

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ORGANIC ENERGY CORPORATION	§
and GEORGE GITSCHEL,	§
	§
Plaintiffs,	§
	§
VS.	§
	§
LARRY BUCKLE, INTERNATIONAL	§
ENERGY SERVICES, INC., JOHN	§
CONDON, MARK STANTON	§
CRAWFORD, DARRIN STANTON,	§
BERNARD GORY, MSW SOLUTIONS,	§
LLC, GREGORY HARRIS, KURT	§
GARDNER, CONLY HANSEN, CARL	§
HANSEN, MICHAEL LARK, JACK	§
HODGE, ANTHONY W. DARWIN, and	§
MARK MARTIN,	§
	§
Defendant.	§

No. 4:16-cv-864

NOTICE OF REMOVAL

Defendants Conly Hansen and Carl Hansen file this Notice of Removal.

Jurisdiction

1. This Court has original jurisdiction over this case because Plaintiffs have alleged a civil cause of action under the Racketeering Influenced Corrupt Organizations Act, 18 U.S.C. § 1964.
2. This Court has original jurisdiction of the civil RICO claim under 28 U.S.C. § 1331 and has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367.

State Court Proceeding

3. The state court proceeding is *Organic Energy Corp., et al. v. Larry Buckle, et al.*, No. 2014-21649, in the 113th Judicial District of Harris County, Texas.

4. In this suit, Organic Energy Corporation (OEC) and its president, George Gitschel, assert various claims against the minority shareholders of the company and other parties. Several defendants (Conly Hansen, Carl Hansen, Gregory Harris, and Kurt Gardner) filed special appearances to challenge personal jurisdiction.

5. The state court documents required by Local Rule 81 are attached in an appendix.

6. Plaintiff has demanded a jury.

Removal

7. OEC filed this action against Don Moorehead, Larry Buckle, IES (a company owned by Mr. Buckle), and John Condon on April 17, 2014. No federal claims were asserted at that time.

8. Moorehead filed a counterclaim that joined Gitschel as a counter-defendant.

9. OEC settled with Moorehead, and he was dismissed.

10. Meanwhile, some of the minority shareholders filed a lawsuit in Delaware against OEC and Gitschel, seeking to invalidate certain stock transactions. This would have the effect of removing Gitschel from control of OEC. This case is pending as *Darrin Stanton and HNL, LLC v. Organic Energy Corporation and George Gitschel*, No. 10945, in the Court of Chancery of Delaware (filed April 24, 2015).

11. On February 11, 2016, OEC and Gitschel filed a Second Amended Original Petition, which added the civil RICO claim and many other claims. OEC and Gitschel also joined 12 new defendants, including the Hansens and Darrin Stanton (the lead plaintiff in the Delaware lawsuit).

12. The Hansens were served with process on or about March 3, 2016. Defendants are filing this removal within 30 days as permitted by 28 U.S.C. § 1446. All defendants who have been properly joined and served consent to this removal.

13. Venue is proper in the Southern District of Texas, Houston Division, because Plaintiff is based in this District. However, as noted above, several defendants contest personal jurisdiction in Texas, and the Delaware Chancery Court may have jurisdiction over most if not all of the claims that were added by the Second Amended Original Petition.

The Court should therefore take jurisdiction of this case.

Respectfully submitted,

/s/ David C. Holmes

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ATTORNEY FOR DEFENDANTS
ONLY HANSEN AND CARL HANSEN

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading was sent either electronically, by fax, or by regular mail, postage prepaid, to all counsel of record on April 3, 2016.

/s/ David C. Holmes

11. Executed Service (Gitschel) (p. 45)
12. Agreed Order Dismissing Certain Claims and Parties with Prejudice (p. 48)
13. Agreed Order on Motion for Continuance (p. 50)
14. Agreed Order on Second Agreed Motion for Continuance (p. 52)
15. Order Granting Plaintiff's Unopposed Motion for Substitution of Counsel (p. 54)
16. Plaintiff's Second Amended Original Petition (p. 55)
17. Defendants Barney Gory and Jack Hodge's Original Answer (p. 211)
18. Defendants Mark Crawford, Michael Lark and Anthony W. Darwin's Original Answer (p. 213)
19. Defendant MSW Solutions, LLC's Original Answer (p. 215)
20. Defendants Gregory Harris and Kurt Gardner's Special Appearance, Plea in Abatement, and Original Answer with exhibits (p. 217)
21. Defendants Conly Hansen and Carl Hansen's Special Appearance, Plea in Abatement, and Original Answer with exhibits (p. 227)
22. Defendant Darrin Stanton's Original Answer to Plaintiff's Second Amended Original Petition and Affirmative Defenses (p. 237)
23. Docket Sheet (p. 241)

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Attorneys for Defendant Darrin Stanton

CAUSE NO. _____

ORGANIC ENERGY CORPORATION	§	IN THE DISTRICT COURT
	§	
PLAINTIFF	§	
	§	
v.	§	_____ JUDICIAL DISTRICT
	§	
DON MOOREHEAD, JOHN CONDON,	§	
AND LARRY BUCKLE, AND	§	
INTERNATIONAL ENGINEERING	§	
SERVICES, INC.	§	
	§	
DEFENDANTS	§	HARRIS COUNTY, TEXAS

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Organic Energy Corporation, Plaintiff, and files this its Original Petition against Don Moorehead, John Condon, Larry Buckle, and International Engineering Services, Inc., Defendants, and for its cause of action would respectfully show the Court as follows:

I.

RULE 47 STATEMENT

1. Plaintiff seeks monetary relief between \$200,000 and \$1,000,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

II.

PARTIES

2. Plaintiff Organic Energy Corporation (“Plaintiff”) is a Delaware corporation authorized to and doing business in Harris County, Texas.

3. Defendant Don Moorehead (“Moorehead”) is an individual residing in the State of Texas. Defendant Moorehead may be cited at his usual abode located at 10500 Fountainlake Drive, #237, Stafford, Texas 77477.

4. Defendant John Condon (“Condon”) is an individual residing in the State of California and transacting business in the State of Texas. Defendant Condon may be served at 75538 Desierto Drive, Indian Wells, California 92210.

5. Defendant Larry Buckle (“Buckle”) is an individual residing in the State of California and transacting business in the State of Texas. Defendant Buckle may be served at 1541 Tenth Avenue, Sacramento, California 95818.

6. Defendant International Engineering Services, Inc. (“IES”) is a California corporation not authorized to but doing business in the state of Texas. Defendant International Engineering Services, Inc. may be served by serving its registered agent, Larry Buckle, at 1541 Tenth Avenue, Sacramento, California 95818.

III.

VENUE

7. Venue is proper in Harris County in that all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County, Texas.

IV.

JURISDICTION

8. The Court has jurisdiction because Defendant Moorehead is an individual residing in the State of Texas. The Court has jurisdiction because Defendants Condon, Buckle and IES transacted business in the State of Texas. The Court has jurisdiction over the controversy because the damages are within the jurisdictional requirements of this court.

V.

SUMMARY OF FACTS

9. From September 2013 to January 2014, Plaintiff informally engaged Defendant Moorehead as an independent contractor having the title “Chief Development Officer” to locate

and develop business opportunities and financial opportunities for Plaintiff. During his tenure as Chief Development Officer, Defendant Moorehead did not locate or develop any new business opportunities or financial opportunities for Plaintiff. Despite the failure to perform, Defendant Moorehead was fully compensated by Plaintiff for his role as Chief Development Officer. Defendant Moorehead now falsely claims that he has not been fully compensated.

10. Defendant Moorehead also falsely claims to have performed services and incurred reimbursable expenses on behalf of Plaintiff during an earlier time frame, from January 2013 until August 2013. Such claims were not made until after Defendant Moorehead was fully compensated by Plaintiff for his role as Chief Development Officer. From January 2013 until August 2013, Defendant Moorehead performed no services for Plaintiff, but instead was handling personal matters overseas.

11. Defendant Moorehead signed an acknowledgement that he agreed with Plaintiff's travel policy, which requires, among other things, that all "expenses incurred must be necessary to the business of the company, must be in compliance with IRS regulations, and must represent a reasonable and appropriate use of company funds." Plaintiff's travel policy also requires the use of a company-designated travel agent for cost efficiency, as well as pre-approval of proposed travel. For the time frame following implementation of the travel policy, Defendant Moorehead ignored the requirement to use the designated agency, failed to secure pre-approval for any travel expenses, and failed to provide adequate documentation to meet IRS guidelines.

12. Defendants Moorehead and Buckle served as members of the Board of Directors of Plaintiff (the "Board"), and Defendant Condon served as Plaintiff's Chief Financial Officer. While serving as a member of the Board, Defendant Moorehead made groundless threats against Plaintiff in an attempt to extort money and interfere with Plaintiff's business and its relationships with its investors and business partners. Additionally, during his tenure as a member of the

Board, Defendant Moorehead conspired with Defendants Buckle and Condon to (i) remove George Gitschel, the founder of Plaintiff, from office, (ii) pay themselves unearned compensation and inappropriate expense reimbursements, including compensation under the terms of the Professional Services Agreement to which Defendant IES, the company owned by Buckle, was a party, and (iii) take control of Plaintiff's checking account and finances. Defendants Moorehead, Buckle, Condon and IES (collectively, the "Defendants") represented to third parties that Plaintiff's founder, George Gitschel, had a spending problem and that Plaintiff was facing imminent financial trouble.

13. In an attempt to carry out their conspiracy, Defendants Moorehead and Buckle called a meeting of the Board on short notice, in part for the purpose of removing George Gitschel from his positions with Plaintiff. In calling a meeting of the Board, Defendants presented materials to the other members of the Board which strongly suggested that Plaintiff was in dire financial straits, when in fact Plaintiff is and was not at the time in financial trouble.

14. Defendants failed to keep George Gitschel apprised of Plaintiff's financial status. Furthermore, Defendants Moorehead and Buckle, as members of the Board, failed to oversee Defendant Condon's work. While Defendant Condon served as Chief Financial Officer of Plaintiff, he failed to maintain proper financial records, which has resulted in Plaintiff having to hire third party bookkeepers and accountants to conduct a proper accounting of Plaintiff's finances and to correct Plaintiff's financial records. As a result, Plaintiff has incurred a large number of bookkeeping, accounting, and legal expenses. Additionally, as a result of Defendant Condon's failure to maintain proper financial records, Plaintiff's accounts receivable on its balance sheet have been reduced by eighty percent (80%).

15. During their tenure as members of the Board, Defendants Moorehead and Buckle failed to: (i) act in good faith, with the care of a prudent person, and in the best interest of

Plaintiff; (ii) refrain from self-dealing and receiving improper personal benefits; and (iii) make decisions on an informed basis, in good faith and in the honest belief that an action was taken in the best interest of Plaintiff.

16. During their tenure as members of the Board, Defendants Moorehead and Buckle withheld approval of an expenditure of funds for Patent Cooperation Treaty nationalization of the Plaintiff's 2.2 patent application in seven (7) countries and regions, favoring instead the payment of unearned compensation and unauthorized expenses to Defendant Moorehead.

17. As a result of the actions of Defendants, Plaintiff has been severely damaged, both as to its reputation and financially. Plaintiff thus files this lawsuit in order to protect the integrity of its business, and recover both economic and noneconomic damages from the Defendants. Furthermore, Plaintiff was required to retain legal counsel to pursue its legal claims. All conditions precedent have been performed or occurred pursuant to Texas Rule of Civil Procedure 54.

VI.

COUNT ONE: BREACH OF FIDUCIARY DUTY

18. Plaintiff reincorporates and realleges the factual allegations contained in the preceding paragraphs.

19. As members of the Board, Defendants Moorehead and Buckle owed fiduciary duties to Plaintiff. As Plaintiff's Chief Financial Officer, Defendant Condon also owed fiduciary duties to Plaintiff. Defendants breached their fiduciary duties to Plaintiff, as more particularly pleaded in the preceding paragraphs. As a result of Defendants' breach of their fiduciary duties, Plaintiff incurred actual damages in an amount in excess of the minimum jurisdictional limits of this court.

VII.

COUNT TWO: BREACH OF CONTRACT

20. Plaintiff reincorporates and realleges the factual allegations contained in the preceding paragraphs.

21. Defendant Moorehead entered into an informal independent contractor arrangement with Plaintiff. Pursuant to that arrangement, Plaintiff agreed to compensate and did fully compensate Defendant Moorehead in exchange for Defendant Moorehead's agreement to locate, develop, and present business and financial opportunities to Plaintiff. Defendant Moorehead breached such agreement in a material fashion, as more particularly pleaded in the preceding paragraphs. As a result of Defendant Moorehead's breaches and nonperformance, Plaintiff incurred actual damages in excess of the minimum jurisdictional limits of this court.

22. Furthermore, Defendant Buckle, through his company IES, entered into a professional services agreement with Plaintiff. Pursuant to that professional services agreement, Plaintiff agreed to compensate and did compensate Defendants Buckle and IES in exchange for the performance of engineering duties and other assigned tasks for Plaintiff. Defendants Buckle and IES breached such agreement in a material fashion, as more particularly pleaded in the preceding paragraphs. As a result of Defendants Buckle and IES's breaches and nonperformance, Plaintiff incurred actual damages in excess of the minimum jurisdictional limits of this court.

23. Furthermore, Defendant Condon, acting through his now-defunct company Vista Capital, LLC, entered into a professional services agreement with Plaintiff. Vista Capital, LLC is shown on the California Secretary of State's records as "cancelled," and consequently Defendant Condon, as its sole owner, is liable for its actions and debts. Pursuant to that professional services agreement, Plaintiff agreed to compensate and did compensate Defendant

Condon and his company Vista Capital, LLC in exchange for their agreement to locate, develop and present business and financial opportunities to Plaintiff, and perform accounting functions. Defendant Condon and his company Vista Capital, LLC breached such agreement in a material fashion, as more particularly pleaded in the preceding paragraphs. As a result of such breaches and nonperformance, Plaintiff incurred actual damages in excess of the minimum jurisdictional limits of this court.

24. Subsequent to Defendants' breaches, Plaintiff presented its claim to Defendants and made a demand in compromise of its damages. Defendants have not complied with Plaintiff's request. As a result, Plaintiff retained counsel to pursue its claim and seeks recovery of reasonable attorney's fees as allowed by Texas Civil Practice and Remedies Code Sections 38.001 through 38.006.

25. All conditions precedent have been performed or have occurred as required by Texas Rule of Civil Procedure 54.

VIII.

COUNT THREE: CONSPIRACY

26. Plaintiff incorporates the preceding paragraphs above as if fully set forth herein.

27. Defendants conspired to remove George Gitschel from the Board, with the unlawful purpose of tortiously interfering with Plaintiff's contractual relationships with its customers, and to unlawfully force Plaintiff to pay Defendants' personal expenses. The Defendants had a meeting of the minds on the object or course of action. The Defendants committed an unlawful, overt act to further the object or course of action as pled in the preceding paragraphs. As a result, Plaintiff has been damaged in an amount that exceeds the minimum jurisdictional limits of this court.

IX.

COUNT FOUR: AIDING AND ABETTING

28. Plaintiff incorporates the preceding paragraphs above as if fully set forth herein.

29. Defendants' activity of attempting to remove George Gitschel from the Board and from the office of CEO, and interfering with Plaintiff's attempts to raise capital, accomplished a tortious result and specifically pled in the preceding paragraphs. Each of the Defendants provided substantial assistance to the primary actor in accomplishing the tortious result. Defendants' own conduct was a breach of duty to Plaintiffs. The Defendants' actions were a substantial factor in causing the torts described above. As a result, Plaintiff has been damaged in an amount in excess of the minimum jurisdictional limits of this court, and Defendants are jointly and severally liable for said damages.

X.

COUNT FIVE: DECLARATORY JUDGMENT

30. Plaintiff incorporates the preceding paragraphs above as if fully set forth herein.

31. Plaintiff's rights are adversely affected by the Defendants. Therefore, pursuant to Texas Civil Practice and Remedy Code § 37.001 et seq., Plaintiff requests this Court to determine the following:

- A. Defendants are in breach of their agreements with Plaintiff;
- B. Defendants are not entitled to reimbursement of any expenses; and
- C. Defendants are not entitled to any further payments under their personal services agreements with Plaintiff.

Further, Plaintiff requests that this Honorable Court award Plaintiff all taxable court costs, reasonable and necessary attorney's fees, together with pre-judgment interest at the highest legal rates.

XI.

