [(“Abstentia Letter”)].” A true and correct copy of the Abstentia Letter is attached hereto as Exhibit 3.
36. The Abstentia Letter makes no findings against the individual Petitioners/Plaintiffs and states no basis, let alone a rational or good faith one, for the expulsion of the individual Petitioners/Plaintiffs.
37. In the Abstentia Letter, Barrett threatened the individual Petitioners/Plaintiffs that, even though there was no due process, no actual allegations against the individual Petitioners/Plaintiffs, or reasonable or good faith findings, he would be “passing the matters on to” unnamed “relevant authorities.”
38. The Abstentia Letter threatened the individual Petitioners/Plaintiffs by stating “Going forward please know that you have no authority to act on behalf of the organization, to include any enjoyment or decision making as it relates to Camp Nawakwa and, importantly, any rights or authority to direct any funds or financial accounts currently belonging to the NY Chapter of ADK. Any expenditures or withdrawals from such accounts will be referred to the District Attorney for prosecution as larceny/theft.”
39. In light of these declarations, directives and threats, the individual Petitioners/Plaintiffs

are being irreparably harmed by, *inter alia*:

- a. Being denied status and attendant rights as a member of NY ADK and ADK, itself
- b. Being prohibited from "enjoying" the activities and facilities of NY ADK or ADK or participating in any of their previously scheduled or other events, including in the imminent summer season;
- c. Being prohibited from acting as a director or officer of NY ADK;
- d. Being prohibited from acting on behalf of NY ADK;
- e. Being, wrongfully and baselessly, threatened with reporting to "authorities" and with criminal prosecution.

ADK TRIES TO DISSOLVE NY ADK  
AND PREPARES TO SEIZE NY ADK'S FUNDS

40. Barrett also declares in the Abstentia Letter that "with respect to the NY Chapter, please know that the Board voted to dissolve the New York Chapter as it is currently constituted and establish a new, unincorporated chapter for the benefit of both existing and new members. This decision thereby eliminates both the Board and Officer positions of the then-existing NY Chapter of ADK."

41. ADK's effort through Barrett to dissolve the chapter was purportedly taken under ADK by-laws Article IX, Section 2.4a that:

A Chapter's status as a Chapter of ADK may be terminated by the Board, when the Board determines that a Chapter's actions or activities are inconsistent with or injurious to ADK's Certificate of Incorporation, Bylaws, or Board policies and procedures.

42. However, the purported dissolution of NY ADK as stated in the Abstentia Letter was improper because, *inter alia*:



- a. NY ADK was purportedly dissolved without notice or a hearing (the June 21 Letter cited only the individual member expulsion provision for the purported hearing);
  - b. Neither the June 21 Letter nor the Abstentia Letter cite any authority for the dissolution of ADK by-laws Article IX, Section 2.4a (the June 21 Letter cited only the individual member expulsion provision for the purported hearing);
  - c. If there was a dissolution hearing, there was no notice to NY ADK of such hearing or charges against NY ADK, itself (the June 21 Letter cited only the individual member expulsion provision for the purported hearing and the Abstentia Letter was not addressed to NY ADK);
  - d. If there was a dissolution hearing, it failed to allow NY ADK to attend and face the presentment of charges in detail with supporting documents;
  - e. If there was a dissolution hearing, NY ADK did not have an opportunity for rebuttal;
  - f. If there was a dissolution hearing, NY ADK was not allowed to present witnesses or evidence;
  - g. If there was a dissolution hearing, NY ADK was not allowed to cross-examine witnesses or review evidence; and
  - h. If there was a dissolution hearing, NY ADK was not allowed to have counsel at such hearing.
43. The Abstentia Letter is not addressed to NY ADK, makes no findings against NY ADK and states no basis, let alone a rational or good faith one, for the purported dissolution of the chapter.

44. Beyond baselessly trying to dissolve the chapter, ADK's actions through Barrett are a unilateral and unauthorized attempt to dissolve a New York corporation, NY ADK, itself, without judicial authority or supervision.
45. Upon information and belief, all of the foregoing efforts are part of a campaign to seize the assets of NY ADK.
46. If ADK through Barrett is successful in wrongfully expelling the individual Petitioners/Plaintiffs, preventing the directors and offices of NY ADK from taking any actions, freezing NY ADK's funds, and dissolving the chapter and NY ADK, then he can demand that NY ADK transfer all of its assets to ADK.<sup>3</sup>
47. In light of these declarations, directives and threats, NY ADK is being irreparably harmed by, *inter alia*:
- a. Being denied status and attendant rights as a chapter of ADK;
  - b. Being effectively dissolved as a corporation;
  - c. Being prohibited from functioning as a corporate entity including, but not limited to:
    - i. Holding directors' meetings and facilitating board resolutions and actions;
    - ii. Having officers act on behalf of NY ADK;
    - iii. Accessing and utilizing its assets including funds and camp facilities;
    - iv. Paying expenses, such as insurance premiums;
    - v. Filing tax returns; and

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<sup>3</sup> Under ADK by-laws Article IX, Section 2.4c:

Fund balances of a terminated Chapter shall be transferred to ADK. Pending dissolution of any Chapter, ADK may demand that the Chapter transfer to ADK any fund balance or other asset currently held by the Chapter unless prohibited by law.

- vi. Paying counsel to defend itself against ADK's wrongful actions or otherwise.
- d. Being prohibited from operating in the ordinary course, including but not limited to:
  - i. providing its members with benefits and activities such as running hikes, performing trail maintenance and operating the camp;
  - ii. conducting any of previously scheduled activities, including publicly announced hosted events at its camp location, for members and third parties for the summer 2021 season and beyond;
  - iii. communicating with its members or third parties, e.g. updating its website;
  - iv. responding to and sending correspondence; and
  - v. dealing with the Palisades Interstate Parks Commission from which it leases the camp grounds;
- e. Being, wrongfully and baselessly, threatened with criminal prosecution and reporting to "authorities."

AS AND FOR A FIRST CAUSE OF ACTION  
(Mandamus)

48. Petitioners/Plaintiffs repeat and reallege each of the allegations above as if fully set forth herein.

49. A determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion, including abuse of discretion as to the measure or mode of penalty or discipline imposed; and/or a determination made as a result of a hearing held, and at which evidence was taken, pursuant to direction by law is, on the entire record, supported by substantial evidence.

50. Accordingly, Petitioners/Plaintiffs are entitled to a reversal of the actions taken by Respondent/Defendant at a meeting conducted on June 26, 2021, and a determination that any and all actions taken at such meeting be set aside and annulled, including but not limited to the dissolution of NY ADK as a chapter of ADK and a corporation organized and existing under the laws of the State of New York; establishment of a new, unincorporated chapter for the benefit of existing and new members; elimination of the Board and Officer positions of NY ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with NY ADK; and revocation of the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK.
51. Moreover, the Petitioners/Plaintiffs are entitled to a judgment restoring them to their status and rights as they were prior to June 26, 2021, including, but not limited to, the restoring individual Petitioners/Plaintiffs' to their membership in NY ADK and restoring ADK and NYADK as a chapter of ADK and being allowed to operate in the ordinary course.

AS AND FOR A SECOND CAUSE OF ACTION  
(Declaratory Judgment)

52. Petitioners/Plaintiffs repeat and reallege each of the allegations above as if fully set forth herein.
53. By reason of the foregoing, a controversy exists between Petitioners/Plaintiffs and Respondent/Defendant concerning, *inter alia*, the validity of Respondent/Defendant's purported dissolution of NY ADK as a chapter of ADK and a corporation organized and

existing under the laws of the State of New York; establishment of a new, unincorporated chapter for the benefit of existing and new members; elimination of the Board and Officer positions of NY ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with NY ADK; and revocation of the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK.

