

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

TISSUE TECHNOLOGY, LLC, PARTNERS
CONCEPTS DEVELOPMENT, INC.,
OCONTO FALLS TISSUE, INC. and TISSUE
PRODUCTS TECHNOLOGY CORP.

Case No. 14-CV-1203

Plaintiffs,

v.

TAK INVESTMENTS, LLC and SHARAD
TAK,

Defendants.

**TAK INVESTMENTS, LLC'S RESPONSE TO PLAINTIFFS' PROPOSED FINDINGS
OF FACT**

Defendant Tak Investments, LLC ("Tak Investments"), by its counsel, Godfrey & Kahn, S.C., submits this response to Plaintiffs' Proposed Findings of Fact. (ECF No. 70.) Plaintiffs' failed to submit responses to Defendant Tak Investments' Proposed Findings of Fact in Support of its Motion for Summary Judgment (ECF No. 63) as required by Civil L.R. 56(b)(2)(B)(i). Instead, Plaintiffs submitted their own proposed Findings of Fact, which Tak Investments will treat as additional proposed findings of fact under Civil L.R. 56(b)(2)(B)(ii).

PROPOSED FINDINGS OF FACT

1. The plaintiff companies entered into certain agreements with defendant Tak Investments, LLC and Sharad Tak including four Promissory Notes and a Final Business Terms Agreement. (Tak Declaration ¶2, Complaint ECF 1, Amended Complaint ECF 49).

RESPONSE: Disputed in part. Tak Investments does not dispute that all four Plaintiffs entered into a Final Business Terms Agreement with Tak Investments. It is disputed, however, that all four Plaintiffs entered into "four Promissory Notes" with Tak Investments. The only two

Plaintiffs that were parties to any of the Promissory Notes at issue in this matter were Tissue Products Technology, Corp. in the first instance, and later, Tissue Technology, LLC. (Am. Compl. Ex. 2, ECF No. 49.)

2. The Final Business Terms Agreement and the four Promissory Notes are attached to the Complaint and the Amended Complaint on file herein. (ECF 1, ECF 49).

RESPONSE: Undisputed.

3. Defendants Tak Investments, LLC and Sharad Tak, received consideration for the issuance of the four Promissory Notes. (Deposition Transcript of Ronald Van Den Heuvel at pgs. 60-67).

RESPONSE: Disputed. No money was paid to Tak Investments as a result of its executing the four Promissory Notes. (Tr. of August 3, 2017 Deposition of Ron Van Den Heuvel at 105; July 14, 2017 Declaration of Sharad Tak ¶ 4.) Nothing of value was given in exchange for Tak Investments' making the four Promissory Notes. (July 14, 2017 Declaration of Sharad Tak ¶ 4, ECF No. 62.)

4. The four Promissory Notes were issued as a result of a funding gap when defendant Tak Investments, LLC purchased the Oconto Falls tissue mill from the plaintiff companies. (Deposition Transcript of Ronald Van Den Heuvel at pgs. 60-67).

RESPONSE: Disputed. The four Promissory Notes were set in place to provide a means to provide future funding should it be necessary for the Phase II project contemplated by the parties. (July 14, 2017 Declaration of Sharad Tak ¶ 5, ECF No. 62.)

5. The Notes were intended to satisfy certain creditors of the plaintiff companies and so as to ensure that defendant Tak Investments, LLC would receive clean title to the Oconto Falls tissue mill. (Deposition Transcript of Ronald Van Den Heuvel at pgs. 60-67).

RESPONSE: Disputed. See response to No. 4.

6. The plaintiff companies are in possession of those Notes and they remain unpaid. There is currently due and owing on those investment notes the sum of \$37,028,423.00. (Declaration of Edward Kolasinski, CPA).

RESPONSE: Disputed. As indicated in documents produced in discovery, including an e-mail dated October 15, 2016, there are direct assignments of the Investment Notes to third parties totaling at least \$9,000,000. (Van Den Heuvel Dep. Ex. 16.)

Dated this 25th day of August, 2017.

GODFREY & KAHN, S.C.

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