COUNT SIX: ATTORNEY'S FEES

32. Plaintiff reincorporates and realleges the factual allegations contained in the preceding paragraphs.

33. Plaintiff would show the Court that the recovery of attorney's fees is authorized as provided under and according to the provisions of Section 38.001 of the Texas Civil Practice and Remedies Code, and Plaintiff further sues for reasonable attorney's fees, including fees for any appeal, insomuch as Plaintiff has been required to employ the undersigned attorneys to file suit and has agreed to pay them reasonable attorney's fees for their services.

XII.

PRAYER

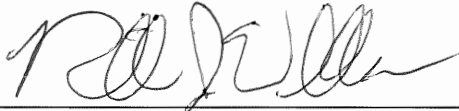
WHEREFORE, PREMISES CONSIDERED, Organic Energy Corporation, Plaintiff, prays that Defendants Don Moorehead, John Condon, Larry Buckle, and International Engineering Services, Inc. be cited to appear herein as provided by law and that upon hearing:

1. Organic Energy Corporation recover against Defendant Moorehead one hundred percent (100%) of all sums paid by Plaintiff to Defendant Moorehead while he was engaged as an independent contractor;
2. Organic Energy Corporation recover against Defendants Buckle, Condon, and IES, jointly and severally, one hundred percent (100%) of all sums paid by Plaintiff to Defendants Buckle, Condon, and IES while they were engaged with Organic Energy Corporation;
3. Organic Energy Corporation recover against Defendants, jointly and severally, one hundred percent (100%) of the sums it has expended to correct its financial records;

4. Plaintiff be awarded its attorney's fees expended in the trial of this matter, as well as conditional awards for any appeals which may be taken herefrom against Defendants pursuant to its causes of action herein;
5. Pre-judgment interest be assessed on all sums awarded herein at the highest lawful rate;
6. Post-judgment interest be assessed on all sums awarded herein at the highest lawful rate;
7. All costs of court be assessed against Defendants; and
8. Plaintiff be awarded such other and further relief to which it may show itself justly entitled, either at law or in equity.

Respectfully submitted,

SCHEEF & STONE, L.L.P.

By: 

Richard J. Wallace, III
State Bar No. 24008224

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Dallas, Texas 75201
(214) 706-4200
(214) 706-4242 (Fax)
richard.wallace@solidcounsel.com

ATTORNEYS FOR PLAINTIFF
ORGANIC ENERGY CORPORATION

CAUSE NO. 201421649

ORGANIC ENERGY CORPORATION	§	IN THE DISTRICT COURT
	§	
PLAINTIFF	§	
	§	
v.	§	113TH JUDICIAL DISTRICT
	§	
DON MOOREHEAD, JOHN CONDON,	§	
AND LARRY BUCKLE, AND	§	
INTERNATIONAL ENGINEERING	§	
SERVICES, INC.	§	
	§	
DEFENDANTS	§	HARRIS COUNTY, TEXAS

PLAINTIFF'S FIRST AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Organic Energy Corporation, Plaintiff, and files this its First Amended Petition against Don Moorehead, John Condon, Larry Buckle, and International Engineering Services, Inc., Defendants, and for its cause of action would respectfully show the Court as follows:

I.

RULE 47 STATEMENT

1. Plaintiff seeks monetary relief between \$200,000 and \$1,000,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

II.

PARTIES

2. Plaintiff Organic Energy Corporation ("Plaintiff") is a Delaware corporation authorized to and doing business in Harris County, Texas.

3. Defendant Don Moorehead ("Moorehead") is an individual residing in the State of Texas. Defendant Moorehead may be cited at his usual abode located at 10500 Fountainlake Drive, #237, Stafford, Texas 77477.

4. Defendant John Condon (“Condon”) is an individual residing in the State of California and transacting business in the State of Texas. Defendant Condon may be served at 75538 Desierto Drive, Indian Wells, California 92210.

5. Defendant Larry Buckle (“Buckle”) is an individual residing in the State of California and transacting business in the State of Texas. Defendant Buckle may be served at 1541 Tenth Avenue, Sacramento, California 95818.

6. Defendant International Engineering Services, Inc. (“IES”) is a California corporation not authorized to but doing business in the state of Texas. It does business in Harris County, and all or a substantial part of the events leading to this lawsuit occurred in Harris County, Texas. Defendant IES does not maintain a registered agent in the State of Texas. Furthermore, its registered agent in California, Larry Buckle, could not be located despite five (5) due diligence attempts by Jason Marshall, process server. A true and correct copy of the Declaration of Diligence is attached hereto as Ex. “A” and incorporated herein by reference. Therefore, pursuant to Section 17.044 of the TEX. CIV. PRAC. & REM. CODE, Defendant IES may be cited by serving the Secretary of State for the State of Texas, who is the agent for service of process for Defendant IES, at Post Office Box 12079, Austin, Texas 78711-2079. The Secretary of State is requested to forward the Citation and Petition by certified mail, return receipt requested, to Defendant IES at its home office.

International Engineering Services, Inc.
1017 L. Street, #296
Sacramento, California 95814.

III.

VENUE

7. Venue is proper in Harris County in that all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County, Texas.

IV.

JURISDICTION

8. The Court has jurisdiction because Defendant Moorehead is an individual residing in the State of Texas. The Court has jurisdiction because Defendants Condon, Buckle and IES transacted business in the State of Texas. The Court has jurisdiction over the controversy because the damages are within the jurisdictional requirements of this court.

V.

SUMMARY OF FACTS

9. From September 2013 to January 2014, Plaintiff informally engaged Defendant Moorehead as an independent contractor having the title “Chief Development Officer” to locate and develop business opportunities and financial opportunities for Plaintiff. During his tenure as Chief Development Officer, Defendant Moorehead did not locate or develop any new business opportunities or financial opportunities for Plaintiff. Despite the failure to perform, Defendant Moorehead was fully compensated by Plaintiff for his role as Chief Development Officer. Defendant Moorehead now falsely claims that he has not been fully compensated.

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a reasonable and appropriate use of company funds.” Plaintiff’s travel policy also requires the use of a company-designated travel agent for cost efficiency, as well as pre-approval of proposed travel. For the time frame following implementation of the travel policy, Defendant Moorehead ignored the requirement to use the designated agency, failed to secure pre-approval for any travel expenses, and failed to provide adequate documentation to meet IRS guidelines.

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15. During their tenure as members of the Board, Defendants Moorehead and Buckle failed to: (i) act in good faith, with the care of a prudent person, and in the best interest of Plaintiff; (ii) refrain from self-dealing and receiving improper personal benefits; and (iii) make decisions on an informed basis, in good faith and in the honest belief that an action was taken in the best interest of Plaintiff.

16. During their tenure as members of the Board, Defendants Moorehead and Buckle withheld approval of an expenditure of funds for Patent Cooperation Treaty nationalization of the Plaintiff's 2.2 patent application in seven (7) countries and regions, favoring instead the payment of unearned compensation and unauthorized expenses to Defendant Moorehead.

17. As a result of the actions of Defendants, Plaintiff has been severely damaged, both as to its reputation and financially. Plaintiff thus files this lawsuit in order to protect the integrity of its business, and recover both economic and noneconomic damages from the Defendants. Furthermore, Plaintiff was required to retain legal counsel to pursue its legal claims. All conditions precedent have been performed or occurred pursuant to Texas Rule of Civil Procedure 54.

VI.

COUNT ONE: BREACH OF FIDUCIARY DUTY

18. Plaintiff reincorporates and realleges the factual allegations contained in the preceding paragraphs.

19. As members of the Board, Defendants Moorehead and Buckle owed fiduciary duties to Plaintiff. As Plaintiff's Chief Financial Officer, Defendant Condon also owed fiduciary duties to Plaintiff. Defendants breached their fiduciary duties to Plaintiff, as more particularly pleaded in the preceding paragraphs. As a result of Defendants' breach of their fiduciary duties, Plaintiff incurred actual damages in an amount in excess of the minimum jurisdictional limits of this court.

VII.

COUNT TWO: BREACH OF CONTRACT

20. Plaintiff reincorporates and realleges the factual allegations contained in the preceding paragraphs.

21. Defendant Moorehead entered into an informal independent contractor arrangement with Plaintiff. Pursuant to that arrangement, Plaintiff agreed to compensate and did fully compensate Defendant Moorehead in exchange for Defendant Moorehead's agreement to locate, develop, and present business and financial opportunities to Plaintiff. Defendant Moorehead breached such agreement in a material fashion, as more particularly pleaded in the preceding paragraphs. As a result of Defendant Moorehead's breaches and nonperformance, Plaintiff incurred actual damages in excess of the minimum jurisdictional limits of this court.

22. Furthermore, Defendant Buckle, through his company IES, entered into a professional services agreement with Plaintiff. Pursuant to that professional services agreement, Plaintiff agreed to compensate and did compensate Defendants Buckle and IES in

exchange for the performance of engineering duties and other assigned tasks for Plaintiff. Defendants Buckle and IES breached such agreement in a material fashion, as more particularly pleaded in the preceding paragraphs. As a result of Defendants Buckle and IES's breaches and nonperformance, Plaintiff incurred actual damages in excess of the minimum jurisdictional limits of this court.

23. Furthermore, Defendant Condon, acting through his now-defunct company Vista Capital, LLC, entered into a professional services agreement with Plaintiff. Vista Capital, LLC is shown on the California Secretary of State's records as "cancelled," and consequently Defendant Condon, as its sole owner, is liable for its actions and debts. Pursuant to that professional services agreement, Plaintiff agreed to compensate and did compensate Defendant Condon and his company Vista Capital, LLC in exchange for their agreement to locate, develop and present business and financial opportunities to Plaintiff, and perform accounting functions. Defendant Condon and his company Vista Capital, LLC breached such agreement in a material fashion, as more particularly pleaded in the preceding paragraphs. As a result of such breaches and nonperformance, Plaintiff incurred actual damages in excess of the minimum jurisdictional limits of this court.

24. Subsequent to Defendants' breaches, Plaintiff presented its claim to Defendants and made a demand in compromise of its damages. Defendants have not complied with Plaintiff's request. As a result, Plaintiff retained counsel to pursue its claim and seeks recovery of reasonable attorney's fees as allowed by Texas Civil Practice and Remedies Code Sections 38.001 through 38.006.

25. All conditions precedent have been performed or have occurred as required by Texas Rule of Civil Procedure 54.

VIII.

COUNT THREE: CONSPIRACY

26. Plaintiff incorporates the preceding paragraphs above as if fully set forth herein.

27. Defendants conspired to remove George Gitschel from the Board, with the unlawful purpose of tortiously interfering with Plaintiff's contractual relationships with its customers, and to unlawfully force Plaintiff to pay Defendants' personal expenses. The Defendants had a meeting of the minds on the object or course of action. The Defendants committed an unlawful, overt act to further the object or course of action as pled in the preceding paragraphs. As a result, Plaintiff has been damaged in an amount that exceeds the minimum jurisdictional limits of this court.

IX.

COUNT FOUR: AIDING AND ABETTING

28. Plaintiff incorporates the preceding paragraphs above as if fully set forth herein.

29. Defendants' activity of attempting to remove George Gitschel from the Board and from the office of CEO, and interfering with Plaintiff's attempts to raise capital, accomplished a tortious result and specifically pled in the preceding paragraphs. Each of the Defendants provided substantial assistance to the primary actor in accomplishing the tortious result. Defendants' own conduct was a breach of duty to Plaintiffs. The Defendants' actions were a substantial factor in causing the torts described above. As a result, Plaintiff has been damaged in an amount in excess of the minimum jurisdictional limits of this court, and Defendants are jointly and severally liable for said damages.

X.

COUNT FIVE: DECLARATORY JUDGMENT

30. Plaintiff incorporates the preceding paragraphs above as if fully set forth herein.

31. Plaintiff's rights are adversely affected by the Defendants. Therefore, pursuant to Texas Civil Practice and Remedy Code § 37.001 et seq., Plaintiff requests this Court to determine the following:

- A. Defendants are in breach of their agreements with Plaintiff;
- B. Defendants are not entitled to reimbursement of any expenses; and
- C. Defendants are not entitled to any further payments under their personal services agreements with Plaintiff.

Further, Plaintiff requests that this Honorable Court award Plaintiff all taxable court costs, reasonable and necessary attorney's fees, together with pre-judgment interest at the highest legal rates.

XI.

COUNT SIX: ATTORNEY'S FEES

32. Plaintiff reincorporates and realleges the factual allegations contained in the preceding paragraphs.

33. Plaintiff would show the Court that the recovery of attorney's fees is authorized as provided under and according to the provisions of Section 38.001 of the Texas Civil Practice and Remedies Code, and Plaintiff further sues for reasonable attorney's fees, including fees for any appeal, insomuch as Plaintiff has been required to employ the undersigned attorneys to file suit and has agreed to pay them reasonable attorney's fees for their services.

XII.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Organic Energy Corporation, Plaintiff, prays that Defendants Don Moorehead, John Condon, Larry Buckle, and International Engineering Services, Inc. be cited to appear herein as provided by law and that upon hearing:

1. Organic Energy Corporation recover against Defendant Moorehead one hundred percent (100%) of all sums paid by Plaintiff to Defendant Moorehead while he was engaged as an independent contractor;
2. Organic Energy Corporation recover against Defendants Buckle, Condon, and IES, jointly and severally, one hundred percent (100%) of all sums paid by Plaintiff to Defendants Buckle, Condon, and IES while they were engaged with Organic Energy Corporation;
3. Organic Energy Corporation recover against Defendants, jointly and severally, one hundred percent (100%) of the sums it has expended to correct its financial records;
4. Plaintiff be awarded its attorney's fees expended in the trial of this matter, as well as conditional awards for any appeals which may be taken herefrom against Defendants pursuant to its causes of action herein;
5. Pre-judgment interest be assessed on all sums awarded herein at the highest lawful rate;
6. Post-judgment interest be assessed on all sums awarded herein at the highest lawful rate;
7. All costs of court be assessed against Defendants; and
8. Plaintiff be awarded such other and further relief to which it may show itself justly

entitled, either at law or in equity.

Respectfully submitted,

SCHEEF & STONE, L.L.P.

By: 
Richard J. Wallace, III
State Bar No. 24008224

500 North Akard, Suite 2700
Dallas, Texas 75201
(214) 706-4200
(214) 706-4242 (Fax)
richard.wallace@solidcounsel.com

ATTORNEYS FOR PLAINTIFF
ORGANIC ENERGY CORPORATION

Affidavit of Process Server

In The 113th Judicial District Court of Harris County, Texas

ORGANIC ENERGY CORPORATION vs DON MOOREHEAD, ET AL Case Number: 201421649

I, **Bill McElroy**, say that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Party Served: **JOHN CONDON**

Documents Served: **Citation with Petition**

Served at Place of Business: , **120 CACHANILLA COURT, PALM DESERT, CA 92260**

Date Served: **6/2/2014** Time of Service: **10:45 AM**

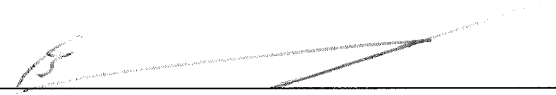
Manner of Service:

- PERSONAL SERVICE:** By personally delivering copies to the person being served.
 - SUBSTITUTED SERVICE AT RESIDENCE:** By personally delivering copies to the dwelling house or usual place of abode of the person (or authorized person on behalf of an entity) being served. Person receiving documents must be at least 18 years of age and should be informed of the general nature of the papers.
 - SUBSTITUTED SERVICE AT BUSINESS:** By leaving, during normal business hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
 - POSTING:** By affixing the documents to the door of the person/entity being served.
 - PHYSICAL ADDRESS UNKNOWN:** By leaving with a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
-
- Non-Service:** After due search, careful inquiry and diligent attempts at the address(es) listed , I have been unable to effect process upon the person/entity being served because of the following reasons(s) shown on the attached list of attempt(s)
 - Other:**



County: **Riverside**
Registration No.: **1267**
Janney and Janney Attorney Service, Inc
1545 Wilshire Blvd., Suite 311
Los Angeles, CA 90017
(213) 628-6338

I declare under penalty of perjury under the laws of The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: June 04, 2014 at Indio, California.

Signature: 
Bill McElroy

Order#: LA10086746 /NAPPS2010NONOTE

CAUSE NO. 201421649

RECEIPT NO. ***** PLAINTIFF: ORGANIC ENERGY CORPORATION vs. DEFENDANT: MOOREHEAD, DON	0.00 MTA TR # 73011671 In The 113th Judicial District Court of Harris County, Texas 113TH DISTRICT COURT Houston, TX
---	--

CITATION

THE STATE OF TEXAS
County of Harris

TO: CONDON, JOHN
75538 DESIERTO DRIVE, INDIAN WELLS CA 92210

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

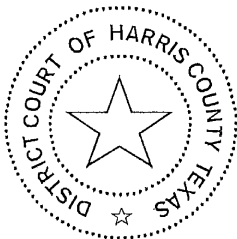
This instrument was filed on the 17th day of April, 2014, in the above cited cause number, and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 23rd day of April, 2014, under my hand and seal of said Court.