54. Accordingly, Petitioners/Plaintiffs are entitled to judgment declaring the legal rights and relationships of the parties including but not limited to a declaration declaring null and void Respondent/Defendants' dissolution of NY ADK as a chapter of ADK and a corporation organized and existing under the laws of the State of New York; establishment of a new, unincorporated chapter for the benefit of existing and new members; elimination of the Board and Officer positions of NY ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with NY ADK; and revocation of the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK.

55. Moreover, the Petitioners/Plaintiffs are entitled to a judgment declaring their status and rights to be as they were prior to June 26, 2021, including, but not limited to, restoring the individual Petitioners/Plaintiffs' to their membership in NY ADK and ADK and restoring NYADK as a chapter of ADK and being allowed to operate in the ordinary

course.

AS AND FOR A THIRD CAUSE OF ACTION  
(Injunction)

56. Petitioners/Plaintiffs repeat and reallege each of the allegations above as if fully set forth herein.
57. Petitioners/Plaintiffs are entitled to a temporary, preliminary and/or permanent injunction enjoining and restraining Respondent/Defendant from dissolving NY ADK as a chapter of ADK and a corporation organized and existing under the laws of the State of New York; establishing a new, unincorporated chapter for the benefit of existing and new members; eliminating the Board and Officer positions of NY ADK; expelling the individual Petitioners/Plaintiffs' from membership with ADK; expelling the individual Petitioners/Plaintiffs' from membership with NY ADK; and revoking the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK.
58. Moreover, the Petitioners/Plaintiffs are entitled to a temporary, preliminary and/or permanent injunction restoring them to their status and rights as they were prior to June 26, 2021, including, but not limited to, restoring the individual Petitioners/Plaintiffs' to their membership in NY ADK and restoring ADK and NYADK as a chapter of ADK and being allowed to operate in the ordinary course.

WHEREFORE, Petitioners/Plaintiffs respectfully demand judgment:

- (a) on the first cause of action, (i) reversing the actions taken by Respondent/Defendant at a meeting conducted on June 26, 2021, and determining that any and all actions taken at such meeting be set aside and annulled, including but not limited the dissolution of NY ADK as a chapter of ADK and a corporation organized and existing under the laws of the State of New York; establishment of a new, unincorporated chapter for the benefit of existing and new

members; elimination of the Board and Officer positions of NY ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with NY ADK; and revocation of the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK; and (ii) restoring them to their status and rights as they were prior to June 26, 2021, including, but not limited to, the restoring individual Petitioners/Plaintiffs' to their membership in NY ADK and restoring ADK and NYADK as a chapter of ADK and being allowed to operate in the ordinary course.

(b) on the second cause of action, a declaration declaring (i) null and void Respondent/Defendants' dissolution of NY ADK as a chapter of ADK and a corporation organized and existing under the laws of the State of New York; establishment of a new, unincorporated chapter for the benefit of existing and new members; elimination of the Board and Officer positions of NY ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with ADK; expulsion of the individual Petitioners/Plaintiffs' from membership with NY ADK; and revocation of the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK; and (ii) their status and rights to be as they were prior to June 26, 2021, including, but not limited to, restoring the individual Petitioners/Plaintiffs' to their membership in NY ADK and ADK and restoring NYADK as a chapter of ADK and being allowed to operate in the ordinary course.

(c) on the third cause of action, an Order enjoining and restraining (i) Respondent/Defendant from dissolving NY ADK as a chapter of ADK and a corporation organized and existing under the laws of the State of New York; establishing a new, unincorporated chapter for the benefit of existing and new members; eliminating the Board and Officer positions of NY ADK; expelling the individual Petitioners/Plaintiffs' from membership with ADK; expelling the individual Petitioners/Plaintiffs' from membership with NY ADK; and revoking the individual Petitioners/Plaintiffs' authority to act on behalf of NY ADK, including any enjoyment or decision-making as it relates to Camp Nawakwa and the direction of funds or financial accounts belonging to NY ADK; and (ii) restoring them to their status and rights as they were prior to June 26, 2021, including, but not limited to, restoring the individual Petitioners/Plaintiffs' to their membership in NY ADK and restoring ADK and NYADK as a chapter of ADK and being allowed to operate in the ordinary course.

(d) awarding Petitioners/Plaintiffs the costs and disbursements of this action, including attorneys' fees as permitted by law; and

(e) such other and further relief as to this Court may seem just and proper.

Dated: New City, New York

July 1, 2021

/s/

Judith Bachman  
The Bachman Law Firm PLLC  
365 S. Main Street, 2<sup>nd</sup> Floor  
New City, New York 10956  
(845) 639-3210



VERIFICATION

STATE OF NEW YORK     )  
                                  SS:  
COUNTY OF ROCKLAND )

Eve Mancuso, being duly sworn, deposes and says:

That deponent is the Secretary of the entity named as Petitioner/Plaintiff and one of the individual Petitioner/Plaintiffs in the within action; that deponent has read the foregoing Verified Petition and Complaint and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: investigation, information and belief.

  
Eve Mancuso

Sworn and subscribed to me  
this 1 day of July, 2021

  
Notary Public

CHRISTINA CARLINO  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01CA6382675  
Qualified in Rockland County  
My Commission Expires 10-29-2022

# EXHIBIT 1



Working for  
Wilderness

June 21, 2021

ADK NY Chapter,  
Board of Directors

Dear Eve:

Pursuant to Section 1.2. (b) of ADK's bylaws, we are providing written notice and an opportunity to be heard regarding the following charges:

**Finances**

Improper "pass through" Donations

On or about January 2021, ADK's Member Services Center (MSC) received a \$2,000 donation with the expressed intent that it "pass through" to the NY Chapter of ADK, which - for reasons that bar understanding - is separately incorporated. Curious as to why the donation, and similar donations that have come before it, was not simply sent directly to the NY Chapter, inquiry was made into whether the NY Chapter was indeed authorized to receive tax deductible donations. It is not. And so, in an apparent effort to extend a tax benefit to donors, while receiving the benefit of that donation, there appears to have been an arrangement that such donations would be sent to ADK Inc. (wherein the donor could receive a tax deduction) and then ADK Inc. would send funding in the same amount to the NY Chapter in what has been referred to as a "pass through".

Because this appears to be an intentional effort to circumvent the tax laws, staff was directed to hold the check until clarification was received from the NY Chapter. In the days that followed, ADK Inc. received multiple calls from the NY Chapter Treasurer asking where their money was; this makes it somewhat clear that although both the donor and the chapter were located in NYC, the donor was nonetheless directed to send it to the MSC in Lake George. To make matters more concerning, this check originated from an organization tied to one of the NY Chapter's Board of Directors, who has a fiduciary obligation to make sure that the organization complies with all relevant laws.

Complicating matters further is the fact that an estate gift of more than \$100,000 was sent to MSC some time ago with directions that it be sent to the NY Chapter. Because of the aforementioned concerns, staff was told that such funds were being held until these concerns were adequately addressed, understanding that this suspect "pass through".

In addition to the aforementioned financial concerns, the Board intends to make inquiries into the following:

No Proof of Paid Sales Tax: The NY Chapter of ADK is a 501 (c)(7) (Pleasure, Recreational & Social) organization; relevantly, ADK Inc. is not of the belief that sub (7) organizations are exempt from sales tax. Therefore, because the NY Chapter charges for items such as an application fee and Nawakwa keys, and has done so for years, it raises concerns about whether sales tax has been collected and remitted. Failure to pay sales tax is punishable by both civil and criminal penalties.

