

Friedman, J.P., Acosta, Saxe, Gische, Webber, JJ.

1283 Dr. Steven Rosenfeld, Index 650360/14
Plaintiff-Respondent,

-against-

Joel Schreiber,
Defendant,

Dr. Samuel Waksal, et al.,
Defendants-Appellants.

Kasowitz Benson Torres & Friedman LLP, New York (Christopher P. Johnson of counsel), for appellants.

Meissner Associates, Nyack (Stuart D. Meissner of counsel), for respondent.

Order, Supreme Court, New York County (Jeffrey K. Oing, J.), entered June 9, 2015, which, to the extent appealed from as limited by the briefs, denied defendants Dr. Samuel Waksal, Kadmon Capital, LLC, and Kadmon Corporation, LLC's motion to dismiss the complaint as against them on statute of frauds grounds, unanimously affirmed, with costs.

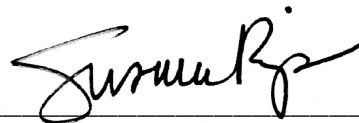
Plaintiff alleges that he and defendant Dr. Samuel Waksal, individually and as promoter of defendants Kadmon Capital, LLC, and Kadmon Corporation, LLC, entered into a written agreement pursuant to which he would raise \$50 million from investors for a joint venture and would receive a 6% equity interest in the joint

venture as compensation.

The allegations that the parties entered into a written agreement signed by both plaintiff and Waksal and setting forth all the parties' material contractual obligations are sufficient to satisfy the statute of frauds at this stage of the litigation (see *Saivest Empreendimentos Imobiliarios E. Participacoes, Ltda v Elman Invs., Inc.*, 117 AD3d 447 [1st Dept 2014]; see also *Chapman, Spira & Carson, LLC v Helix BioPharma Corp.*, 115 AD3d 526, 528 [1st Dept 2014]). The documentary evidence submitted by defendants does not conclusively establish that no agreement existed (see *Leon v Martinez*, 84 NY2d 83, 88 [1994]). We have considered defendants' remaining contentions and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MAY 26, 2016

A handwritten signature in black ink, appearing to read "Susan R. [unclear]", written over a horizontal line.

CLERK