Issued at request of:
WALLACE, RICHARD JAMES III
500 N AKARD STE 2700
DALLAS, TX 75201
Tel: (214) 706-4200
Bar No.: 24008224



Chris Daniel
CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

GENERATED BY: MCCULLOUGH, WANDA C97//9816539

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock _____ .M., on the _____ day of _____, _____.

Executed at (address) _____ in

_____ County at _____ o'clock _____ .M., on the _____ day of _____,

_____, by delivering to _____ defendant, in person, a true copy of this Citation together with the accompanying _____ copy(ies) of the Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____, _____.

Fee: \$ _____

_____ of _____ County, Texas

By _____ Deputy

Affiant

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared: After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____, _____.

Notary Public



NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
DON MOOREHEAD, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

**DEFENDANT JOHN CONDON’S ORIGINAL ANSWER
AND COUNTERCLAIM**

Defendant John Condon files this Original Answer and Counterclaim, and would show the following:

Answer

1. Defendant generally denies Plaintiff’s allegations.

Counterclaim

2. Plaintiff retained Defendant to provide financial services. However, Plaintiff failed to pay for the services provided.
3. Plaintiff is therefore liable for breach of contract or, alternatively, under quantum meruit. Defendant is entitled to recover damages within the jurisdictional limits of the Court, plus attorneys’ fees, pre- and post-judgment interest as provided by law, and all costs of court.
4. All conditions precedent have occurred or been satisfied.

For the foregoing reasons, the Court should enter judgment that Plaintiff take nothing by way of this suit, that Defendant recover his actual damages, attorneys’ fees, pre- and post-judgment interest, and costs of court, and that Defendant received any other relief to which he may be entitled.

Respectfully submitted,

/s/ David C. Holmes

David C. Holmes
State Bar No. 09907150
Law Offices of David C. Holmes
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
Telephone: 713-586-8862
Fax: 713-586-8863
dholmes282@aol.com

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading was sent either electronically, by fax, or by regular mail, postage prepaid, to all counsel of record on June 20, 2014.

/s/ David C. Holmes

David C. Holmes

FILED
Chris Daniel
District Clerk
JUL 01 2014
Time: _____
By: _____
Harris County, Texas
Deputy

CAUSE NO. 2014-21649

P-2
SBSRX

ORGANIC ENERGY CORPORATION
v.
DON MOORHEAD, et al

§
§
§
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
113th JUDICIAL DISTRICT

ORDER GRANTING MOTION FOR SUBSTITUTE SERVICE

ON THIS DAY, the Court considered Plaintiff's Motion for Substitute Service Under Texas Rule of Civil Procedure 106. It appears to the Court that Plaintiff has attempted but failed to personally serve defendant **LARRY BUCKLE** at the said defendant's last known usual place of abode or business. It further appears to the Court that the manner of service ordered herein will be reasonably effective to give said defendant notice of the lawsuit. It is therefore,

ORDERED, that the Motion for Substitute Service is **GRANTED**. It is further,

ORDERED, that service of process may be made upon the defendant, either: (1) by leaving a true copy of the citation, with a copy of the Petition and this Order authorizing substituted service attached, with anyone over sixteen (16) years of age at **1541 TENTH AVENUE, SACRAMENTO, CALIFORNIA 95818**; or (2) by firmly affixing a true copy of the citation, with a copy of the Petition and this Order authorizing substitute service attached, to the front door of Defendant's last known usual place of abode or business at the above address.

It is further **ORDERED**, that the service made by the above method shall not be deemed perfected unless it also complies with the following provisions:

- (a) a copy of the citation, Petition, and this Order shall be mailed by BOTH certified mail, return receipt requested, AND by regular mail to the defendant at the same address at which service is authorized above;

Certified Document Number: 61434599 - Page 1 of 2

(b) the return of service shall not be made until 30 days after mailing or until the process server receives back the green card from the post office, whichever date is earlier;

(c) the return of service shall include a statement setting out the date of mailing and the result of the mailing by certified mail, and the date of mailing and result of same by regular mail (*i.e.*, whether the envelope was returned by the post office, the green card came back signed, etc.); and

(d) a copy of any envelope or green card returned by the post office shall be attached to the return of service.

It is further **ORDERED** that the return of service of the person executing service pursuant to this Order shall otherwise be made in accordance with Rule 107, Texas Rules of Civil Procedure. It is further

ORDERED that service of process will be deemed complete upon compliance with this Order, regardless of whether defendant signs the certified mail receipt.

Signed July 1, 2014.



Michael Landrum, Judge

NO. 2014-21649

ORGANIC ENERGY CORPORATION, § IN THE DISTRICT COURT OF
Plaintiff, §
VS. § HARRIS COUNTY, T E X A S
DON MOOREHEAD, et al., §
Defendants. § 113TH JUDICIAL DISTRICT

**DEFENDANT DON MOOREHEAD’S ORIGINAL ANSWER
AND COUNTERCLAIM**

Defendant Don Moorehead files this Original Answer and Counterclaim, and would show the following:

Answer

1. Defendant generally denies Plaintiff’s allegations.
2. Organic Energy Corporation (“OEC”) lacks standing to bring claims on behalf of George Gitschel. In fact, neither Gitschel nor Scheef & Stone, LLP are acting in the interests of OEC in this lawsuit. Instead, they are breaching their fiduciary duties to OEC and its shareholders by pursuing personal claims of Mr. Gitschel (in particular, the claims relating to the attempt of the other directors to end his fraudulent activities, ruinous management, and self-dealing by removing him from control of OEC) in the name of OEC and using the assets of OEC. This lawsuit represents a waste of corporate assets by OEC and Sheef & Stone, LLP and a breach of fiduciary duties by OEC and Sheef & Stone, LLP.

Counterclaim

3. Counter-Plaintiff Don Moorehead brings this Counterclaim against Counter-Defendants OEC and George Gitschel. This Counterclaim seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00.

4. Mr. Moorehead is a resident of Harris County, Texas.

5. OEC is a Delaware corporation with its principal place of business in Harris County, Texas. OEC has appeared in the lawsuit.

6. Gitschel is an individual residing in Harris County, Texas. He may be served with process at his place of business, Organic Energy Corporation, 700 Louisiana Street, Suite 3950, Houston, Texas 77002.

7. All conditions precedent have occurred or been satisfied.

Count 1: Breach of Contract by OEC

8. In January 2013, OEC (acting through Gitschel) hired Mr. Moorehead as Chief Development Officer and made him a member of the board of directors. OEC agreed to pay Mr. Moorehead \$120,000.00 per year for the first three months and \$150,000.00 per year after that time. Mr. Moorehead understood that OEC was short on cash at the time and that he would be paid in full as OEC acquired more capital.

9. OEC also agreed to pay Mr. Moorehead's business expenses relating to his activities as Chief Development Officer of OEC.

10. OEC breached the contract by failing to pay Mr. Moorehead's salary. In the fall of 2013, OEC stated that it would pay Mr. Moorehead \$90,000.00 per year, which it did from that point until the end of January 2014.

11. Meanwhile, without the approval of the board of directors, Gitschel raised his own salary from \$150,000.00 to \$180,000.00 and then to \$360,000.00. Gitschel also siphoned OEC assets to himself. When the other directors learned of Gitschel's financial improprieties, they sought to remove him from control of the company. Before this could be accomplished, Gitschel

fired Mr. Moorehead and another director on or about February 22, 2014. OEC never paid Mr. Moorehead his salary for February 2014.

12. OEC thus breached its contractual obligations to Mr. Moorehead and is liable for (a) Mr. Moorehead's unpaid salary from January to the fall of 2013 and for February 2014, (b) Mr. Moorehead's unpaid expenses, (c) pre- and post-judgment interest as provided by law, (d) reasonable attorneys' fees, and (e) all costs of court.

Count 2: Fraudulent Inducement by OEC and Gitschel

13. Gitschel is President and Chairman of the Board of OEC and is the majority shareholder of OEC.

14. In January 2013, Gitschel sought to induce Mr. Moorehead to go to work for OEC. He made a number of false statements of fact to induce Mr. Moorehead to accept a position:

- (a) He represented that OEC would pay a salary of \$120,000.00 to Mr. Moorehead, with the salary increasing to \$150,000.00 after three months. He also represented that he would not take a salary higher than that of Mr. Moorehead. He represented that OEC would pay Mr. Moorehead's expenses.
- (b) He represented that OEC would sell an equity interest in OEC to Mr. Moorehead, and in fact took \$45,000.00 from Mr. Moorehead for the equity interest.
- (c) He represented that OEC's proposed project in Lancaster, California was at a very advanced stage of negotiations.
- (d) He represented that OEC's proposed project in Los Angeles, California was at a very advanced stage of negotiations.

- (e) He represented that OEC was in negotiations in Dallas, Fort Worth, El Paso, and Austin.
- (f) He represented that he had strong connections in the heavy equipment industry, that he was a top producer for that industry, and that the firms in the heavy equipment industry considered him to be irreplaceable.
- (g) He represented that he had a good reputation in the waste industry.

15. Mr. Moorehead reasonably relied on these representations by OEC and Gitschel in deciding to go to work for OEC and in deciding to purchase an equity interest in OEC. If he had known that these representations were inaccurate, he would not have become involved with OEC.

16. In fact, all of the representations were false, and OEC and Gitschel knew that they were false when made:

- (a) OEC and Gitschel never intended to pay Mr. Moorehead's salary, as shown by the fact that they never did and by the fact that Gitschel subsequently denied that Mr. Moorehead was even an employee. Instead, Gitschel lied that Mr. Moorehead was a contractor and that Mr. Moorehead never had a salary arrangement. Gitschel also raised his own salary to a level higher than Mr. Moorehead's salary, and he did so without the approval of the board of directors.
- (b) Despite taking Mr. Moorehead's money, OEC and Gitschel never intended to recognize Mr. Moorehead's equity interest, as shown by the fact that they denied that they sold him stock and claimed that his payment of \$45,000.00 (\$20,000.00 of which was later repaid) was a gratuitous contribution. In fact, Gitschel used

the money from Mr. Moorehead to pay his children's private school tuition, thus effectively stealing the money from OEC.

- (c) Mr. Moorehead learned that the Lancaster, California project was totally dead and had already been dead when Gitschel made his representations.
- (d) Mr. Moorehead learned that the Los Angeles, California project was totally dead and had already been dead when Gitschel made his representations.
- (e) Mr. Moorehead learned that the Dallas, Fort Worth, El Paso, and Austin projects were not in negotiations and had not been in negotiations when Gitschel made his representations.
- (f) Mr. Moorehead learned that Gitschel did not have good connections in the heavy equipment industry and, in fact, that none of the companies in that industry wanted anything to do with him. He was not a top producer and was not considered irreplaceable.
- (g) Mr. Moorehead learned that Gitschel had a terrible reputation in the waste industry.

17. Mr. Moorehead was shocked to learn these facts. In the following months, he learned that Gitschel was an inept manager, that he had burned his bridges with many important potential customers, that he was skimming money out of OEC, that he was making false representations to potential investors, that he was not complying with the registration requirements of the securities law, and that he was taking adverse steps for the company (such as raising his own salary while ordering that vendors not be paid) without consulting with or obtaining the approval of the board of directors. Gitschel was operating OEC as a sort of Ponzi scheme, defrauding new investors and using their money to pay his own expenses. Gitschel

wanted to spend even more money to register the company's patents in foreign countries, even though OEC had no prospect of doing business in those countries. This would permit Gitschel to falsely portray OEC as an international concern to potential investors. Mr. Moorehead has since learned that OEC's attorneys (Sheef & Stone) were advising Gitschel to transfer the patents from the company to himself.

18. After learning of the rampant fraud, self-dealing, and mismanagement by Gitschel, Mr. Moorehead and another director (Larry Buckle) decided that Gitschel should be removed immediately as president of the company. They had received an extensive report from John Condon outlining many of Gitschel's unlawful actions. Before they could remove Mr. Gitschel as president, however, Gitschel fired them from the board of directors. Gitschel stated, "I own 62% of the stock. Fuck the rest of the shareholders."

19. OEC and Gitschel willfully committed common law fraud by inducing Mr. Moorehead to go to work for OEC, to expend efforts on behalf of OEC, and to incur expenses on behalf of OEC. OEC and Gitschel are liable, jointly and severally, for (a) the value of the services rendered by Mr. Moorehead (which is the same as the amount that he is owed as salary), (b) the expenses incurred by Mr. Moorehead, (c) punitive damages as provided by law, (d) pre- and post-judgment interest as provided by law, and (d) all costs of court.

20. In addition, OEC and Gitschel committed stock fraud with actual awareness of the falsity of the representations and promises, in violation of chapter 26 of the Texas Business and Commerce Code. OEC and Gitschel are liable, jointly and severally, for (a) the sum that Mr. Moorehead paid for his stock, less the amount that has already been refunded, for a total of \$25,000.00, (b) punitive damages as provided by law, (c) pre- and post-judgment interest as provided by law, (d) attorneys' fees, expert fees, and deposition costs, and (e) all costs of court.

21. In addition and in the alternative to paragraph 20, OEC and Gitschel violated the Texas Securities Act. Gitschel is a control person of OEC. OEC and Gitschel are liable, jointly and severally, for (a) rescission and/or damages, (b) pre- and post-judgment interest as provided by law, (c) reasonable attorneys' fees, and (d) all costs of court.

Count 3: Fraudulent Transfer Claim Against Gitschel

22. Mr. Moorehead is a present creditor of OEC for purpose of the Texas Uniform Fraudulent Transfer Act ("TUFTA"), in that OEC owes him for salary and expenses, and in that he has fraud and securities fraud claims against OEC. Mr. Moorehead has been a present creditor of OEC since January 2013.

23. At all times relevant to this lawsuit, Gitschel has been an insider for purposes of TUFTA.

24. At all times relevant to this lawsuit, OEC has been insolvent for purposes of TUFTA, in that its debts exceed its assets, and in that it is not paying its debts as they come due.

25. Since January 2013 and continuing to the present day, Gitschel has systematically looted and diverted the assets of OEC for his own purposes, has paid his own debts with the assets of OEC, and has incurred personal debts in the name of OEC. In particular:

- (a) These transfers were made, or obligations incurred, with actual intent to delay, hinder, or defraud the creditors of OEC.
- (b) The transfers were made, or obligations incurred, without receiving a reasonably equivalent value, when either (i) OEC was engaged or was about to engage in a business or a transaction for which the remaining assets of OEC or were unreasonably small in relation to the business or transaction, or (ii) OEC intended

to incur, or believed or reasonably should have believed that it would incur, debts beyond the its ability to pay as they became due.

- (c) OEC made the transfers or incurred the obligations without receiving a reasonably equivalent value in exchange for the transfers or obligations, and it was insolvent at that time or became insolvent as a result of the transfer or obligation.
- (d) OEC made the transfers to an insider for an antecedent debt, OEC was insolvent at that time, and the insider had reasonable cause to believe that OEC was insolvent.

26. The Court should therefore set aside the transfers and obligations to the extent necessary to allow Mr. Moorehead to recover his claim against OEC. Gitschel is therefore liable to Mr. Moorehead for the amount of Mr. Moorehead's recovery against OEC. Alternatively, the Court should permit Mr. Moorehead to execute directly against the assets held by Gitschel.

27. To the extent that OEC has transferred discrete assets to Gitschel, the Court should appoint a receiver to recover those assets and to preserve them for Mr. Moorehead.

28. The Court should also order Gitschel to pay attorneys' fees and all costs of court.

Count 4: Receivership of OEC

29. Mr. Moorehead is a shareholder of OEC and a creditor of OEC. As discussed above, Gitschel has been wasting and stealing the assets of OEC. OEC is now hopelessly insolvent, and its existence depends on ongoing fraud against unsuspecting investors.

30. OEC is a Delaware corporation. Section 291 of the Delaware Corporation Law states:

Whenever a corporation shall be insolvent, the Court of Chancery, on the application of any creditor or stockholder thereof, may, at any time, appoint 1 or more persons to be receivers of and for the corporation, to take charge of its assets, estate, effects, business and affairs, and to collect the outstanding debts,

claims, and property due and belonging to the corporation, with power to prosecute and defend, in the name of the corporation or otherwise, all claims or suits, to appoint an agent or agents under them, and to do all other acts which might be done by the corporation and which may be necessary or proper. The powers of the receivers shall be such and shall continue so long as the Court shall deem necessary.