Improper Tax Returns: Because of how the NY Chapter is incorporated, it would appear that any donations or contributions received would therefore need to be reported as income on a Form 990-T, rather than on an Exempt Form 990. Therefore, it is curious why the NY Chapter reported no income on Form 990N for 2019 despite receiving \$9,260 in chapter share contributions (which, of course, would be in addition to any other monies the chapter may have received from any other source), and why the NY Chapter reported under \$25k of donations on Form 990N in 2018 despite receiving approximately \$40,000 of contributions during 2018. Proof of amended filings is required for these and any relevant years prior.

### **ADK's Efforts to Engage the NY Chapter Regarding these Concerns**

ADK Inc. has made multiple efforts, both formal and informal, to engage the New York Chapter on these issues during the course of the past several months.

On February 18, 2021, Executive Director Michael Barrett sent a letter to the New York Chapter detailing some of these concerns, to include the "pass-through" matter and the issue with the improper tax returns. No response came. Instead, someone from the NY Chapter contacted Marvin and Co., its auditor, in hopes of obtaining a favorable opinion on this "pass through" arrangement. The auditor denied that request. Notwithstanding, the NY Chapter still refused to engage the Executive Director.

As the next Board of Directors meeting drew nearer, Executive Director Barrett again sent correspondence to Chapter Chair Lisa North on April 7, asking to talk with her in anticipation of the upcoming Board meeting in order to obtain the position of the NY Chapter on these issues. Ms. North said she could probably meet on Friday of that week and said she would let Director Barrett "know for sure by tomorrow." She never did.

During the Board of Directors meeting, Director Barrett briefed the Board on these issues. In response, the Board agreed to have President Andrews send a letter to Chair Lisa North requesting that she "contact Mr. Barrett at [her] earliest convenience (but no later than April 21) so that he, and the Board, can gain a better understanding of the chapter's intentions relative to these issues." She did not respond to that request.

On April 29, the NY Chapter treasurer sent a letter to Director Barrett stating that it would address the tax return issue but made no response relevant to their corporate status or these "pass through" donations. Executive Director Barrett later briefed the Executive Committee on the failure to obtain satisfactory responses to our inquiries.

About this time, we learned through Mark Fedow, former Director from the New York Chapter, that Lisa North was no longer serving as Chair of the NY Chapter. During this phone call,

Executive Director Barrett impressed upon him the seriousness of these financial issues and the importance of having a phone call with chapter leaders, to include Ms. North's replacement. Mark Fedow reportedly understood and Executive Director Barrett thereafter included both Mark Fedow and President Andrews in yet another email requesting a conversation to discuss these concerns, this time including the other officers of the NY Chapter.

Again, no response came from Chapter officers. Instead, Executive Director Barrett received a letter from an outside attorney requesting that communications go through counsel.

While it would have been ADK Inc.'s preference to address these issues amicably through conversations among leaders, it appears that the NY Chapter has closed that avenue of approach.

### **Disenfranchisement of Chapter Members**

The New York Chapter is comprised of approximately 1,200 members. From a review of chapter finances, the vast majority (80%-90%) of expenses are directly related to the chapter's involvement in Camp Nawakwa (the remaining expenses, including overhead such as software and insurance, also appear to relate to Nawakwa). Despite this, on information and belief, only about 200 or so members of the chapter pay the additional monies, and have been accepted by Chapter leaders, to enjoy the benefits of Nawakwa. It is important to note that membership in the NY Chapter of ADK does not confer the right to enjoy Camp Nawakwa; rather, a member must submit an application, payment for that application, pay a fee for a key, as well as participate in an orientation/training program; even then, Nawakwa membership would still require approval by the Board. Based on these numbers, approximately 1,000 members of the NY Chapter, the overwhelming majority, do not receive a cognizable benefit from chapter membership.

Even within this small constituency of Nawakwans, there has been significant unrest related to the operations of the chapter, to include allegations of election improprieties and further claims of disenfranchisement. In 2016, a whistleblower sent a letter to ADK Inc. alleging that only Nawakwans were being noticed concerning chapter elections, as well as other irregularities related to the election process. In response, the NY Chapter sent a letter, dated December 18, 2016, threatening to suspend or expel these members, even going so far as to require that they respond in writing within 30 days acknowledging that the election was conducted properly. In response, these members, now represented by counsel, sent a response characterizing this conduct of chapter leaders as McCarthy era tactics. The fallout was not insignificant. As two such members wrote:

*"I had long ago given up on ADK generally because of the actions and policies of the board at the New York chapter. My involvement with the chapter and its Camp Nawakwa on Lake Sabago in Harriman Park went on for about a decade from 2006 to 2016 . . . Unfortunately there was a cohort of members in the chapter who were aging adults who saw the camp as their private oasis and felt strong proprietary rights to it. At times I thought their hostility to new members was due to the fact that some of these new comers were persons of color but the most likely cause of their hostility was that these folks had children. By 2015 the board of directors of the club was dominated by this cohort . . . and they took actions*

*and made policy to ensure that families with children would not feel welcome and would eventually leave. Our family did that at the end of 2016. At this point I believe if there is to be any hope for ADK and the New York chapter it would be to remove control of the camp from this isolationist cohort and put it in a public trust that would fairly provide access to all persons willing to work and cooperate together to enjoy the outdoors. It is outrageous that a public resource in a state park should be reserved for such private privilege."*

*"This revives old nightmares. 3rd generation ADK here . . . and I gave so much to that camp. I can't go there any more."*

### **One ADK**

From a review of meeting minutes, financial statements, as well as conversations with NY Chapter members, it appears that the NY Chapter of ADK has very little to do with ADK; rather, it appears that those who control the NY Chapter, aside from their outright refusal to engage civilly with ADK Inc., operates the Chapter exclusively for the benefit of a small subset of the ADK Chapter who enjoy Camp Nawakwa.

To be sure, nothing else within ADK is exclusive. No other property or program. Indeed, ADK's Loj at Heart Lake, it's educational programming, as well as John's Brook Lodge are not only open to all ADK members, but also the public. What's more, what is available to one ADK member is available to all ADK members. Not so in the NY Chapter.

Moreover, there is no identifiable support for the larger success of ADK as an organization. In addition to the NY Chapter Board voting against participating in an environmental advocacy effort (the Green Amendment), which ironically germinated in NYC, the chapter provides no sustainable, or even significant, support to the larger organization. Indeed, in 2020, when all of ADK's programs were shut down, depriving the organization of steady streams of revenue, Executive Director Barrett had zoom meetings with the Chapters to ask for financial support. The New York Chapter did not provide a single dollar worth of support notwithstanding the fact that it had approximately \$350,000 in revenue on hand (which is itself a problem).

Again, it is rather clear from all that has been asserted, to include the long-held position of many throughout the club, that the NY Chapter of ADK is little more than the Camp Nawakwa Club that masks as ADK for a steady funding stream and to procure a lease from the Palisades Park Commission. Thus, because ADK Inc. is having a near impossible time procuring responsive answers from the NY Chapter, we will additionally asking the following at the June 26 Board meeting:

- A. Whether the NY Chapter's Board was notified of ADK Inc.'s efforts to communicate with the NY Chapter (we request evidence of that communication);
- B. Whether the NY Chapter Board voted against engaging ADK Inc. following the February 18, 2021, letter (we request seeing a copy of the minutes);
- C. Whether the NY Chapter Board properly noticed a meeting, secured a quorum, and voted to obtain counsel for the purpose of engaging ADK Inc. (we request seeing a copy of the minutes);

- D. Whether the NY Chapter was informed of Lisa North's resignation as Chair and appointment of a successor (we request seeing evidence of that communication);
- E. Why ADK Inc. was not notified of the change in Chapter leadership;
- F. Whether NY Chapter meeting minutes are only password accessible for key holders (i.e., the password on the website requires key holder numbers making it inaccessible for ADK members of the chapter);
- G. Provide proof that chapter elections, going back to 2016, were properly noticed to all chapter members, and provide proof of proper ballot counting procedures; and
- H. Provide the most recent three years worth of ledgers/roster of those members who have reserved/stayed at Nawakwa, excluding 2020.

Please know that you are entitled to a hearing before the Board at its June 26 meeting. We understand that given the proximity of this notice to the next quarterly meeting of the Board, you may not have immediate access to all of the relevant documentation requested above. That information will be required within a reasonable period of time following the meeting. In the event you wish to avail yourself of this opportunity to provide information relative to the foregoing, simply notify Virginia Etu of your intent to attend and she will send you a link ([virginia@adk.org](mailto:virginia@adk.org)).

Only those individuals noticed will have the right to appear at this meeting. The hearing will begin at approximately 12:30. You will be let into the meeting a few minutes before we begin.



President



Executive Director

**FILED: ROCKLAND COUNTY CLERK 07/01/2021 11:20 PM**

INDEX NO. 033635/2021

NYSCEF DOC. NO. 12

RECEIVED NYSCEF: 07/01/2021



## EXHIBIT 2

The Bachman Law Firm PLLC  
365 South Main Street, 2<sup>nd</sup> Floor  
New City, New York 10956  
845-639-3210

June 25, 2021

**By E-Mail and Certified Mail RRR**

Adirondack Mountain Club  
814 Goggins Road  
Lake George, NY 12845  
Attn: Michael Barrett and Tom Andrews

Re: ADK Letter, dated June 21, 2021, to Various Members of ADK NY

Dear Ladies and Gentlemen:

As you are aware, we represent the New York Chapter, Inc. of The Adirondack Mountain Club, Inc. (“ADK NY”) and we are in possession of your letter (“Letter”), dated June 21, 2021, addressed to certain members of ADK NY (including, but not limited to Mark Fedow, Raymond Kozma, Suzanne Rocheleau, Eve Mancuso, Teri Gabel, and Susanne Flower, collectively “Recipients”). That Letter purports to “pursuant to Section 1.2. (b) of ADK’s bylaws [regarding suspension or expulsion of an individual member], . . . provid[e] written notice and opportunity to be heard [(“Hearing”)] regarding . . . charges [(“Charges”)].”

We write on behalf of both ADK NY and the Recipients in response to that Letter. **Please be advised that none of the Recipients or ADK NY will appear at the Hearing. The Letter and the Hearing is rejected as they are invalid, defective, and a nullity;** neither the Letter nor the Hearing meets the legal due process requirements.

Any proceeding to remove a member of a not for profit corporation must adhere to “due process.” 1855 7 Ave. Hous. Dev. Fund v. Wigfall, Index No. 81069/10, 2014 NYLJ LEXIS 7472 (Civ. Ct. N.Y. Cnty. Feb. 20, 2014). At a minimum, due process requires that removal proceedings “provide for adequate notice of charges prior to a hearing on those charges, a hearing at which the charges are presented in detail with supporting documentation and at which the [accused] whose removal is sought has an opportunity for rebuttal, including the presentation of witnesses and cross-examination of witnesses. The [accused] should also have the opportunity to obtain counsel.” Ellis v. Brodert, 2006 NYLJ LEXIS 899 (Sup. Ct. N.Y. Cnty. Feb. 7, 2006).

The Letter and the Hearing it describes wholly fail to meet these due process requirements:

- The Letter is dated June 21, 2021, a mere five (5) days prior to the Hearing (the Letter itself acknowledges the inadequacy of the short “proximity” of the June 26 Hearing)

- The Charges are insufficiently specified as they make no allegations of wrongdoing by any particular Recipient
- The Letter does not list who the witnesses against the Recipients will be at the Hearing
- The Recipients cannot prepare to or, seemingly, actually cross-examine such witnesses at the Hearing
- The Letter prohibits the Recipients from bringing witnesses of their own (“[o]nly those individually noticed will have the right to appear at this meeting.”)
- The Letter does not provide the documentary evidence which will be used against the Recipients
- The Recipients cannot prepare to or, seemingly, question any such documentary evidence at the Hearing
- The Recipients cannot have counsel appear at the Hearing (“[o]nly those individually noticed will have the right to appear at this meeting.”)

You should be mindful that without due process, a decision to suspend or expel a member of a not for profit corporation is invalid. Pepe v. Missanellese Soc. of Mut. Aid., 141 Misc. 7, 252 N.Y.S. 70 (Sup. Ct. Oneida Cnty. 1930); Weinberg v. Carton, 196 Misc. 74, 90 N.Y.S.2d 398 (Sup. Ct. Special Term Bronx Cnty. 1949).

Moreover, even if a removal proceeding is due process compliant, such removal can only be “done in good faith and to further a legitimate corporate purpose” and must be based upon a “reasonable business judgment.” 1855 7 Ave. Hous. Dev. Fund v. Wigfall, Index No. 81069/10, 2014 NYLJ LEXIS 7472 (Civ. Ct. N.Y. Cnty. Feb. 20, 2014). See also, Matter of Koch, 257 N.Y. 318 (1931) (decision to remove must be reasonable).

Again, because the Letter and the Hearing are not due process compliant, none of the Recipients or ADK NY will appear at the Hearing and the Letter and the Hearing is rejected as they are invalid, defective, and a nullity.

Beyond the objection to the Letter and the irregularities in the proposed Hearing, though, both ADK NY and the Recipients vigorously deny the purported Charges and reserve all of their rights and remedies. Should the Charges be properly noticed and heard in an appropriate manner and forum, we look forward to proving the Charges to be false and the removal effort to be unreasonable, in bad faith, and an ultra vires act.

Separately, **please be advised that we will be serving you with notices pursuant to Not for Profit Corporation Law §621 (right to inspect the books and records) and §718 (right to obtain a list of officers and directors).** To streamline those coming requests, please advise, within the time frames set by those statutes, when we can visit the office to conduct those reviews or if you will provide digital copies of those materials.

With all of that, I reiterate my previous offer to discuss this matter directly with you.<sup>1</sup> Should you continue to escalate this matter, we reserve our rights to institute litigation, seek damages, and obtain other recourse. Given the time and expense that will require of all parties, plus the poor light in which the whole Club may be cast, I urge you to reconsider your course of action.

.

Very truly yours,

/s/

Judith Bachman

cc: Virginia Etu (by email)

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<sup>1</sup> You apparently rejected, without explanation, my previous offer to do so and yet accused **us** of refusing to communicate with you.

# EXHIBIT 3



Working for  
Wilderness

June 29, 2021

Dear Eve:

I've been directed to inform you of several actions taken by the Board of Directors of the Adirondack Mountain Club, Inc. at its June 26, 2021 meeting.

With respect to the NY Chapter, please know that the Board voted to dissolve the New York Chapter as it is currently constituted and establish a new, unincorporated chapter for the benefit of both existing and new members. This decision thereby eliminates both the Board and Officer positions of the then-existing NY Chapter of ADK.