31. Given the rampant fraud, waste, and mismanagement by Gitschel, the Court should appoint a receiver to take charge of OEC and to perform the tasks set forth in section 291. The Court should oust Gitschel from managerial control and direct the receiver to provide an accounting of all funds and assets removed by Gitschel from OEC and all obligations incurred by Gitschel for OEC.

Jury Demand

32. Mr. Moorehead demands a trial by jury.

For the foregoing reasons, the Court should enter judgment that Plaintiff take nothing by way of this suit, that Defendant recover his damages, attorneys' fees, pre- and post-judgment interest, and costs of court from Plaintiff and Gitschel, that the Court appoint a receiver for Plaintiff, and that Defendant received any other relief to which he may be entitled.

Respectfully submitted,

/s/ David C. Holmes

David C. Holmes

State Bar No. 09907150

Law Offices of David C. Holmes

13201 Northwest Freeway, Suite 800

Houston, Texas 77040

Telephone: 713-586-8862

Fax: 713-586-8863

dholmes282@aol.com

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading was sent either electronically, by fax, or by regular mail, postage prepaid, to all counsel of record on July 18, 2014.

/s/ David C. Holmes

David C. Holmes



The State of Texas
Secretary of State

2014-242077-1

I, the undersigned, as Secretary of State of Texas DO HEREBY CERTIFY that according to the records of this office, a copy of the Citation and Plaintiff's First Amended Petition in the cause styled:

Organic Energy Corporation VS Don Moorehead
113th Judicial District Court Of Harris County, Texas
Cause No: 201421649

was received by this office on July 9, 2014, and that a copy was forwarded on July 15, 2014, by CERTIFIED MAIL, return receipt requested to:

International Engineering Services Inc
1017 L Street #296
Sacramento, CA 95814

The RETURN RECEIPT was received in this office dated July 18, 2014, bearing signature.



Date issued: July 21, 2014

NANDITA BERRY

Nandita Berry
Secretary of State

CT/vo

NO. 2014-21649

ORGANIC ENERGY CORPORATION, § IN THE DISTRICT COURT OF
Plaintiff, §
VS. § HARRIS COUNTY, T E X A S
DON MOOREHEAD, et al., §
Defendants. § 113TH JUDICIAL DISTRICT

DEFENDANT LARRY BUCKLE AND INTERNATIONAL ENGINEERING SERVICES, INC.’S ORIGINAL ANSWER

Defendant Larry Buckle and International Engineering Services, Inc. file this Original Answer, and would show the following:

1. Defendants generally deny Plaintiff’s allegations.

For the foregoing reasons, the Court should enter judgment that Plaintiff take nothing by way of this suit and that Defendant recover his costs of court.

Respectfully submitted,

/s/ David C. Holmes
David C. Holmes
State Bar No. 09907150
Law Offices of David C. Holmes
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
Telephone: 713-586-8862
Fax: 713-586-8863
dholmes282@aol.com

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading was sent either electronically, by fax, or by regular mail, postage prepaid, to all counsel of record on August 1, 2014.

/s/ David C. Holmes
David C. Holmes

CAUSE NO. 201421649

RECEIPT NO. 0.00 MTA
***** TR # 73011672

PLAINTIFF: ORGANIC ENERGY CORPORATION
vs.
DEFENDANT: MOOREHEAD, DON
In The 113th
Judicial District Court
of Harris County, Texas
113TH DISTRICT COURT
Houston, TX

CITATION

THE STATE OF TEXAS
County of Harris

TO: BUCKLE, LARRY
1541 TENTH AVENUE, SACRAMENTO CA 95818

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on the 17th day of April, 2014, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 23rd day of April, 2014, under my hand and seal of said Court.

Issued at request of:
WALLACE, RICHARD JAMES III
500 N AKARD STE 2700
DALLAS, TX 75201
Tel: (214) 706-4200
Bar No.: 24008224



Chris Daniel
CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

GENERATED BY: MCCULLOUGH, WANDA C97//9816539

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at 10:30 o'clock A.M., on the 17th day of May, 2014.

Executed at (address) 1541 Tenth Ave, Sacramento CA 95818 in

Sacramento County at 4:22 o'clock P.M., on the 17th day of July,

2014, by delivering to Posting at Residence of Don Moorehead defendant, in person, a true copy of this Citation together with the accompanying _____ copy(ies) of the Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____, _____.

Fee: \$ _____

_____ of _____ County, Texas

Maks

Affiant

By _____

Deputy

On this day, Janson Marshall, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this 17 day of July, 2014.

A. Cervantes-Brennan
Notary Public



N.INT.CITR.P



Affidavit of Process Server

In The 113th Judicial District Court of Harris County, Texas

ORGANIC ENERGY CORPORATION vs DON MOOREHEAD, ET AL Case Number: 201421649

I Jason Marshall, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundries of the state where service was effected, I was authorized by law to perform said service.

Party Served: LARRY BUCKLE

Documents Served: Citation with Petition; Order Granting Motion for Substitute Service

Served at Residence: 1541 TENTH AVENUE, SACRAMENTO, CA 95818

Date Served: 7/11/2014 Time of Service: 7:00 PM

Thereafter copies of the documents were mailed

Manner of Service:

- PERSONAL SERVICE: By personally delivering copies to the person being served.
- SUBSTITUTED SERVICE AT RESIDENCE: By personally delivering copies to the dwelling house or usual place of abode of the person (or authorized person on behalf of an entity) being served. Person receiving documents must be at least 18 years of age and should be informed of the general nature of the papers.
- SUBSTITUTED SERVICE AT BUSINESS: By leaving, during normal business hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
- POSTING: By affixing the documents to the door of the person/entity being served.
- PHYSICAL ADDRESS UNKNOWN: By leaving with a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

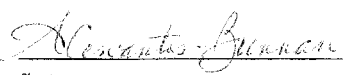
Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed, I have been unable to effect process upon the person/entity being served because of the following reasons(s) shown on the attached list of attempt(s)

Other:

State of California
County of Placer


SIGNATURE OF PROCESS SERVER

Subscribed and sworn to (or affirmed) before me on this 25 day of July, 2014 by
Jason Marshall, proved to me on the basis of satisfactory evidence to be the person(s) before me.


Signature (Notary Seal)



Order#: LA10089745 /NAPPS20

Certified Document Number: 61828279 - Page 2 of 2

CAUSE NO. 201421649

T.H. P.3

RECEIPT NO. 70.00 CO1 ***** TR # 73038812

~~CC#~~

PLAINTIFF: ORGANIC ENERGY CORPORATION
vs.
DEFENDANT: MOOREHEAD, DON

In The 113th
Judicial District Court
of Harris County, Texas
113TH DISTRICT COURT
Houston, TX

4923 Palmetto Relair 77461

CITATION

Xfer 1043 1043

THE STATE OF TEXAS
County of Harris

FILED
Chris Daniel
District Clerk
AUG 01 2014
Harris County, Texas
Deputy

TO: GITSCHER, GEORGE
700 LOUISIANA STREET SUITE 3950 HOUSTON TX 77002

Attached is a copy of ORIGINAL ANSWER AND COUNTERCLAIM

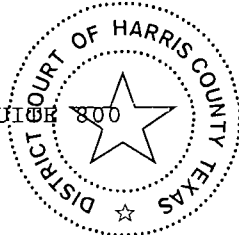
This instrument was filed on the 18th day of July, 2014, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 23rd day of July, 2014, under my hand and seal of said Court.

Issued at request of:
HOLMES, DAVID C.
13201 NORTHWEST FREEWAY SUITE 800
HOUSTON, TX 77040
Tel: (713) 586-8862
Bar No.: 9907150



Chris Daniel
CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

GENERATED BY: MCCULLOUGH, WANDA C97//9886512

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock _____ .M., on the _____ day of _____.

Executed at (address) _____ in

_____ County at _____ o'clock _____ .M., on the _____ day of _____,

_____, by delivering to _____ defendant, in person, a true copy of this Citation together with the accompanying _____ copy(ies) of the _____ Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____.

Fee: \$ _____

_____ of _____ County, Texas

By _____ Deputy

Affiant

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

BORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____.

Notary Public

N INT CITR P



CONFIRMED FILE DATE: 8/1/2014

Certified Document Number 6 - Page 1 of 3

Constable Return Of Individual

Cause #: 201421649

Tracking #: 73038812

In the case of ORGANIC ENERGY CORPORATION VS MOOREHEAD, DON a CITATION and attached ORIGINAL ANSWER AND COUNTER CLAIM was issued by the 113TH DISTRICT COURT court of HARRIS County, TEXAS and came to hand on the 24 day of July, 2014 at 10:33AM to be delivered at 700 Louisiana Street 3950, Houston, TX 77002 by delivering to: GITSCHEL,GEORGE

Attempted Service

(Attempted service at 700 Louisiana Street, 3950, Houston, TX, 77002 unless otherwise noted.)

Date	Time	Service Attempt Type	Remarks
7/25/2014	3:45 09 PM	OTHER	TRANSFER TO 1C43 TO BE SERVED AT 4923 PALMETTO BELLAIRE,TEX 77401 PER PLANTIVE ATTORNEY

NOT EXECUTED to the defendant: GITSCHEL,GEORGE

The information received as to the whereabouts of the said defendant(s) being:

Fee \$ 70.00

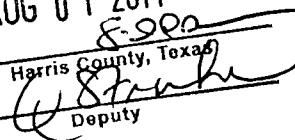
by Deputy Oliver Davis
Printed

Deputy Signature 

Attempts: 1

Al Rosen , Constable Precinct #1
Harris County Texas

1302 Preston St, 3rd Fl
Houston, Texas 77002
713-755-5200

FILED
Chris Daniel
District Clerk
AUG 01 2014
Time: 8:00a
Harris County, Texas
By 
Deputy

Constable Return Of Individual

Cause #: 201421649

Tracking #: 73038812

In the case of ORGANIC ENERGY CORPORATION VS MOOREHEAD, DON a CITATION and attached ORIGINAL ANSWER AND COUNTER CLAIM was issued by the 113TH DISTRICT court of HARRIS County, TEXAS and came to hand on the 24 day of July, 2014 at 10:33AM to be delivered at 4923 Palmetto Street, Bellaire, TX 77401 by delivering to: GITSCHEL,GEORGE

Service of Individual

Executed in HARRIS County, Texas by delivering to each of the within name defendant(s) by ; a true copy of this CITATION together with the accompanying copy of the ORIGINAL ANSWER AND COUNTER CLAIM, at the following times and places:

Name	Date	Time	Full Address of Service
GITSCHEL.GEORGE	7/30/2014	6.25AM	4923 Palmetto Street, Bellaire, TX, 77401

Fee \$ 70 00

by Deputy Randy Marcks

Printed

Deputy Signature *Randy Marcks 1043*

Attempts: 2

Al Rosen , Constable Precinct #1

Harris County Texas

1302 Preston St, 3rd Fl
Houston, Texas 77002
713-755-5200

FILED

Chris Daniel
District Clerk

AUG 01 2014

Time: *E. J. J.*
Harris County, Texas

By *Q. Stauhe*
Deputy

CAUSE NO. 201421649

ORGANIC ENERGY CORPORATION	§	IN THE DISTRICT COURT
	§	
PLAINTIFF	§	
	§	
v.	§	113TH JUDICIAL DISTRICT
	§	
DON MOOREHEAD, JOHN CONDON,	§	
AND LARRY BUCKLE, AND	§	
INTERNATIONAL ENGINEERING	§	
SERVICES, INC.	§	
	§	
DEFENDANTS	§	HARRIS COUNTY, TEXAS

AGREED ORDER DISMISSING CERTAIN CLAIMS AND PARTIES WITH PREJUDICE

Having been advised that all matters between Plaintiff/Counter-Defendant Organic Energy Corporation and Defendant/Counter-Plaintiff Don Moorehead have been resolved, the Court makes the following determination.


It is ORDERED, ADJUDGED and DECREED that all claims by and between Organic Energy Corporation and Don Moorehead are hereby dismissed WITH PREJUDICE. It is further

ORDERED, ADJUDGED and DECREED that all claims by Don Moorehead against George Gitschel are hereby dismissed WITH PREJUDICE.

This order does not affect any claims between Organic Energy Corporation and John Condon, Larry Buckle, and International Engineering Services, Inc. All pending claims and counterclaims of the remaining parties are not being dismissed but will continue to be pursued by the holder of those claims.

It is further ORDERED, ADJUDGED and DECREED that all costs of suit and attorney's fees will be borne by the party being dismissed as to the claims addressed in this order only.

SIGNED this _____ day of _____, 2015.

Signed: 
6/15/2015

JUDGE PRESIDING

AGREED:

SCHEEF & STONE, L.L.P.

By: /s/ Richard J. Wallace, III
Richard J. Wallace, III
State Bar No. 24008224
500 North Akard, Suite 2700
Dallas, Texas 75201
(214) 706-4200
(214) 706-4242 (Fax)
richard.wallace@solidcounsel.com

ATTORNEY FOR PLAINTIFF/
COUNTER-DEFENDANT ORGANIC
ENERGY CORPORATION

By: /s/ David C. Holmes
David C. Holmes
Texas Bar No. 09907150

Law Offices of David C. Holmes
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
(713) 586-8862 Telephone
(713) 586-8863 Facsimile
dholmes282@aol.com

ATTORNEY FOR DEFENDANTS AND
COUNTER-PLAINTIFFS DON MOOREHEAD,
JOHN CONDON, LARRY BUCKLE, AND
INTERNATIONAL ENGINEERING SERVICES, INC.

CAUSE NO. 201421649

ORGANIC ENERGY CORPORATION	§	IN THE DISTRICT COURT
	§	
PLAINTIFF	§	
	§	
v.	§	113TH JUDICIAL DISTRICT
	§	
DON MOOREHEAD, JOHN CONDON,	§	
AND LARRY BUCKLE, AND	§	
INTERNATIONAL ENGINEERING	§	
SERVICES, INC.	§	
	§	
DEFENDANTS	§	HARRIS COUNTY, TEXAS

AGREED ORDER ON MOTION FOR CONTINUANCE

On this date, came to be considered the Agreed Motion for Continuance filed by Organic Energy Corporation, Plaintiff in the above-entitled and numbered cause. The Court, having considered the Motion, is of the opinion that such Motion is proper and should be granted.

IT IS THEREFORE ORDERED that the current trial setting of August 31, 2015 (the "Initial Trial Setting"), shall be continued to the first available date on or after 180 days from the date of the Initial Trial Setting. It is further

ORDERED that the Court's Docket Control Order dated September 30, 2014 is hereby VACATED, and the parties are ordered to submit a new Scheduling Order to the Court.

SIGNED on _____, 2015.

Signed: 
6/15/2015

JUDGE PRESIDING

AGREED:

SCHEEF & STONE, L.L.P.

By: /s/ Richard J. Wallace, III
Richard J. Wallace, III
State Bar No. 24008224
500 North Akard, Suite 2700
Dallas, Texas 75201
(214) 706-4200
(214) 706-4242 (Fax)
richard.wallace@solidcounsel.com

ATTORNEY FOR PLAINTIFF AND COUNTER-DEFENDANT
ORGANIC ENERGY CORPORATION

LAW OFFICES OF DAVID C. HOLMES

By: /s/ David C. Holmes
David C. Holmes
State Bar No. 09907150
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
713-586-8862
713-586-8863 (fax)
DHolmes282@aol.com

ATTORNEYS FOR DEFENDANT/COUNTER-PLAINTIFFS
DON MOOREHEAD, JOHN CONDON, LARRY BUCKLE AND INTERNATIONAL
ENGINEERING SERVICES, INC.

AGREED:

SCHEEF & STONE, L.L.P.

By: /s/ Richard J. Wallace, III
Richard J. Wallace, III
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500 North Akard, Suite 2700
Dallas, Texas 75201
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richard.wallace@solidcounsel.com

ATTORNEY FOR PLAINTIFF AND COUNTER-DEFENDANT
ORGANIC ENERGY CORPORATION

LAW OFFICES OF DAVID C. HOLMES

By: /s/ David C. Holmes
David C. Holmes
State Bar No. 09907150
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
713-586-8862
713-586-8863 (fax)
DHolmes282@aol.com

ATTORNEYS FOR DEFENDANT/COUNTER-PLAINTIFFS
JOHN CONDON, LARRY BUCKLE AND
INTERNATIONAL ENGINEERING SERVICES, INC.

AGREED ORDER ON SECOND MOTION FOR CONTINUANCE

PAGE 2

12/23/2015 2:48:06 PM
Chris Daniel - District Clerk
Harris County
Envelope No: 8363383
By: ARNIC, DELTON
Filed: 12/23/2015 2:48:06 PM

Pgs-1

CASE NO. 2014-21649

SBATX

ORGANIC ENERGY CORPORATION	§	IN THE DISTRICT COURT OF
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
MOOREHEAD, DON	§	113 TH JUDICIAL DISTRICT

**ORDER GRANTING PLAINTIFF'S UNOPPOSED MOTION
FOR SUBSTITUTION OF COUNSEL**

On this _____ day of _____, 201____, came on to be considered Plaintiff's Unopposed Motion for Substitution of Counsel, and, after reviewing the Motion, this Court finds that said Motion should be GRANTED.

It is therefore ORDERED that attorney Kenneth T. Fibich and Jay Henderson of the law firm of Fibich, Leebron, Copeland, Briggs & Josephson, 1150 Bissonnet, Houston, Texas 77005, are substituted as attorneys of record for Plaintiff Organic Energy Corporation in place of attorney Richard James Wallace, III of the law firm Scheef & Stone, LLP, 500 N. Akard St., Ste. 2700, Dallas, TX 75201-3306.

SIGNED AND ENTERED this _____ day of _____, 201____.

Signed: 
12/28/2015
PRESIDING JUDGE

Darwin (“Darwin”), and Mark Martin (“Martin”), and for cause of action would show the court and jury as follows:

I. NATURE OF THE CASE

2. OEC is a company whose quest is to be the world's most transformative renewable energy, sustainable products and environmental company. OEC intends to accomplish this goal by using a patented process that is capable of transforming virtually all municipal solid waste (MSW) into reusable products, raw materials, or energy. OEC’s technology permits one to “disassemble” the waste stream into something useful. This shift in thinking, to the idea that essentially everything in the garbage is valuable, is what sets OEC apart. Depending upon the character of any given waste stream and the back-end processes employed, it is possible to achieve true zero-waste with OEC's MaxDiverter™ technology.

3. OEC and Gitschel have been compelled to file this lawsuit in the interest of justice to demand a reckoning by the defendants for their relentless, conspiratorial, and repugnant behavior, the goal of which was to either thwart the goals of OEC or steal the technology upon which OEC’s processes are based. The actions in which the defendants have engaged were ruthless, complex, and deviant.

More importantly, these actions are tortious and otherwise inconsistent with the conduct expected of civilized individuals, thereby exposing these defendants to substantial, joint and several liability, as more fully explained in this petition.

4. A primary goal of this lawsuit is to free OEC and its world-altering technology from the bonds sought to be imposed on it by the defendants. OEC and Gitschel seek the liberty to market its dramatically innovative technology to those who would benefit from it the most – the citizens of the earth. However, the law demands accountability by those who have chosen the path of malevolence, immorality, and greed. Hence, OEC and Gitschel seek the full recovery of damages to which is shall be shown to be entitled at the time of trial by jury in this matter.

II. PARTIES

5. Plaintiff Organic Energy Corporation is a corporation authorized to and doing business in Harris County, Texas.

6. Plaintiff George Gitschel, one of the founders and the majority shareholder of OEC, now joins this lawsuit based upon his affirmation that he asserts a right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction,

occurrence, or series of transactions or occurrences that form the basis of this lawsuit, and there will be questions of law or fact common to this lawsuit that will arise in the action. Gitschel is a resident of Harris County, Texas. Gitschel seeks relief as further delineated in this petition.

7. Defendant Larry Buckle (“Buckle”) has answered and made an appearance in this matter so that no further action is necessary with respect to this party.

8. Defendant International Engineering Services, Inc. has answered and made an appearance in this matter so that no further action is necessary with respect to this party.

9. Defendant John Condon (“Condon”) has answered and made an appearance in this matter so that no further action is necessary with respect to this party.

10. Defendant Mark Stanton Crawford, Individually, resides at 6723 Bradham Way, Sugarland, TX 77479, Fort Bend County, Texas. He may be served with process at his place of residence noted above.

11. Defendant Mark Stanton Crawford, manager and/or member of MSW Solutions, LLC, is a manager and/or member of MSW Solutions, LLC. He may be served with process at the offices

of MSW Solutions, LLC, 400 South Zang Blvd., Suite 500, Dallas, TX 75208.

12. Defendant Darrin Stanton, Individually, resides at 6971 Santa Maria Lane, Dallas, Texas 75214. He may be served with process at his place of residence noted above.

13. Defendant Darrin Stanton, manager and/or member of MSW Solutions, LLC, is a manager and/or member of MSW Solutions, LLC. He may be served with process at the offices of MSW Solutions, LLC, 400 South Zang Blvd., Suite 500, Dallas, TX 75208.

14. Defendant Barney Gorey, Individually, resides at 13276 Williamsburg Drive, Walker, LA 70785-5541. He may be served with process at his place of residence noted above.

15. Defendant Barney Gorey, manager and/or member of MSW Solutions, LLC, is a manager and/or member of MSW Solutions, LLC. He may be served with process at the offices of MSW Solutions, LLC, 400 South Zang Blvd., Suite 500, Dallas, TX 75208.

16. Defendant Gregory Harris is an individual who resides at 4408 Sugarland Court, Concord, California, 94521-4309. He may be served with process at his place of residence.

17. Defendant Kurt Gardner is an individual who resides at 1335 New Hampshire Drive, Concord, California, 94521-3804. He may be served with process at his place of residence.

18. Defendant Conly Hansen is an individual who resides at 1310 E 3100 N, Logan, UT 84341-1638. He may be served with process at his place of residence.

19. Defendant Carl Hansen is an individual who resides at 15600 N. 4005 W, Garland, UT 84341-1638. He may be served with process at his place of residence.

20. Defendant Michael Lark is an individual who resides at 1521 A Lake Street, San Francisco, CA 94118. He may be served with process at his place of residence.

21. Defendant Jack Hodge is an individual who resides at 5506 Windmier Circle, Dallas, TX 75252. He may be served with process at his place of residence.

22. Defendant Anthony W. Darwin is an individual who resides and has a home office at 6504 Turner Way, Dallas, TX 75230. He may be served with process at his place of residence.

23. Defendant Mark Martin is an individual who has a home office at 6504 Turner Way, Dallas, TX 75230. He may be served with process at his home office.

III. JURISDICTION

24. The district courts of Harris County, Texas have jurisdiction over this case because one or more of the named defendants has transacted business in Texas, one or more of the named defendants resided in Harris County, Texas, and/or one or more of the acts or events giving rise to the causes of action asserted occurred in Harris County, Texas. The amount in controversy exceeds the minimal jurisdictional limits of this court, and the exercise of this court's jurisdiction over the defendants is proper.

25. The nonresident defendants are subject to the jurisdiction of this court pursuant to the Texas long-arm statute, which authorizes jurisdiction and the exercise of jurisdiction insofar as it is consistent with federal and state due process standards. Each of the non-resident defendants does and has done business in the state. Tex. Civ. Prac. & Rem. Code Ann. § 17.042 (Vernon 2008). The Texas Supreme Court has held that section 17.042's broad language

extends Texas courts' personal jurisdiction as far as the federal constitutional requirements of due process will permit.

26. Personal jurisdiction over the nonresident defendants is constitutional in this case because the defendants have established minimum contacts with the forum state and the exercise of jurisdiction comports with traditional notions of fair play and substantial justice. First, the nonresident defendants' purposefully availed themselves of the privilege of conducting activities within the state of Texas; the headquarters of OEC has been in Texas since 2012. These defendants maintained their relationship as shareholders with OEC during this time, and otherwise were involved in the business affairs of OEC, thus invoking the benefits and protections of the laws of this state.

27. Second, the activities of the non-resident defendants were purposeful, not random, isolated, or fortuitous. The quality of the contacts was meaningful, with these defendants maintaining ownership in or association with OEC and utilizing that position to their advantage, as they deemed necessary for their own personal benefit.

28. Third, the defendants sought a benefit, advantage, or profit by virtue of their activities in Texas. Texas was the location in which the first serious OEC projects were being negotiated, and the defendants intended to retain their ownership in and association with the company and profit thereby.

29. Specific jurisdiction exists in this case because the nonresidents' liability arises from or is related to activities conducted in Texas. Thus, there is a substantial connection between the contacts of the non-resident defendants contacts and the operative facts of the litigation.

IV. VENUE

30. Venue is proper in Harris County in that all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County, Texas. Moreover, one or more of the defendants has appeared and answered herein, thereby rendering venue proper.

V. DISCOVERY CONTROL PLAN

31. Discovery in this case shall be conducted under Level 3 pursuant to Texas Rules of Civil Procedure 190 and 190.3.

VI. RULE 47 STATEMENT

32. Plaintiffs seek monetary relief in excess of one million dollars (\$1,000,000), including damages of any kind, penalties, costs, expenses, pre-judgment interest, attorneys' fees, as well as judgment for all the other relief to which plaintiffs may be entitled.

VII. CONDITIONS PRECEDENT

33. Plaintiffs alleges that all conditions precedent have been performed or have occurred.

VIII. MUNICIPAL SOLID WASTE:

THE PROBLEM AND THE SOLUTION

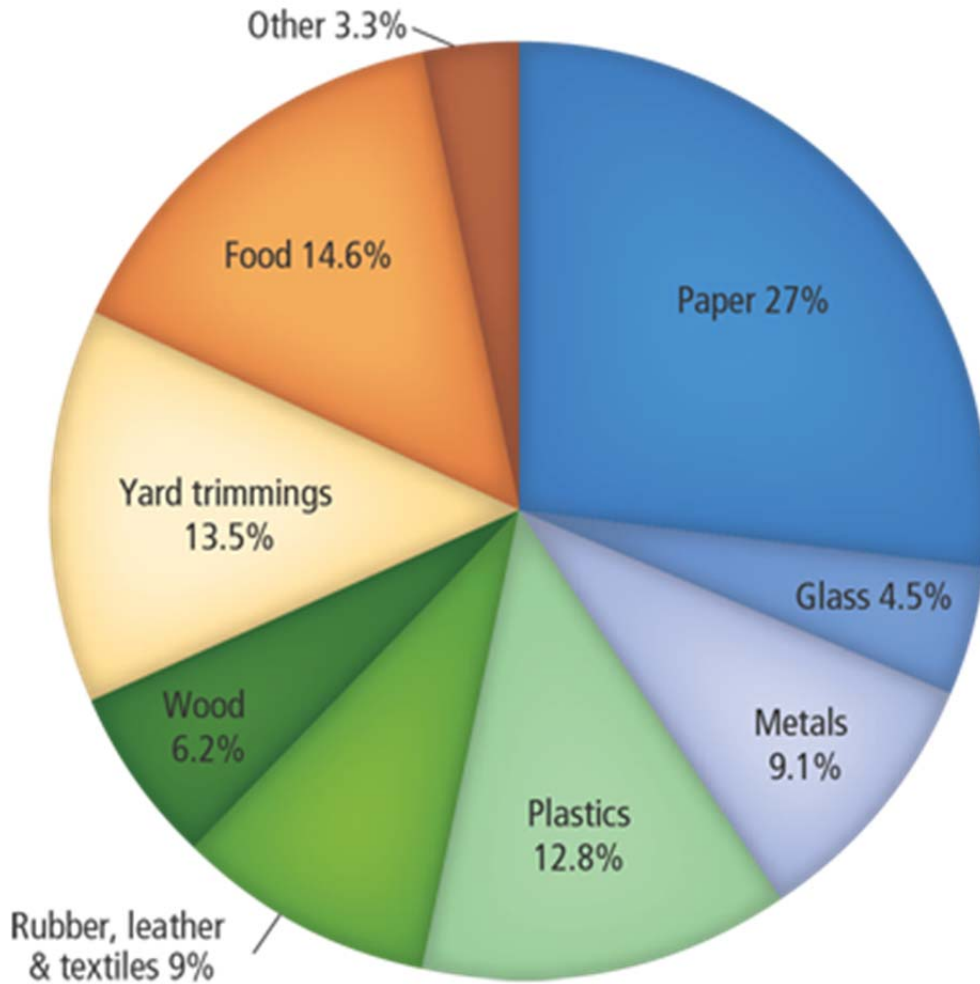
34. OEC and Gitschel bring this lawsuit to seek recompense for damages they have sustained as a result of the conduct of the defendants, individually and in concert. The ostensible goal of these tortfeasors was the appropriation of intellectual property invented by OEC founding member George Gitschel. OEC and Gitschel seek to resolve, once and for all, these related and intertwined controversies, the genesis of which predates the formation of the company itself. The paragraphs that follow are offered to provide the court and jury with the background information necessary to an understanding of this dispute.

A. *The problem: what to do with municipal solid waste*

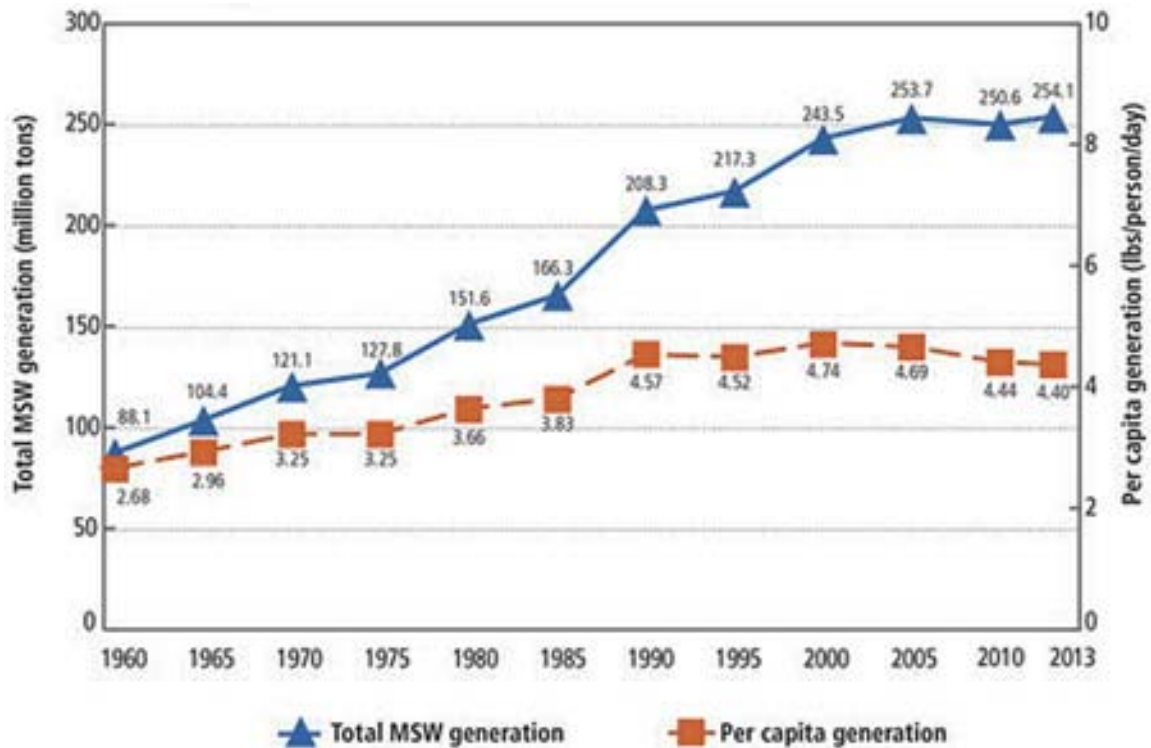
35. Municipal solid waste (MSW) is everything that is discarded by homes in the USA and around the world.¹ It's our trash, our refuse, our rubbish. MSW consists of everyday items we use and then throw away, such as product packaging, grass clippings, furniture, clothing, bottles, food scraps, newspapers, appliances, paint, and batteries. This comes from our homes, schools, hospitals, and businesses.² The types of waste produced in the United States is depicted by this chart:

¹ Federal law defines MSW in some detail. See 40 CFR § 261.2 - definition of solid waste. Texas law further defines this term. See 30 Texas Administrative Code § 335.1 (140).

² <http://www3.epa.gov/epawaste/nonhaz/municipal/>



36. Over the past six decades, the amount of MSW produced in the United States has steadily increased:



37. In the United States, in 2013, Americans generated about 254 million tons of trash and recycled and composted about 87 million tons of this material, equivalent to a 34.3 percent recycling rate. On average, we recycled and composted 1.51 pounds of our individual waste generation of 4.40 pounds per person per day.