Please know further that following notice and hearing, *in absentia*, that the Board has voted to remove you from ADK membership. Given that both the bylaws of ADK Inc. and the NY Chapter require ADK membership as a condition precedent for membership in the chapter, the decision to terminate your membership with ADK thereby also terminates your membership with the NY Chapter.

With respect to the questions and concerns that the ADK Board was unable to ascertain due to your absence at this hearing, to say nothing of months' worth of efforts to procure the same, please know that we will be passing these matters on to the relevant authorities.

Going forward please know that you have no authority to act on behalf of the organization, to include any enjoyment or decision making as it relates to Camp Nawakwa and, importantly, any rights or authority to direct any funds or financial accounts currently belonging to the NY Chapter of ADK. Any expenditures or withdrawals from such accounts will be referred to the District Attorney for prosecution as larceny/theft.

A handwritten signature in black ink, appearing to read 'Michael Barrett', is written over a horizontal line.

Michael Barrett  
Executive Director

Cc: Thomas Andrews, ADK President

# EXHIBIT 4

## ADK's Bylaws 2020

### ADIRONDACK MOUNTAIN CLUB, INC. BYLAWS

ARTICLE I. Name/Corporate Office Section 1. Name. As defined in the Certificate of Incorporation, this corporation is called Adirondack Mountain Club, Inc. This corporation shall also be known as ADK.

Section 2. Office. The principal office of the corporation shall be in Warren County, New York. The corporation may also have offices at such other places within or outside of this state as the Board of Directors (the "Board") may from time to time determine and the business of the corporation may require.

Section 3. Books. There shall be kept at the office of ADK, books of account of the activities and transactions of ADK, including a minute book, which shall contain a copy of the Certificate of Incorporation, a copy of these Bylaws, and all minutes of meetings of the members, of the Board, and of the Executive Committee.

ARTICLE II. The seal of ADK shall be: [image of seal included in Bylaws]

ARTICLE III. Purpose ADK works to protect New York wild lands and waters by promoting responsible outdoor recreation and building a statewide constituency of land stewardship advocates.

### ARTICLE IV. Membership

#### Section 1. Eligibility

1.1. Classes. The voting membership of ADK shall be divided into the following classes: a. Individual: 18 years of age and older.

b. Family: Maximum of any two adults, 18 years of age or older, at the same domicile, each of whom shall be a voting member.

#### 1.2. Conditions.

a. Any eligible person interested in furthering the purposes of ADK may, upon payment of the dues set by the Board, become a voting member of the corporation.

b. A member may be temporarily suspended from the membership or expelled from membership for violation of the Bylaws of ADK or for conduct prejudicial to the best interests of ADK as determined by the Board, provided charges in writing are proffered against such member, a copy thereof served upon such member, and an opportunity afforded such member for a hearing before the Board.

c. Chapter members who affiliate with another Chapter shall pay an annual sum as may be fixed by said Chapter, for the sole use of said Chapter.

Section 2. Member Rights. All members in good standing shall have the right to vote at all meetings of the general membership, be eligible to become a Board member, participate in a committee or committees, participate in the benefits of ADK, and receive notices or reports issued by ADK.

#### Section 3. Chapter Members

3.1 .Chapter members shall be those members of ADK who have elected to join a Chapter.



3.2. Chapter members may elect to transfer to membership-at-large or another Chapter upon request.

#### Section 4. Members-at-Large

4.1. Members-at-large shall be those members who have not elected to join a Chapter.

4.2 .Members-at-large may elect to transfer to Chapter memberships upon request.

#### Section 5. Dues

5.1. The Board shall establish a schedule of dues for membership in ADK, with such membership dues classes as it may deem desirable.

5.2. Dues shall be paid to ADK.

5.3. Each Chapter shall be entitled to a portion of ADK membership dues collected from members of that Chapter, as established by the Board. (See also Article IX: Section 4.3.)

5.4. The procedure to change dues shall be: a. The Board shall approve a resolution notifying the membership of the recommended change. b. The membership shall be provided written notice of such proposal. Publication in the official magazine of ADK shall be deemed equivalent to a written notice. c. The Board shall consider the proposal for ratification not less than sixty (60) days after written notice is given to the membership.

#### Section 6. Meetings of the Membership

##### 6.1 .Annual Meetings.

a. The Board shall set the date, time, and place of such meeting.

b. The Secretary shall cause to be mailed to every member in good standing at each member's address as it appears on the membership roll book of the corporation a notice stating the time and place of any annual meeting. Said notice shall be mailed at least ten (10) days, but not more than fifty (50) days, prior to the meeting. The location of meetings shall be set by the Board, or if called by a petition, may be set in said petition. c. Publication in the official magazine of ADK and the mailing of the same shall be deemed equivalent to a written notice, if such magazine is mailed in conformance with Section 6.1.b, or through electronic (email) communication, provided the same is sent in conformance with Section 6.1.b.

##### 6.2. Special Meetings.

a. May be called by the President.

b. Must be called upon request of a majority of the Board.

c. Must be called if a petition so requesting is signed by at least five hundred (500) members of ADK.

d. Notice of a special meeting shall be given in conformance with sections 6.1.c of this article, and shall also state the purpose or purposes for which the meeting is called. No other business but that specified in the notice may be transacted at a special meeting.

6.3. Proxies. At all meetings of the membership, each member shall be entitled to cast his or her vote in person or by an official written proxy that must bear the member's signature.

6.4. Quorum. A quorum of the transaction of business at any meeting of the membership shall be constituted by the presence of one hundred (100) members, or one-tenth of the total membership, whichever is less, in person or by proxy. However, a lesser number may adjourn the meeting for a period

of not more than ten (10) weeks from the date originally scheduled. The Secretary shall cause a notice of the rescheduled date of the meeting to be sent to those members who were not present at the meeting originally called.

6.5. Majority. All matters brought to vote shall be decided by a simple majority vote of the members present in person.

## ARTICLE V. BOARD OF DIRECTORS

### Section 1. Board Composition

1.1. All powers of the corporation shall be exercised by and under the authority of the Board of Directors. During such times as the Board may not be properly constituted, the Executive Committee shall carry out the functions of Board of Directors as stated herein.

1.2. The Board of Directors shall consist of between twelve (12) and twenty (20) Directors. Directors shall be at least twenty-one (21) years of age and be members in good standing with ADK. Directors should be selected on the basis of their demonstrated awareness of the purposes and needs of the corporation, their willingness to serve, and their professional or individual skills which contribute to the board-related functions of the corporation. With the exception of the Audit and Nomination Committees, the Chair of each standing committee shall also be a member of the Board of Directors, as well as an individual selected from among the Trustees of the Advisory Council.

1.3. Individuals serving as Directors shall receive no compensation for serving in this role, but may receive reimbursement for reasonable approved expenses.

1.4. To achieve staggered terms, the initial term for the first six (6) selected Directors shall be three (3) years and the initial term for the remaining Directors shall be two (2) years. Thereafter, each Director shall hold office for a term of three (3) years and until his or her successor is duly elected and qualified or until his or her earlier resignation, removal from office, or death.

1.5. Directors shall be limited to three (3) consecutive terms and the Board shall be managed to ensure a turnover that maximizes commitment and facilitates new ideas.

1.6. Directors shall be elected by a majority of the current Directors who are present at a meeting for which there is a quorum.

### Section 2. Responsibilities of Directors and the Board of Directors

2.1. Directors shall act for ADK's interest in any way consistent with its Certificate of Incorporation and Bylaws, and ensure that ADK, and its Chapters, are in compliance with all laws, its Bylaws, and ADK's Certificate of Incorporation.

2.2. The Board shall adopt ADK's budget, authorize capital expenditures, support fundraising and major gift development, ensure ADK has the resources to carry out its mission, approve banking relationships, provide for an annual audit, and as necessary, make for bonding of the Treasurer.

2.3. Only the Board at a regular or special meeting shall establish ADK policies. This provision shall not prevent the Officers or duly constituted committees of ADK from taking a position on its behalf in connection with pending legislation, constitutional amendments, or litigation relative to matters affecting the objectives of ADK as declared in its Certificate of Incorporation, Bylaws, or Mission Statement, provided always that the position taken shall be consistent with the Board policy of ADK as declared either in its Certificate of Incorporation or in a prior specific action taken by the Board. Such actions taken shall be reported to both the Board and Executive Committee at their next meeting.

2.4. The Board shall establish the procedures to be used in all elections.

2.5. The Board may delegate certain of its responsibilities to the Executive Committee.

2.6. All members of the Board shall regularly attend meetings of the Board. In the event a Director cannot attend a meeting, he/she shall notify the President or Executive Director prior to such Board meeting.

2.7. All members of the Board shall financially contribute in a meaningful way to the organization, shall represent ADK at public events, and should further help with fundraising efforts to ensure that ADK has sufficient resources to carry out its mission.

2.8. No Officer or Director shall engage in, or condone, any conduct that is disloyal, disruptive or damaging to or competes with ADK. No Officer or Director shall take any action, or establish any interest, that compromises his or her ability to represent ADK's best interest.

### Section 3. Conflict of Interest

3.1. A member of the Board or member of the Executive Committee must abstain from voting or attempting to influence the vote or participate in the discussion on any matter before the Board that places him or her in a conflict of interest.

3.2. A conflict of interest exists when a matter to be acted upon by the Executive Committee and/ or the Board confers a direct, substantial benefit to any Director, or business or agency from which such a Director derives an income or has authority in governance.

3.3. A member of the Board shall disclose any conflict or potential conflict of interest as soon as he or she recognizes the potential conflict. If self-disclosure is not revealed, the President or any member of the Board can, prior to voting on a specific matter in which a potential conflict of interest exists, inquire whether any member of the Board desires to abstain from voting because of a conflict of interest. If no conflict of interest is disclosed but the President or any other member of the Board states the opinion that such a conflict exists and the challenged Director refuses to abstain from deliberations or voting as requested, the President shall immediately call for a vote of the Directors to determine whether the challenged Director has a conflict of interest. If a majority of the Directors present vote to require the abstention of the challenged Director, the Director shall not be permitted to vote.

3.4. Any discussion of a potential conflict of interest issue must be recorded in the minutes and must be disclosed to the Audit Committee. The Audit Committee must generate an Annual Conflict of Interest Statement.

Section 4. A Director may be removed from office pursuant to the Not-For-Profit Corporation Law. In addition, a member of the Board who has not regularly attended meetings or contributed meaningfully to ADK on an annual basis may be contacted by the President, either at his or her discretion or at the direction of more than two members of the Board. The President shall inform such member in writing of his or her failure to meet the Director responsibilities as outlined herein. Such Director shall have thirty (30) days to provide the President with a written response. Both writings shall be presented to the Board prior to the subsequent meeting of the Board, at which time the Directors shall vote on whether to allow such member to fulfill the remainder of his or her term.

### Section 5. Meetings of the Board of Directors

5.1. Regular. Regular meetings, which may be conducted by teleconference, videoconference or other means of electronic communication where Directors can hear or otherwise participate in any discussion, shall be held quarterly at such date, time and place within or outside of the State of New York, as the

President or any five (5) Directors may fix, unless waived by the President. Such meetings require at least ten (10) days' notice to each member of the Board, at such date, time, and place as the President may set, along with a proposed agenda at least five (5) days prior to such meeting.

5.2. Special. Special meetings of the Board may be called at any time by the President or, in case of the President's absence or inability to act, by the Vice President, or upon the written request of a majority of Directors. Such meetings, which shall include meetings by electronic communication, require at least ten (10) days' notice to each Director, at such date, time, and place as the President may set or as soon as practicable when there are extenuating circumstances. Any Director may waive notice of any meeting in writing. Any notice of a special meeting shall state the purpose of that meeting and the transaction of business at any special meeting should be limited to that purpose

5.3. Notice. Electronic notice, such as email, shall be deemed equivalent to a written notice, if mailed in conformance with the requirements of Sections 5.1 and 5.2. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of any regular meeting of the Board need to be specified in the notice or waiver of the notice of such meeting.

5.4. Quorum. A quorum for the transaction of business at any virtual, electronic, or in-person meeting of the Board shall be constituted by the presence of a simple majority.

5.5. Majority. Except as may otherwise be provided for herein or by law, all matters brought to vote shall be decided by a simple majority vote of the Directors present in person or appearing electronically when so appearing is authorized.

5.6. Action by the Board without a Meeting. The Board may take action without a meeting as provided for in the Not-for-Profit Corporation Law.

## ARTICLE VI. OFFICERS

### Section 1. Officers

1.1 Elected Officers. The President, Vice President, and Second Vice President shall be elected by the Board in odd-numbered years to serve for a term of two (2) years, or until their successors are elected.

1.2. Secretary and Treasurer. The Secretary and Treasurer shall be nominated by the President and approved by the Board for a term of two (2) years.

1.3. Employment. Officers other than the Executive Director and Counsel must be members of ADK who are not in the employ, full or part time, of ADK.

1.4. Executive Director.

a. The Executive Director shall be an Officer of the corporation and shall be appointed by the Executive Committee with the approval of the Board.

b. The Executive Director shall be an ex officio member of all committees (except the Nominating Committee and Executive Committee) and shall have no vote at either committee or Board meetings.

c. The Executive Director shall be an employee-at-will and shall serve at the pleasure of the Board.

d. The Executive Director shall be the staff liaison to the Board of Directors, members, and volunteers.

1.5. Counsel.

- a. A Counsel may be appointed as an Officer of the corporation by the Executive Committee with the approval of the Board.
- b. The Counsel shall be an ex officio, non-voting member of the Executive Committee.

Section 2. Officer Responsibilities

2.1. President.

- a. The President is the chief leader of ADK's Board of Directors, and provides overall guidance to ADK's volunteer leadership, consistent with ADK's mission, policies, and public service goals. The President shall be the Board liaison to the Executive Director.
- b. The President shall preside at all meetings of ADK, of the Board, and of the Executive Committee.
- c. The President shall be an ex officio member of all committees (except the Nominating Committee and Executive Committee) and shall have no vote at committee meetings.
- d. The President shall appoint chairs for all committees.

2.2. Vice President.

- a. The Vice President shall, in the absence of the President, or in the event of the President's inability or refusal to act, perform the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions of, the President.
- b. The Vice President shall perform such duties as from time to time may be delegated by the President.

2.3. Second Vice Presidents. The Second Vice President shall perform such duties as from time to time may be delegated by the President, and shall, in the absence of the Vice President, or in the event of the Vice President's inability or refusal to act, perform such duties of the Vice President.

2.4. Secretary.

- a. The Secretary shall maintain the minutes of all Member, Board, and Executive Committee meetings.
- b. The Secretary shall have custody of the seal of the corporation, and affix and attest the same to documents when duly authorized by the Board.
- c. The Secretary shall ensure proper notice is given of all meetings for the Members, Board, and Executive Committee.
- d. The Secretary shall perform such duties as from time to time may be delegated by the President.