38. In 2013, America recovered about 67 percent (5.7 million tons) of newspaper/mechanical paper and about 60 percent of yard trimmings. Organic materials continue to be the largest component of MSW. Paper and paperboard account for 27 percent and yard

trimmings and food account for another 28 percent. Plastics comprise about 13 percent; metals make up 9 percent; and rubber, leather, and textiles account for 9 percent. Wood follows at around 6 percent and glass at 5 percent. Other miscellaneous wastes make up approximately 3 percent of the MSW generated in 2013.

39. Recycling and composting prevented 87.2 million tons of material from being disposed in 2013, up from 15 million tons in 1980. Diverting these materials from landfills prevented the release of approximately 186 million metric tons of carbon dioxide equivalent into the air in 2013 - equivalent to taking over 39 million cars off the road for a year.³

40. Around the world, municipal solid waste management is one of the most important services a city provides; in low-income countries as well as many middle-income countries, MSW is the largest single budget item for cities and one of the largest employers. Solid waste is usually the one service that falls completely within the local government's purview. A city that cannot effectively manage its

³ Advancing Sustainable Materials Management: Facts and Figures, U.S. Environmental Protection Agency (2013), link at <http://www.epa.gov/smm/advancing-sustainable-materials-management-facts-and-figures>

waste is rarely able to manage more complex services such as health, education, or transportation.

41. Poorly managed waste has an enormous impact on health, local and global environment, and economy; improperly managed waste usually results in down-stream costs higher than what it would have cost to manage the waste properly in the first place. The global nature of MSW includes its contribution to greenhouse gas (GHG) emissions, e.g. the methane from the organic fraction of the waste stream, and the increasingly global linkages of products, urban practices, and the recycling industry.

42. Municipal solid waste is one of the most important by-products of an urban lifestyle, and its production is growing even faster than the rate of urbanization. Ten years ago there were 2.9 billion urban residents who generated about 0.64 kg of MSW per person per day (0.68 billion tons per year). Current reports estimate that today these amounts have increased to about 3 billion residents generating 1.2 kg per person per day (1.3 billion tons per year). By 2025 this will likely increase to 4.3 billion urban residents generating

about 1.42 kg/capita/day of municipal solid waste (2.2 billion tons per year).⁴

B. The solution: Organic Energy Corporation's MaxDiverter™

43. Organic Energy Corporation (OEC) is an advanced Municipal Solid Waste separation, sustainable products manufacturing and renewable energy development company. OEC specializes in maximizing the recovery and diversion of recyclables and resource feedstock from landfill bound MSW. The company currently holds six patents on the MaxDiverter™ process, all invented by Gitschel. The company was founded in 2009, and its intellectual property portfolio has been under development by Gitschel for 10 years.

44. OEC's technology has the potential for a positive impact on many aspects of our lives. First, from an environmental standpoint, the benefits range from dramatic reductions of greenhouse gas (GHG) emissions, to reductions in air, water, soil, and noise pollution.

⁴ What a Waste: A Global Review of Solid Waste Management, World Bank (2013); link at <http://siteresources.worldbank.org/INTURBANDEVELOPMENT/Resources/336387-1334852610766/FrontMatter.pdf>

Reductions in truck traffic also correlate to fewer accidents and less street damage.

45. From an economic perspective, OEC can breathe new life into local economies by providing well-paid green collar jobs, saving money on collection and recycling programs, and spurring local development.

46. Finally, and most importantly, human health in developing countries is severely affected by the absence of sanitary landfills, or any appropriate means of disposal for MSW. OEC provides a solution that dramatically reduces disease vectors and the severe pollution, which plague communities from Africa to Southeast Asia.

47. These enviable goals are achievable due to OEC's multi-patented MaxDiverter™ system, which separates garbage into as many as 30 or more different material categories, creating a stream of materials for making new manufactured goods. The OEC system works by cleverly using the varying physical properties of different materials to segregate them from one another. This includes separation by density, size, dimensionality, optical characteristics, magnetism, and others. Much like the evolution of roller skates into inline skates, Gitschel's patents have taken long-proven technology

and arranged it in a novel way that maximizes the efficacy and efficiency of these machines. The system's components are guaranteed to achieve 95% separation. This means that, depending on the content of the waste stream, the system can divert all of the inbound waste from the landfill. OEC's MaxDiverter™ turns practically all waste into a recyclable material or feedstock for production into new products.

IX. FACTUAL BASIS OF THIS LAWSUIT -
THE OEC CO-FOUNDER DEFEDANTS

A. *George Gitschel and the years before OEC*

48. The story of OEC is really that of the man who served as the creative impetus for the formation of the company. George Gitschel has spent his career in the municipal solid waste industry working to develop better and more environmentally sound methods of processing garbage. Using that experience, Gitschel created groundbreaking technologies that can transform the way that municipal solid waste is sorted, and thereby allow greater reuse of waste materials and significantly reduce the volume that is sent to landfills.

49. Over twenty years ago, after seeing vast amounts of reusable material sent to landfills, Gitschel formed the idea of a “vertically integrated environmental campus” to process garbage for maximum recycling and reuse. Gitschel spent the next twenty plus years observing, designing systems and working on different types of machinery and systems that sort dry and wet organic streams, ferrous and non-ferrous metals, and other waste products into separate components to prepare them for reuse. He traveled to different countries and observed the innovations and methods that each used to sort and process municipal solid waste. He built a network of other dedicated professionals to partner with and access in the development of functioning plants to implement his system.

50. In or about 2005, after nearly 25 years of developing his expertise in the waste industry and pioneering the design of many innovative recyclable processing and recovery systems, Gitschel started designing his first advanced, semi-automated mechanized waste processing and recovery system (a “dirty” material recovery facility or “MRF”) for the recovery of recyclables from mixed municipal solid waste. He used a novel and complicated design to capture reusable materials that were missed in other systems. Gitschel

designed new screening system configurations, new shredders and size reduction techniques, new separation methods and systems, new recovery methods and systems, and new methods and systems to fully separate paper and other recyclable materials from the mixed waste stream.

51. One of Gitschel's ongoing projects was a plant owned by the Western Placer Waste Management Authority (WPWMA) and operated by Nortech Waste, LLC, located in Roseville, California. In connection with this project, Gitschel designed an innovative fine screening system, an improved baler, metal recovery systems, and mobile compost processing equipment to improve Nortech's material processing and recovery, while reducing the plant's operating costs. Gitschel realized that his new system could substantially reduce the cost of material recovery and the amount of waste sent to WPWMA's landfill in Roseville.

52. By 2006 Gitschel had begun to work with Nortech to put his concept into effect. He designed a waste processing system for Roseville that was ultimately selected as the winning bid. As of 2007, Gitschel's method was put into practice in a fully developed plant that successfully doubled the recovery of recyclable materials and

reduced the amount of time staff had to spend sorting waste by more than half.

53. Throughout 2007, 2008, and 2009 Gitschel continued to refine his vertically integrated waste processing design. More specifically, Gitschel successfully developed a unique and better method to separate wet and dry organic streams from mixed garbage/solid waste. This method created separate and concentrated streams of both wet and dry organic materials ideal for conversion into fuel, through either anaerobic digestion to create biofuel from the wet organics or gasification with the dry organics. Gitschel believed there was a potential benefit to incorporating technology that would convert the wet and dry organic streams into fuel that could be sold as a by-product of the waste processing plant.

54. In or about early 2009, Gitschel contacted an intellectual property lawyer, Andrew Hansen, about patenting his system design to separate wet and dry organic materials from inorganic materials from mixed solid waste, while recovering certain recyclable materials such as ferrous metals, non-ferrous metals and certain plastics from the garbage. Hansen conducted a worldwide patentability search and determined that Gitschel had designed a novel concept. Gitschel

worked with Hansen to develop and submit his first patent application on his system that was fully created before the formation of OEC. Gitschel submitted his first Provisional Patent Application for his system in 2009. Gitschel was the sole inventor and author of the entire process submitted in the patent application.

B. Formation of OEC and promises made

55. The desire to find synergies between Gitschel's waste processing system and technologies that could convert waste into fuel led to the creation of OEC. Gitschel had known defendant Buckle for a number of years. On or about January 14-16, 2009, Gitschel organized and led a summit in Utah with the OEC co-founder defendants, Buckle and Harris, and several other individuals in attendance. The primary purpose of this summit was to investigate whether there was a potential to combine Gitschel's "front end" sorting and screening technology with technology that would be used on the "back end" of the waste process to create bio-fuel. It had been represented to Gitschel that Buckle, Harris, Gardner, and the Hansens (collectively "the OEC founder defendants") possessed technology by which the organic matter would undergo "anaerobic digestion" and thereby be transformed into usable fuel. It was this

“back end” technology that Gitschel envisioned might be used in conjunction with his own technology.

56. On or about July 6-8, 2009, Gitschel organized and led a second summit (“Summit II”) in Utah. Defendant Buckle invited defendants Harris, Gardner, Conly Hansen and Carl Hansen to the summit and represented that defendants Harris and Gardner were experts in the wastewater treatment systems design and engineering, anaerobic digestion and other conversion technologies that would benefit an integrated system design. Buckle represented that defendants Conly Hansen and Carl Hansen were experts in anaerobic digestion and other conversion technologies.

57. The entire point of the Utah summits, therefore, was to discuss a plan by which these individuals would share valuable intellectual property, technology, money, effort, and business contacts to create a system that would take municipal solid waste and create usable recyclables and energy.

58. During 2009, Gitschel worked with the OEC co-founder defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen to form a company that would combine Gitschel’s novel waste sorting and fuel preparation process and technology that would be developed

by the other OEC founders for conversion of wet and dry organic fuels into renewable energy. The goal was to fully realize Gitschel's dream of a "vertically integrated environmental campus" that could reclaim usable waste products and sell renewable energy converted from the waste stream. Defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen repeatedly represented that they would be fully capable of designing and engineering such conversion systems. This representation was the single most critical "consideration" the OEC co-founder defendants proposed to offer to this venture.

59. As of late 2009, Gitschel and the OEC co-founder defendants, Buckle, Harris, Gardner, Conly Hansen and Carl Hansen decided to form OEC. On information and belief, OEC was formed on or about November 10, 2009.

60. At the time of OEC's formation, Gitschel had no intention of unilaterally giving up his intellectual property or his ideas for future technological advancements to OEC. It was not a basis of the bargain that served as the foundation of OEC that Gitschel would give up the valuable intellectual property rights, and there was absolutely no agreement that Gitschel would assign any of his intellectual property rights to OEC. To the contrary, Gitschel made it

clear that he intended to retain his intellectual property rights to his waste sorting process and to negotiate a structure by which Gitschel would grant OEC a license to use his process in exchange for royalty payments and commission on the equipment sale to OEC. The OEC co-founder defendants, in turn, would maintain their freedom to create and patent technology for the back end operations of the system.

61. At the time of OEC's formation, the OEC co-founder defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen represented to Gitschel that he would have the title of Chief Executive Officer of OEC and be given sufficient control over the direction of OEC to realize his vision of a vertically integrated environmental campus utilizing his waste sorting process. It was Gitschel's ideas, effort, and technology that served as the catalyst for creating OEC.

62. Based on the above representations by the OEC co-founder defendants - Buckle, Harris, Gardner, Conly Hansen and Carl Hansen - and their related promises and guarantees concerning the future of OEC, Gitschel agreed to receive only a 30% share in the newly formed company and to allow a board structure in which

Buckle, Harris and Gardner would be granted a seat on the board of OEC, in spite of their different ownership shares.

C. The OEC co-founder defendants' wrongful conduct

63. It is important to understand that, in the early years of OEC, Gitschel was told and believed that the OEC co-founder defendants possessed and would contribute valuable inventions, processes, and know-how to the creation of a vertically integrated environmental campus. Both the front end and back end technologies were essential to the success of the overall project. The OEC co-founder defendants held themselves out as being capable of providing the second half of the technology, which would enhance the value of Gitschel's front-end sorting systems. This was the quid pro quo of the relationship among the OEC co-founders: each of the parties would do their utmost to make a success of the company.

64. The OEC co-founder defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen apparently realized early on that their creative capabilities were unlikely to bear fruit and that the cornerstone of the success of OEC would be the technology, ideas and effort of George Gitschel. Thus, the OEC co-founder defendants concocted a plan to deceive Gitschel into conveying his intellectual

property to OEC. The OEC co-founder defendants thereby intentionally and purposefully engaged in a unified campaign to secure the transfer of Gitschel's intellectual property rights to OEC through improper means. The crux of this plan consisted of the ongoing promises, assurances, and representations of the OEC co-founder defendants.

65. The relationship between the OEC co-founders was one based on trust – particularly the trust that George Gitschel placed in the other co-founders to follow through on fulfilling the promises they made and upon which the company's formation was based. Therefore, in the case of OEC and the co-founder defendants, the facts clearly establish a series of promises by the co-founder defendants, foreseeable and substantial reliance thereon by Gitschel, and a breach of these promises by the OEC co-founder defendants to the detriment of Gitschel and OEC.

66. It is also noteworthy that the OEC co-founders and officers owed each other a special duty. This duty has been described as the "duty of finest loyalty" and one that requires "[n]ot honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior." Hence, the OEC co-founder

defendants were bound to act with utmost loyalty to one another and OEC itself.

67. The behavior of the OEC co-founder defendants implicated two or more of the OEC co-founders; with an object to be accomplished – the acquisition of Gitschel’s inventions and intellectual property; a clear meeting of the minds among two or more of the OEC co-founders to accomplish this purpose; many repeated and unlawful overt acts by two or more of the OEC co-founder defendants, as well as lawful acts in furtherance of unlawful ends; and substantial damages suffered by Gitschel and OEC as a result of the behavior of the OEC co-founder defendants. Thus, these defendants initiated and are guilty of a civil conspiracy.

68. In furtherance of the tortious and illegal conspiracy described above, on or about December of 2009 the OEC co-founder defendants began a unified effort to compel Gitschel, by acts of deception, to assign his intellectual property rights to OEC, for the benefit of the OEC co-founder defendants. Two or more of the OEC co-founder defendants repeatedly contacted Gitschel to insist that OEC would never succeed unless all of its members were “team players.” They told Gitschel that he was “being unfair” and that he

was “letting his ego get in the way.” They assured Gitschel that they were “all on the same team,” that each of the OEC co-founder defendants would “commit 100% of their time, resources and effort to OEC,” and that each of the OEC co-founder defendants would bring “meaningful intellectual property.” These and many related promises were presented to Gitschel as fulfillment of the original quid pro quo upon which the formation of OEC was based, but additional and unique promises and assurances were made by the OEC co-founder defendants to entice Gitschel to convey his intellectual property to the corporation.

69. Gitschel initially refused to give up his ideas and technology to be shared with the OEC co-founder defendants. Gitschel possessed intellectual property rights, certain of which were in the process of being patented and other ideas that were in the formative process. Gitschel’s ideas were progressing at a meaningfully more rapid rate than any technology proposed by the OEC co-founder defendants. Even so, the OEC co-founder defendants told Gitschel that the vertically integrated environment campus required, for its success, their contributions of time, talent, and technology. Thus, Gitschel was again subjected to repeated and

emphatic promises from the OEC co-founder defendants that they would provide additional “consideration” to OEC.

70. The OEC co-founder defendants spent the next four months working to convince Gitschel of the sincerity of their promises to devote time, money and intellectual property to OEC. These defendants communicated to Gitschel and OEC, both expressly and impliedly, that they had projects in the works that would fulfill their contributions to OEC. It was not revealed to OEC or Gitschel that these defendants were accomplishing little, if anything, that would be of ultimate value to OEC. OEC co-founder defendants Buckle, Harris and Gardner represented that they were hard at work developing a process to convert the organic waste streams into renewable energy. Defendant Buckle continued to represent that he had substantial deals and strategic alliance partners that he could bring to OEC. Defendants Buckle, Harris and Gardner repeatedly pressured Gitschel to be a “team player” and said that “OEC had to be a team with 100% commitment from everyone on the team to succeed” and that they “would be 100% committed to OEC.” OEC co-founder defendants Buckle, Harris and Gardner repeatedly assured Gitschel that he would be the CEO and have all the normal associated powers

of the CEO position, including developing strategic planning and vision for OEC, deal making capacity, business development control, project development latitude, marketing freedom, and other management authority of a typical CEO.

71. The OEC co-founder defendants thereby repeatedly represented that:

- They would devote their full time to OEC⁵;
- Each shareholder in OEC would assign meaningful intellectual property to OEC;
- They had meaningful contacts, relationships, and deals in the works that would be brought to OEC;
- Each shareholder would respect the other shareholders and the company by being fair, open and honest in their dealings with the shareholders and outside associates and strategic partners.