2.5. Treasurer.

- a. The Treasurer shall have oversight of the financial affairs of ADK, and provide periodic reports to the Executive Committee and Board.

b. The Treasurer shall ensure that an audit is commissioned and presented on an annual basis to the Board.

2.6. Executive Director. The Executive Director shall be the principal administrative officer of ADK, charged with operational decision-making for the organization.

2.7. Counsel. Responsibilities and duties of the Counsel shall be as determined by the Executive Committee.

### Section 3. Nomination and Election of Officers

3.1. Elections. The Board shall establish the procedures to be used in all elections.

#### 3.2. Nominations

a. The Nominating Committee shall provide a slate of Officer candidates in accordance with the established Board policy.

b. Additional nominations for Officers may be made. Such nominations must be in writing and signed by at least five (5) Directors. Such nominations must be filed in accordance with the established Board policy.

#### 3.3. Inspection and Reporting of Elections

a. In the event of a contested election, three (3) tellers must be appointed, who shall not be members of the Board, and shall act as Election Inspectors and shall certify the results of the election to the Executive Director.

b. In the event of an uncontested election, the Secretary shall cast one vote on behalf of the slate and shall so certify the results of the election to the Executive Director.

### Section 4. Resignation or Filling Vacancies

4.1. Removal. An Officer may be removed from office pursuant to the Not-For-Profit Corporation Law and in conformance with Article V, Section 4.

4.2. Resignation. An Officer may resign at any time by giving written notice to the Board, the President, or the Secretary of ADK. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the Board, the President, or the Secretary. Acceptance of the resignation shall not be necessary to make it effective.

4.3. Vacancies. Any vacancy in an Officer position, other than the Executive Director or Counsel, shall be filled for the balance of the term of office by nomination by the President subject to approval by the Board.

## ARTICLE VII. ADVISORY Council

### Section 1.

1.1. Purpose. An Advisory Council is hereby established to be made up of those Trustees appointed or elected and serving as provided in Section 1.2 and 1.3. The Advisory Council shall advise and provide counsel to the Board of Directors and exercise those powers established by these Bylaws.

1.2. Trustees. The Advisory Council shall be composed of individual Trustees who shall be appointed, elected, or serve as follows):

a. Each Chapter in good standing shall have no more than one (1) representative Trustee on the Advisory Council and shall submit the name of such Trustee to the Executive Director in writing and may also include an alternate Trustee;

b. Trustees-at-Large: There shall be on the Advisory Council up to three additional Trustees, appointed by the President, to serve in an at-large capacity; Board of Directors: There shall be no more than one member of the Advisory Council selected to serve on ADK's Board of Directors, provided he or she meets the requirements herein set forth for service on the Board.

1.3. Qualifications of Trustees. To the extent practical, the individuals appointed or elected as Trustees shall have an established involvement with ADK, to include committee participation or volunteer service, and shall have a demonstrated professional commitment to the betterment of the organization.

1.4. Term. Trustees shall have two-year terms, commencing on the date that notice of their selection is provided to the Executive Director. Trustees shall not be elected or appointed for more than two (2) consecutive, two-year terms.

1.5. Removal. Any Trustee may be removed by the Advisory Council for conduct determined to be inconsistent with the values or mission of ADK.

1.6. Vacancies. In case of a vacancy on the Advisory Council due to death, resignation, removal, or disqualification of a Trustee, a successor shall be appointed by the Chapter or, in the case of an at-large Trustee, by the President, to serve the remaining term of the departing Trustee.

1.7. Compensation and Reimbursement. Trustees shall not receive compensation for their services but may be reimbursed for reasonable expenses as they relate to attending meetings of the Advisory Council if approved by the Board of Directors.

1.8. Meetings of the Advisory Council. The Advisory Council shall meet consistent with its Charter, which shall include an annual meeting. Meetings may be held by teleconference, videoconference or other means of electronic communication where the members can hear or otherwise participate in any discussion.

1.9. Quorum and Voting. A quorum of the Advisory Committee shall consist of a majority of the total Trustees. Trustees may not vote by proxy. Except as expressly provided in these Bylaws, a majority of those attending a meeting of the Advisory Council when a quorum is present may take any action in the conduct of business authorized or required to be taken by the Advisory Council pursuant to these Bylaws or authorized by the Board of Directors.

1.10. Duties of Trustees. All Trustees and the Advisory Council are expected to:

(a) attend the Annual Advisory Council Meeting, absent extenuating circumstances, which may be held electronically;

(b) make annual or more frequent reports to the Board of Directors;

(c) respond to requests from the Board of Directors;

(d) promote programs, goals, and other objectives of ADK. Although referred to as "Trustees," nothing herein is intended to confer any fiduciary duties on the Trustees; and the Trustees shall have only those

duties and obligations set forth in these Bylaws and shall not have any other duties or obligations to ADK, fiduciary or otherwise.

## ARTICLE VIII. COMMITTEES

### Section 1. Establishment

1.1 Program Committees. Program Committees are responsible for furthering the mission of ADK. The President may establish additional program committees subject to approval of the Board. Once created, such committees may be dissolved only by the Board.

1.2. Standing Committees. The following are established Standing Committees:

- a. Executive
- b. Nominating
- c. Finance
- d. Properties
- e. Human Resources
- f. Audit
- g. Stewardship

1.3. Committee Charters. All committees must submit a Charter to the Board for approval. Each Charter is to establish a four-year review period and will resubmit its Charter to the Board within this established period.

1.4. Working Groups. The President may create and appoint ad hoc working groups for special projects or issues. Such working groups will automatically dissolve at the end of the term of the appointing President, unless continued by the incoming President.

1.5. Other Committees. In addition to any standing committee, the Board may approve such other committees as it deems necessary. Dissolution of such other committees shall be by motion of the President and shall require Board approval.

### Section 2. Executive Committee

2.1. Membership. The membership of the Executive Committee shall consist of the elected and appointed Officers of the Club, the Executive Director, and no more than three (3) Directors elected by the Board from among the Directors to serve two-year terms. The Executive Director shall serve ex-officio as a non-voting member. Any appointed Counsel shall be an ex officio, non-voting member of the committee.

2.2. Responsibilities. The committee shall act for the Board and in the best interests of ADK in accordance with the Certificate of Incorporation, the Bylaws of ADK, [and] the Executive Committee Charter. Any time the Board is not properly constituted as required herein, the Executive Committee shall operate as the interim Board with all the authority and obligations as herein put forth.

2.3. Meetings. The Executive Committee shall meet monthly, either in person or by videoconference or teleconference or other electronic means, unless such a monthly meeting is waived by the President.



### Section 3. Nominating Committee

3.1. Membership. a. Membership of the Nominating Committee shall consist of five (5) Directors, two (2) of whom are elected from the Board in accordance with the committee charter. b. The President shall designate a chair of the committee. The designated chair will then select three (3) additional members.

3.2. Responsibilities. The committee members shall complete their responsibilities in providing a slate of nominations for the elected Officers as provided for within the charter of the committee and established Board policy.

Section 4. Finance Committee. The President shall appoint a chair subject to approval of the Board. The committee shall operate in accordance with its Charter.

Section 5. Properties Committee. The President shall appoint a chair subject to approval of the Board. The committee shall operate in accordance with its Charter.

Section 6. Human Resources Committee. The President shall appoint a chair subject to approval of the Board. The committee shall operate in accordance with its Charter.

Section 7. Stewardship Committee. The President shall appoint a chair subject to approval of the Board. The committee shall operate in accordance with its Charter.

Section 8. Audit Committee. The President shall appoint a chair subject to the approval of the Board. The committee shall operate in accordance with its Charter.