72. Unbeknownst to Gitschel or OEC, at the time the OEC co-founder defendants made these representations they knew them to be material and of significance, both to Gitschel and OEC; these defendants knew their promises were false, alternatively, they were recklessly made as a positive assertion without knowledge of their

⁵ The Hansen defendants were to contribute time, talent, and technology within the confines of their duties at Utah State University.

truth; the co-founder defendants made these representations with the intent that they be acted upon by Gitschel and OEC; and Gitschel and OEC took action in reliance upon the misrepresentations and thereby suffered injury. Hence, the OEC co-founder defendants are guilty of fraud, both actual fraud and fraud in the inducement to illegally and tortiously entice Gitschel to convey valuable intellectual property rights to OEC, which would benefit the OEC co-founder defendants, but not OEC.

73. As a result of the tortious behavior described above, Gitschel signed a document entitled “Employee Invention Assignment and Confidentiality Agreement,” which assigned his patent application #61/291,177 to OEC, based on the promises made to him by OEC’s co-founder defendants. Gitschel spent twenty years developing the waste processing system that was reflected in that patent. He would never have agreed to this assignment had he known that the OEC co-founder defendants’ representations were false, their promises illusory, and their motives illegal.

74. In the months that followed this assignment, the OEC co-founder defendants continued to reassure Gitschel that they had the capability to contribute meaningful technology to OEC, which would

work in combination with the Gitschel processes to create a comprehensive waste reclamation and fuel creation campus. In particular, defendants Buckle, Gardner, and Harris touted their background in waste management, engineering and conversion technologies and promised they had projects in mind and in the works that would create a single stream solid waste management process. Gitschel relied on these continuing assurances and representations.

D. Ongoing misrepresentations and broken promises

75. Contemporaneously with the foregoing acts, OEC co-founder defendants Buckle, Harris, and Gardner devised and implemented a plan to insure that their self-interests would be protected, whether or not to the detriment of OEC. The genesis of this nefarious scheme was when defendant Harris began to assert a propriety interest in the intellectual property that had been created by Gitschel. Thus, in June of 2011, defendant Harris began to pressure Gitschel to list him and the other individual OEC co-founder defendants as co-inventors on new patent applications, even though they were invented solely by Gitschel without any assistance of the OEC co-founder defendants.

76. Defendant Harris also set his sights, and those of his associates, on any intellectual property associated with new systems and methods for Mechanized Separation of Mixed Solid Waste and Recovery of Recyclable Products. Specifically, defendant Harris was aware of the Workmann/Nydegger patent application numbers 18482.3.1, 18482.7.1, 18482.7.2, 18482.7a and 18482.7b.

77. On or about July 28, 2011, defendant Harris informed defendant Buckle that defendant Harris would be the “clearing house” for all of Gitschel’s patent applications. In this manner, defendant Harris, with the assistance of defendant Buckle and the knowledge of defendant Gardner, implemented a plot to secure control of the intellectual property that had been invented by Gitschel and wrongfully appropriated by these three OEC co-founder defendants for their selfish gain.

78. On or about October of 2011, Defendant Harris contacted and instructed Andrew Hansen, IP counsel for OEC, to conduct an investigation to determine whether Harris could force the addition of his name to a number of pending and prior patents. Defendant Harris even falsely claimed an inventorship role on a patent application that Gitschel invented before meeting defendant Harris. This was one of

many covert improprieties in which defendant Harris and his cohorts engaged, the goal of which was to control the intellectual property that had been effectively stolen from Gitschel, through the subterfuge and guise of OEC co-founder defendants Buckle, Harris and Gardner.

79. During this same time period, defendant Harris began to falsely represent to third parties that he and the other OEC co-founder defendants had contributed value to these inventions, which was a complete falsehood. Gitschel asked defendant Harris to stop claiming co-inventorship on Gitschel's patent applications. Caught in this otherwise public farce, defendant Harris had no choice but to concede his lack of proprietorship over the inventions. Harris thereby informed Gitschel that he would not "bring up the subject again" and that the "issue was closed". It was this sort of reassuring contrition that lured Gitschel into being defrauded yet again.

80. Defendant Harris's actions in seeking to gain control over these assets violated his duty not only to OEC, but also to his fellow shareholder and director, Gitschel. After conducting a thorough investigation, Andrew Hansen, IP counsel for OEC, concluded that Gitschel was correctly listed as the sole inventor on all patent applications that defendant Harris asked to be investigated. Hence,

this single aspect of the Buckle-Harris-Gardner conspiracy was thwarted, in spite of the lack of an honest disclosure by these OEC co-founder defendants.

81. In September 2011, Gitschel led a tour to Europe during which many of the innovative techniques envisioned by Gitschel were subject to examination by various interested parties outside of OEC. After the tour, Gitschel submitted a new process flow diagram and description for a system modification, based upon observations Gitschel made on the tour. This information was submitted to OEC's IP attorney in two emails sent on September 16, 2011 and September 20, 2011. On four occasions between September 2011 and February 2012, Gitschel requested administrative assistance from defendant Gardner by requesting that Gardner modify Gitschel's previous process flow diagram from Patent Application 18482.7.1 to include Gitschel's new modifications. Defendant Gardner ignored Gitschel's requests until on or about February 2012, when Defendants Harris and Gardner recreated Gitschel's exact modifications to the process flow diagram and claimed that they had "corrected and modified" Gitschel's design and that defendant Gardner had done the "drawing." This action was nothing more than

a fabrication, which was completed using the interstate mail and/or wire services.

82. Thus, it is alleged, and shall be proven, that the OEC co-founder defendants, having devised or intending to devise a scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmitted or caused to be transmitted by means of wire or interstate or foreign commerce, writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice. Hence, these defendants committed mail and/or wire fraud in seeking to appropriate the intellectual property invented by Gitschel.

83. As developments continued into 2012, the three main culprit OEC co-founder defendants reassured Gitschel of their honorable intentions. Gitschel was eminently reasonable in accepting the word of these defendants. Gitschel had known defendant Buckle for over twenty years, and he vouched for the integrity of defendants Harris and Gardner. Moreover, Gitschel is a man who prides himself in seeing the best in his fellow men, particularly his OEC co-founders. Thus, Gitschel should not be faulted for accepting the declarations of loyalty of the OEC co-founder

defendants. On the contrary, Gitschel should be excused from having delayed taking the present action for the reason that Gitschel reasonably accepted the guarantees and promises made to him by the OEC co-founder defendants.

E. A new scheme

84. On or about January 16, 2012, the OEC co-founder defendants came to the realization that the intellectual property that would prove to be essential to the success of the OEC was dynamic in character. Gitschel had continued to investigate the waste and recycling industries, and the OEC co-founder defendants again viewed his evolving ideas with covetous eyes.

85. The OEC co-founder defendants thereby initiated yet another multifaceted scheme pursuant to which they would acquire either the intellectual property that was crucial to the success of OEC or control of the company that was the beneficiary of the contracts Gitschel had been enticed into signing, which purported to assign the patents to OEC in consideration for the promises of the co-founder defendants.

86. One aspect of the OEC co-founder defendants' plan entailed them making new and unique promises to Gitschel that they

presented as mutually beneficial to OEC. These promises included new assurances that they would contribute valuable time, talent, capital, and intellect to the work of OEC. In addition, however, the OEC co-founder defendants went much further and told Gitschel they would add unique inventions, business opportunities, capital contributions, and personal service to OEC. Gitschel fervently wanted OEC to succeed, and he accepted the affirmations and commitments of his co-founders.

87. Contemporaneously, as of January 2012, the co-founder defendants sought to exert control over OEC by systematically and covertly excluding Gitschel from managing the business affairs of the company. The OEC co-founder defendants were cognizant of the fact that George Gitschel was not only a trusting business partner, but he was also spending enormous amounts of time on behalf of OEC. Gitschel's full efforts and energy were devoted to creating new ideas, improving existing machinery, building relationships with potential partners and suppliers, and generally devoting every waking moment to the success of OEC.

88. As a direct product of the promises made by the OEC co-founder defendants, and the consideration offered by the same,

Gitschel signed yet another agreement, this one known as the Manager Agreement. The Manager Agreement purported to assign to OEC certain intellectual property rights held by Gitschel for inventions created on or after January 16, 2012. Gitschel was beguiled into signing this agreement because of the ardent promises and assurances of his OEC co-founders. Were it not for the representations of the co-founder defendants, George Gitschel would never have signed the Manager Agreement. Moreover, the validity of the agreement was based on the promises of the co-founder defendants, who should therefore be estopped from relying upon this agreement due to the failure of the consideration supposedly forthcoming from these individuals.

89. Yet another element of the conspiracy in which the OEC co-founder defendants engaged was that defendant Harris continued to pressure Gitschel to “share” creative and legal ownership of Gitschel’s intellectual property. One tactic employed by Harris was that he suggested to Gitschel that Harris deserved to be listed as a co-inventor of the patents. Harris implied that he had a legal right to be included as an inventor on Gitschel’s patent applications.

90. In continuation of their plot to control OEC and its technology, defendants Buckle, Harris and Gardner called an OEC board meeting in March of 2012. The ostensible reason for the meeting was to “discuss and approve” new OEC system modifications. These “modifications” consisted primarily of changing the manner in which OEC was managed and transforming the company into a “board management” business. In so doing, George Gitschel would be relieved of authority to conduct the business affairs of OEC. When Gitschel questioned their actions, he was informed by defendants Harris and Buckle in several emails that the board would have full review and approval of all of Gitschel’s system designs. Defendant Buckle later informed Gitschel via email that Gitschel was no longer authorized to have contact with OEC’s patent attorney without authorization and approval from the board.

91. Organic Energy Corporation was formed to develop technology that could literally change the world. To succeed, it was imperative to have the contributions, intellect, and creativity of each of the co-founders. The quid pro quo of the relationship among the OEC co-founders was that they would give their all for the success of OEC. George Gitschel sincerely believed it was critical to the

success of the company to present a group effort from each co-founder. His faith in his co-founders ultimately was to be used against him and against OEC.

F. Failure of consideration and promissory estoppel

92. The fundamental reason why OEC was formed was to combine technologies created by the co-founders. In hindsight, it evolved to become clear that the OEC co-founder defendants did not intend at the time, and never thereafter developed the intention, to fulfill the promises they made to induce Gitschel to assign his intellectual property rights to OEC.

93. The OEC co-founder defendants each failed to contribute meaningful intellectual property to OEC. Despite their repeated promises and the explicit purpose for which OEC was formed, defendants Harris and Gardner have not developed or patented any conversion technology that effectively creates energy from Gitschel's waste sorting process. Defendants Harris and Gardner did file a provisional patent application for a biomass to steam process, but the provisional patent expired and was abandoned, and it was decided that a utility patent application would not be worthwhile. Defendants Harris and Gardner are also listed as co-inventors, along with Buckle

and Gitschel, on one provisional patent application for a pre-process system that is not a core technology, which was also later abandoned.

94. Defendant Buckle has contributed only his rights to the intellectual property on which he is listed as a co-inventor with Gitschel. However, that intellectual property was primarily developed by Gitschel, who invented nineteen 19 independent and dependent claims that formed the core patent and Buckle contributing only one 1 meaningless dependent claim (#11) regarding use of a very specific anaerobic digester, the “induced blanket up-flow anaerobic digester” (known as the “IBR”), which was invented by defendants Conly Hansen and Carl Hansen, for organic waste separated from MSW. In truth, OEC later learned that the IBR did not work effectively or efficiently with any input other than animal manure. In fact, Gitschel has removed Buckle’s claim #11 in the continuation patent applications and Patent Cooperation Treaty (PCT) applications for the original patent (US 8,632,024 issued on January 21, 2014), due to the fact that OEC would not ever use the IBR in projects.

95. In addition, none of the OEC co-founder defendants dedicated their full time to OEC. Defendants Harris and Gardner’s

failure to fulfill their time commitment will be shown to be egregious. These co-founders consistently assured Gitschel they were working for OEC. The evidence will show these repeated representations to be false; moreover, Harris and Gardner knew them to be false at the time they were made and intended for Gitschel to rely upon their misrepresentations to his detriment. Plaintiffs allege the evidence will show Harris and Gardner devoted a substantial portion of their time to a separate business they own, Herwit Engineering (“Hervit”). Both Harris and Gardner regularly received income in connection with their work for Herwit, with no benefit inuring to OEC. Defendants Harris and Gardner also promised to contribute business contacts, capital contributions, and other valuable consideration. Plaintiffs contend the overwhelming evidence will thereby establish that there was a failure of the consideration due from defendants Harris and Gardner.

96. The OEC co-founder defendants also failed to contribute meaningful potential strategic investment partners and project deal flow to OEC. During the period of time from OEC’s founding in November 2009 through May 2012, defendants Harris and Gardner brought no deal flow to OEC. From June 2012 through the present date, defendants Harris and Gardner have done nothing to benefit

OEC. During 2012-2013, defendant Buckle had been working on a deal for Colombia for more than a year, but it never resulted in an agreement, nor was it ever clear that it would be financially viable. Buckle was also working on a small four-digester project near the Arctic Circle in Canada, which never materialized. Defendant Buckle represented that he was working on other small deals that would be beneficial to OEC, but they have not resulted in signed deals and never appeared to be financially viable.

97. The same failure of consideration exists as to co-founder defendants Conly Hansen and Carl Hansen. The Hansens were supposed to be inventors who would play a vital role in the creation of the vertically integrated environmental campus. Unfortunately, they failed to fulfill their promises and provided no meaningful consideration to which they committed themselves to OEC. Plaintiffs urge that the evidence will inarguably prove that these individuals did not fulfill the promises upon which the very formation of OEC was based.

98. In summary, the OEC co-founder defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen failed to make any meaningful contributions to OEC between 2010 and April 2012. In

contrast, during that same timeframe, Gitschel had continued to develop and refine his waste processing and recovery system. In one example, Gitschel realized the waste stream contained higher value reusable nonferrous waste that was being missed. He spent countless hours researching recovery methods. He researched everything from auto shredding companies to downstream recovery and processing plants and was able to successfully develop a better method of capturing high-value metals like stainless steel, copper and brass out of mixed non-ferrous metals.

99. Gitschel also invented methods and systems for capturing high value plastics out of the waste stream. Gitschel invented another system and method for separating paper from film plastic. Gitschel invented a satellite shredding, screening and density separation system that could mine high value recyclables out of a waste stream for processing at a conventional Single Stream MRF. Gitschel helped co-invent, along with Vecoplan, a unique shredder that did not transform the 3-dimensional shape of waste, did not create more than 5% of fines, and did not mash wet organic material into dry organic material. This type of shredder was and is critical to

the downstream separation effectiveness of Gitschel's waste processing, sorting and recovery systems.

100. From March 2010 through April 2012, Gitschel successfully submitted six additional patent applications related to these inventions as the sole inventor. Three of Gitschel's patent applications had been granted petition for the Green Pilot status by the US Patent Office and were under office review. Gitschel's six patent applications represented the core technology suite for OEC. In addition, Gitschel was the sole inventor on the original patent application that he invented before forming OEC. In total, Gitschel was the sole inventor on all seven of the core waste processing, separation, and recovery technology patent applications. In addition, Gitschel was the lead co-inventor on the dual conversion technology patent application (with 19 of the 20 claims).

101. In addition, from March 2010 through April 2012, Gitschel leveraged more than thirty years of business relationships and associated contacts to introduce, foster and develop every meaningful strategic relationship and partnership for OEC. Gitschel had drawn his contacts from the following industries and sectors: solid waste collection, disposal, recycling and processing, recycling

equipment and systems manufacturing and integration, scrap metal processing, project finance, construction, logistics, project development, recycling material brokerage, investment banking, legal services, engineering and conversion technologies.

102. From March 2010 through April 2012, George Gitschel's accomplishments for OEC included the following:

- Gitschel's 20-year relationship with Vecoplan, LLC and Vecoplan AG had been most critical to OEC's ability to integrate, package, engineer, manufacture, supply, install, support and guarantee Gitschel's then patent-pending waste processing, separation and recovery systems. Vecoplan is a global company that had integrated all of Gitschel's selected and specified equipment and component suppliers into a performance guaranteed and system reliability guaranteed turnkey package for OEC.
- Gitschel met the Managing Directors of Copper Creek Capital Group over 5 years prior to co-founding OEC in 2009. Gitschel brought Copper Creek on-board as OEC's exclusive corporate finance and project finance firm. Copper Creek provided all of OEC's financing needs and advice until June 2013.