### ARTICLE IX. Chapters Section

1. Purpose. ADK and its Chapters work in partnership to provide opportunities for ADK members to participate in all facets of ADK and Chapter governance, programs, and activities. Each provides resources and opportunities that enhance the capabilities, vitality, and influence of ADK and the Chapters in seeking to achieve ADK's mission.

#### Section 2. Chapter Status

2.1. Status. Chapters are subdivisions of ADK, and are subject to all provisions of its Certificate of Incorporation, Bylaws, and Board policies and procedures.

2.2. Programs and Activities. A Chapter's activities and programs shall be consistent with ADK's Certificate of Incorporation, Bylaws, and Board policies and procedures.

2.3. Establishment of a Chapter. Whenever at least twenty-five (25) members of ADK desire to form a Chapter, they shall apply in writing to the Board, stating their purpose and the proposed name of the Chapter. If such application is approved by the Board, the applicants may proceed to organize as a Chapter.

#### 2.4. Dissolving a Chapter.

a. A Chapter's status as a Chapter of ADK may be terminated by the Board, when the Board determines that a Chapter's actions or activities are inconsistent with or injurious to ADK's Certificate of Incorporation, Bylaws, or Board policies and procedures.

b. When a Chapter's status is terminated, members of that Chapter shall be given the opportunity to transfer to another Chapter or become members-at-large.

c. Fund balances of a terminated Chapter shall be transferred to ADK. Pending dissolution of any Chapter, ADK may demand that the Chapter transfer to ADK any fund balance or other asset currently held by the Chapter unless prohibited by law.

2.5. Merging Chapters. Chapters may merge in accordance with the procedures established by the Board.

### Section 3. Chapter Structure

3.1. Chapters shall be unincorporated associations organized under the Certificate of Incorporation and Bylaws of the Adirondack Mountain Club, Inc., and as such will create and maintain a Chapter Charter that at a minimum, will:

- a. Establish the Chapter's name.
- b. Provide for Chapter Officers
- c. Provide for the establishment of a bank account.
- d. Provide for an annual meeting for its membership.
- e. Provide for programming, outings, or some form of activities.

3.2. Chapters that were separately incorporated as of the effective date of these Bylaws shall be permitted to retain their existing status, provided such status does not jeopardize ADK's tax-exempt, not-for-profit corporation status under federal or state law, and provided such entity is operated in accordance with the ADK Certificate of Incorporation, Bylaws, and Board policies and procedures.

### Section 4. Chapter Finances

4.1. Annual Statement. Each Chapter shall ensure that an Annual Statement or Report, to include a Balance Sheet and Statement of Income and Expense, is completed and filed with ADK's administrative offices by the end of the first quarter following the end of the Chapter's fiscal year.

4.2. Financial Affairs. Each Chapter shall be responsible for its own finances and shall ensure that an appropriate accounting system or record of the Chapter's financial affairs is maintained, kept current, and made available for inspect by ADK at all times.

4.3. Dues. Each Chapter shall be entitled to a portion of all ADK membership dues collected from the members of that Chapter, to be paid by ADK on a monthly basis, as determined by the formula established by the Board. The procedure to change said formula shall be:

- a. The Board shall approve a resolution notifying Chapters and membership of the recommended change.
- b. The Chapters and membership shall be provided written notice of such proposal. Publication in the official magazine of ADK shall be deemed equivalent to a written notice.
- c. The Board shall consider the proposal for ratification not less than one hundred (100) days after written notice is given.

## Section 5. Chapter Membership

5.1. Any person accepted for membership in ADK qualifies for membership in a Chapter.

5.2. Chapters shall be entitled to prescribe additional qualifications and prerequisites for Chapter activities consistent with the ADK Certificate of Incorporation, Bylaws, and Board policies and procedures.

## ARTICLE X. Finances Section

Section 1: Fiscal Year. ADK's fiscal year shall be the calendar year.

Section 2. Depositories. Funds of the corporation may be deposited from time to time to the credit of the corporation with depositories selected by the Board.

Section 3. Signatories. All checks, drafts, or other orders for the payment of money, notes, acceptances, or other evidence of indebtedness issued in the name of the corporation shall be signed by the designated individual or individuals, actual or facsimile, in the manner that shall be determined by the Board.

Section 4. Audit. The accounts of ADK shall be audited each year by an independent certified public accountant.

Section 5. Compensation. Directors, and elected and appointed Officers (except for the Executive Director and Counsel) shall serve without compensation, but may be reimbursed for reasonable expenses. Nothing herein shall otherwise deprive a Director from benefitting from a contract with ADK following a competitive bidding process, provided that such process was evaluated equally for all applicants. No employee of the corporation shall receive any funds from the corporation or any pecuniary profit from the operations thereof, except reasonable compensation for services actually rendered to it and reimbursement for expenses incurred in the performance of such services.

Section 6. Investments. The funds of ADK may be retained in whole or in part in cash or be invested and reinvested from time to time in such property, real, personal or otherwise, including stocks, bonds or other securities, as the Board may deem desirable.

## ARTICLE XI. Indemnification

ADK may, to the fullest extent now or hereafter permitted by and in accordance with the standards and procedures provided for by the Not-for-Profit Corporation Law and any amendments thereto, indemnify any person made, or threatened to be made, a party to any action or proceeding by reason of the fact that the person, or the person's testator or intestate was a Director, Officer, employee, or agent of ADK, against judgments, fines, amounts paid in settlements, and reasonable expenses, including attorneys' fees. The Board may purchase insurance for such purpose if it is deemed desirable to do so.

## ARTICLE XII. Corporate Status

ADK is a non-stock, not-for-profit corporation, organized and operated exclusively for charitable, conservation, education, and recreation purposes. Specific restrictions apply to the distribution and use of ADK assets as set forth in the Certificate of Incorporation and Bylaws.

**ARTICLE XIII. Construction**

Section 1. Conflict. If any conflict exists between the provisions of the Certificate of Incorporation and these Bylaws, the provisions of the Certificate of Incorporation shall govern.

Section 2. Notice. Notice required under any provision of these Bylaws shall be deemed to be given on the date it is mailed or otherwise sent.

**ARTICLE XIV. Adoption, Amendment, and Repeal Section**

Section 1. Adoption, Amendment, or Repeal. The power to adopt, amend, or repeal the Bylaws or Certificate of Incorporation shall be vested exclusively with the Board of Directors, provided that such adoption, amendment, or repeal is provided to the membership in advance of its effective date in order to allow for a meaningful notice and comment period.

Section 2. Amendment. The Certificate of Incorporation and Bylaws may be amended in the following manner: Any proposed change to either the Certificate of Incorporation or the Bylaws must be approved at a regular or special meeting of the Board by a two-thirds vote of the Board members present and voting at such meeting.

**ARTICLE XV. Effective Date** These Bylaws shall take effect on January 1, 2021, at which time the prior Bylaws of ADK shall be of no further force and effect. All Officers, Directors, and Executive Committee members shall remain in office as of said effective date until expiration of their current terms.

**ARTICLE XVI. Dissolution** Upon the dissolution of the corporation, the Board, by a two-third vote, shall redirect assets to two or more existing nonprofits with the same or similar purpose. Any assets not so disposed shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the corporation is located. In no event may any assets be appropriated for the direct or indirect benefit of existing or former Board members.

**ARTICLE XVII. Periodic Review**

The President shall ensure that the Board reviews and updates each of ADK's policies and Bylaws at least once every five (5) years, to include its destruction of records policy which shall be updated to reflect current best practices.

Adopted: Effective 1-1-2021