- Gitschel brought Carlton Engineering on-board as OEC's principal outside civil, structural, environmental and overall site preparation engineering firm. Carlton Engineering brought thirty years of direct experience in engineering and project management for the solid waste and recycling industries.
- Gitschel brought AESI on-board as OEC's thermal conversion technology supplier. The principals of AESI had decades of experience and offered turnkey packages to convert dry organic fuel into energy.
- Gitschel and defendant Buckle brought Andigen and the Induced Bed Reactor Anaerobic Digester System on-board as OEC's wet organic to energy and digestive system.
- Gitschel and defendants Buckle, Conly Hansen and Carl Hansen owned WES (25% equity each), which had the exclusive marketing rights for the IBR Digester for Municipal Solid Waste and Municipal Waste Water Treatment Facility applications in the USA and most of the world. WES had sub-licensed the marketing rights to OEC.
- Gitschel introduced OEC's Engineering, Procurement, Construction, and Management Firm (EPCM) to OEC.

- Gitschel met Teng & Associates, now part of EXP, while working with AESI. Gitschel had been instrumental in developing the relationship with Teng and EXP, including inviting their representatives to the European tour and to the Lancaster Council Meeting to support OEC.
- Gitschel brought ET Environmental on-board as OEC's project construction firm. ET was the leading general construction firm for solid waste facilities in the USA. Their clients included Waste Management, Republic Services and major government agencies.
- Gitschel had presented his patent-pending designs to Dr. Eugene Tseng, a world-leading expert in waste processing systems and conversion technologies. Dr. Tseng had authored waste, recycling and conversion technology policy for many US States, the US EPA and 60 Countries.
- Gitschel brought Berg Mill Supply on board as OEC's commodity broker for paper, plastics, aluminum cans, tin cans and glass. Berg Mill had been in business for over 50 years and had an impeccable reputation.
- Gitschel brought CIMCO on-board as OEC's specialty metals

broker. CIMCO had been in business for over 30 years and was one of the leading metals brokers in the USA. CIMCO had handled all of the metals brokerage for Johnson Controls.

- Gitschel brought Hellmann Worldwide Logistics on-board as OEC's logistics company. Gitschel was working directly with Hellmann's COO. They were the 5th largest logistics company in the world.

103. From March 2010 through April 2012, Gitschel engaged all of these companies as strategic alliance partners without incurring charges to OEC for time, expenses or fees, due to his relationships and efforts.

104. From March 2010 through April 2012, Gitschel worked on developing strategic investment partnerships and significant deal flow to OEC, including the following:

- Gitschel worked with Republic Services and Waste Management on deal flow that could have potentially yielded 680,000 tons per day of waste or over three hundred (300) OEC plants processing 2,000 tons per day of waste and potentially producing \$15,000,000,000 per year in profit for OEC and its partners. At the time, Republic had 192 landfills

and \$8.2 billion in annual revenue. Republic controlled approximately 100,000,000 tons of MSW per year. Gitschel was working with Republic on a National and local basis.

- Gitschel proactively sought an alliance with Waste Management. At that time, Waste Management had 327 landfills, controlled 110,000,000 tons per year of MSW and had \$13.8 billion in annual revenue.
- Gitschel discovered, recruited, trained and developed OEC's most significant and important co-developer partnership with Pacific Coast of Antelope Valley and Ecolution. Ecolution was OEC's exclusive development partner for Southern California. Its territory was the largest waste shed in the USA, and it produced over 50,000 tons per day of waste. Gitschel was also Chairman of Ecolution.

It is overwhelmingly clear, therefore, that the assignment contracts into which Gitschel was wrongfully and falsely induced suffer from a grotesque failure of consideration. The disparity in contributions by Gitschel compared to the OEC co-founder defendants is appalling, but also legally fatal to the validity of these contracts.

105. In addition, the 2010 Employee Invention Assignment and Confidentiality Agreement are void or voidable due to a failure of the consideration underlying this contract on another basis. Gitschel was enticed into signing and executing this agreement because it was represented to him that part of the consideration for the agreement was the promise of a position as an “employee” of OEC.

106. Gitschel has never received the promised consideration of being an employee of OEC. Since OEC’s formation, Gitschel has devoted between sixty and one hundred hours per week to his efforts to develop and promote the business of OEC. He has not received any compensation as an employee of OEC for his efforts. Gitschel has never received health care insurance, a 401(k) or any of the other benefits that would typically be afforded to an employee. He has not received any increased ownership, stock options or increased management rights in connection with the Employee Invention Assignment. On the contrary, Gitschel has incurred hundreds of thousands of dollars of unreimbursed out-of-pocket expenses in connection with his efforts to promote and develop the business of OEC.

107. Moreover, even if there had been no failure of consideration, the Employee Invention Assignment specifically governs “Work for Hire” and purports to assign solely work that an employee “make[s], create[s], conceive[s] or first reduce[s] to practice during the period of [the employee’s] employment.” (Emphasis added.) As Gitschel has never formally been an employee of OEC, none of the inventions that he authored either prior to or after the formation of OEC have been created “during the period of [his] employment.”

108. The relationship among the OEC co-founder defendants has always been a one-way street. Gitschel has consistently fulfilled his part of the bargain, but the other contracting parties have not. The failure of consideration was latent, in that it was not readily discovery by Gitschel at the time of the failure, but became apparent only as the relationship among these parties progressed and their inaction and refusals to contribute to the success of the company became apparent. At this time, it is clear, both at law and in equity, that the contracts that concern the assignment of patents and inventions are void or voidable based on the arguments and authorities set forth in this petition.

109. The failure of consideration also forms the basis of a claim under principles of equity on the basis of promissory estoppel. Gitschel's actions that constitute due and adequate consideration under the aforementioned contracts were all acts undertaken in reliance on the promises made to him by the OEC co-founder defendants. The OEC co-founder defendants, outside of the contracts alleged herein, made promises to Gitschel and OEC, and these promises were of such a character that the promisors should reasonably have expected to induce action or forbearance of a definite and substantial character on the part of the promisees, Gitschel and OEC.

110. After being promised various things by the OEC co-founder defendants, Gitschel sold his home in Northern California, where he was born and raised, and move his young family to Texas in order to pursue the Houston project opportunity and other OEC opportunities in Texas and throughout the USA. In addition, Gitschel had to become self-sufficient, relying largely on his savings and the money he raised from selling his home. Gitschel invested over \$1,500,000 of his own money into growing OEC and moving OEC forward. Gitschel has invested almost 16,000 hours of his time for the

good of OEC, from June 2012 through January 2016. In fact, Gitschel was only paid a modest salary for his efforts for the time period from May 2013 through January 2015.

111. Gitschel's contributions to OEC, all of which were made in reliance on the promises of the OEC co-funders, are outlined in part previously in this petition. The court and jury deserve to know a fair summary of Gitschel's accomplishment on behalf of OEC and its shareholders.

112. Gitschel successfully prosecuted a complete suite of six issued patents governing the municipal solid waste sorting process and conversion processes, which he had originally conceived in 2009 and 2010 through filed provisional patent applications. Gitschel is the sole inventor on 5 issued patents, covering 98 claims, and lead inventor on 1 issued patent, inventing 18 of the 19 claims. To date, Gitschel also filed 4 continuations on those patents, filed 19 PCT nationalization patent applications in China, India, Japan, Brazil, Mexico, Canada and the European Union, filed two pending patent applications and filed 5 provisional patent applications, which should eventually result in at least 15 utility patent applications, thereby creating, in effect, complete coverage of the highly beneficial

municipal solid waste sorting methodologies and integrated conversion technologies configurations, which will unlock economic benefits for off-take partners who could utilize the sorted feedstock for their own technologies, but had previously been thwarted by the unfavorable economics of obtaining steady, reliable flows of material to process.

113. Strategically, Gitschel continued to build a global network of top companies to deploy the OEC technology. Most notably, he solidified strategic partnership relationships with;

- Grupo ACS, the world's largest private construction company with revenues of \$55 billion a year, agreed to partner with OEC for all building, construction and operations related to installation of Gitschel's patented technologies. This relationship gave the initial project financial and technical credibility beyond what Gitschel had already achieved by negotiating various other commercial relationships;
- IBM, through its Smarter Cities program, will provide the computer hardware and software necessary to run Gitschel's integrated technologies and to provide a global go-to-market strategy and platform for the Core IP;

- AHCEC of Saudi Arabia – was enlisted to act as OEC’s representative in the Middle East-North Africa (MENA) region;
- Workman/Nydegger – serve as OEC and Gitschel’s original and continuing IP counsel;
- Butler Bluescope – the world’s largest manufactured building company will be available for major projects;
- CellMark – one of the largest international materials brokers was to broker all of OEC’s projects’ commodities;
- CRI Catalyst Company (Division of Shell Oil Company) – contributed technology concerning biomass to gasoline and other liquid fuels for OEC’s project feedstock conversion;
- Crowell & Moring – a global leading international law firm worked as OEC’s outside corporate counsel;
- Authur J. Gallagher & Co. – assisted as OEC’s insurance brokers;
- Green Box N.A. – is available to partner with OEC; this company provides a game-changing technology that converts paper to FDA approved food contact packaging products, plastic-to-products, waste-to-fuels and renewable energy;

- Hellmann Worldwide Logistics - one of the world's largest logistics companies was retained to provide global logistics services to OEC's projects;
- Jaybil – one of the largest global contract manufacturing companies will assist to contract manufacture OEC's materials into consumer goods;
- JET Recycling America – this company manufactures plastic into new sustainable plastic products for OEC's projects;
- Meridian BioEnergy – offers a novel technology by which food waste is converted into Renewable Natural Gas (RNG) and soil amendments through their proprietary anaerobic digestion technology;
- Morgan Stanley – one of the largest financial institutions is to provide project finance equity and debt for OEC's projects;
- Raymond James – a NYSE listed financial institution that provides project financing for OEC's projects;
- Rubicon Global – a network of over 4,300 recyclers and haulers in North America that will supply material tons and hauling services for OEC projects;

- Vecoplan LLC and AG – OEC’s system integrator for the MaxDiverter.

114. Commercially, Gitschel continued to work tirelessly to build an economic platform for his inventions. Most notably:

- As the culmination of a three year, worldwide RFP/RFQ process and an additional year of exacting negotiations, in late 2014, the City of Houston elected to deal exclusively with the LLC formed by Grupo ACS and OEC to provide the necessary technology to make possible Houston’s groundbreaking “One Bin For All” municipal solid waste disposal program. The result was largely due to the efforts of Gitschel, without which attaining this agreement would not have been possible;
- Gitschel has worked diligently on behalf of OEC to develop a global business plan for the company. OEC’s technology represents an advancement that would benefit communities and nations worldwide. The waste and recycling capacity may extend to over 800 potential licensed plants across the globe. These plant development opportunities represent substantial Intellectual Property (IP) royalties to OEC. The minimum contract length is anticipated to be 20-years to 25-years,

producing a potentially huge IP royalty income stream to OEC's stockholders.

- Gitschel's go-to-market partnership with IBM has resulted in 20+ potential current municipal and county solid waste supply contracts throughout the USA and Canada, as well as the European Union.

115. The foregoing contentions, when proven at trial, prove overwhelmingly that the OEC co-founder defendants made numerous promises to Gitschel, but they failed to live up to the bargains made. These promises fall outside the scope of any specific contract and thereby serve as the basis for this claim of promissory estoppel. Finally, Gitschel acted in reliance on these promises and should be accorded the relief to which equity entitles him under the facts of this case.

116. In summary, the assignments contracts should be given no credence because, first, they fail on the basis of a lack of consideration from the OEC co-founder defendants, and, second, the contracts should be declared unenforceable and void on the basis of the equitable doctrine of promissory estoppel.

G. Breaches of duties

117. Between November of 2009 and June of 2012, the OEC co-founder defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen simultaneously had engaged in behavior that constituted repeated violations of their duties owed to OEC and Gitschel. The vast majority of these malfeasances were attributable to Buckle, Harris, and Gardner, but the Hansen's complicity is inexcusable.

118. The OEC co-founder defendants breached their ethical duties to OEC and the promises they made to Gitschel through conduct that was and is against the best interests of OEC, including but not limited to the following:

- The OEC co-founder defendants prohibited Gitschel from having sufficient latitude to effectively supervise and direct the business of OEC. OEC co-founder defendants Buckle, Harris and Gardner were the de facto managers of OEC with complete control over every aspect of OEC.
- During the period from June 2011 through December 2011, the OEC co-founder defendant Buckle, Harris, and Gardner refused to allow Gitschel sufficient authority to negotiate a deal to process waste for the city of Dallas by, among other things,

refusing to allow Gitschel to support an ordinance that was necessary to the viability of OEC's future in Dallas. The intransigence of the OEC co-founder defendants caused the company to lose the opportunity to negotiate a waste and recycling deal with Dallas. That interference in 2011 cost OEC 10,000 tons per day in potential waste processing flow that would have supported five vertically integrated plants, with potential to generate up to \$500 million per year in net profits, given OEC's technology configuration at that point in time.

- During 2011 through the beginning of 2012, OEC co-founder defendants Buckle, Harris, and Gardner rebuffed Gitschel's requests for authority to negotiate a deal to process waste for Los Angeles County by, among other things, refusing to allow Gitschel to disclose necessary, relevant, and often publicly available information to decision-makers in Los Angeles County. This interference cost OEC 40,000 tons per day in potential waste processing flow that would have supported 20 vertically integrated plants and generated \$2 billion per year in net profit, given the OEC's technology configuration, at that time.

- From 2010 through April 2012, Buckle, Harris, and Gardner acted irrationally and against the best interests of OEC in impeding deals and strategic partnerships with, among others, the following entities and individuals: Hellmann Worldwide Logistics (one of the largest logistics companies in the world); financier Mike Knowles; the Livingston Group (a high-profile public relations firm with a presence in Denver, Atlanta, Detroit, Chicago and other large metropolitan areas); and a Russian business group with access to Moscow and other major Russian markets.
- On or about March 29, 2012, defendant Buckle sent Gitschel an email stating that Gitschel was the Chief Executive Officer of OEC “in name only.” Defendant Buckle wrote: “[p]er the last stockholders meeting you are CEO in name only. You have no authority beyond that of any board member. No board member has the authority to bind, encumber or establish policy without authorization of the majority of the board.”
- On or about March 29, 2012, Buckle claimed the authority to prevent Gitschel from having any contact with legal counsel for

OEC, including counsel that was responsible for Gitschel's patent applications.

119. The behavior of the OEC co-founder defendants was calculated to derail the success of OEC; moreover, their behavior negatively impacted the ability of OEC to continue as an ongoing and viable business after April 2012. Their conduct resulted in the loss of all deals that were in process for OEC as of April 2012. The co-founder defendants' actions severely hampered the ability of OEC to raise capital necessary to its continued viability. This behavior also resulted in the loss of necessary strategic partnerships that Gitschel had developed. In short, the OEC co-founder defendants set the company on a course to fail by losing all of deals that were in negotiations as of April 2012, as well as access to necessary financing.

120. The only justification for these actions was the myopic and selfish interests of these defendants. The OEC co-founder defendants elevated their personal interests above those of the company and, in so doing, breached their duty of loyalty and integrity to the company and their fellow shareholder Gitschel.

121. Finally, in the culmination of their scheme, on or about April 9, 2012, the OEC co-founder defendants eliminated plaintiff's title of CEO and took steps to prevent him from having any substantial role in the management of OEC. The OEC co-founder defendants then again claimed that the inventions that were created by Gitschel were no longer Gitschel's property, even those inventions were created long before OEC was formed.

122. Between November 2009 and continuing through April 2012, through a string of broken promises, subterfuge, deceit, and outright fraud, the OEC co-founder defendants sought to realize the goal of wrenching control of this vital technology from the one person who could and still can utilize it effectively – George Gitschel.

H. The OEC co-founder defendants' final deception

123. One of the most malicious and inexcusable collaborators in this entire scheme arguably was defendant Larry Buckle. Defendant Buckle first came to know George Gitschel in approximately 1997. Buckle worked at the Roseville Nortech Waste Plant, and he was a first-hand witness to the creative genius possessed by Gitschel as well as its practical success.

124. Defendant Buckle introduced Gitschel to his friends and fellow wastewater treatment engineers, defendants Harris and Gardner and vouched for their integrity, which proved to be questionable. In late 2011 and continuing through early 2012, Buckle sided with Harris and Gardner in a series of key decisions regarding the management of OEC. After being called to task for his, defendant Gardner's, and defendant Harris's inappropriate behavior, it was defendant Buckle who expressed remorse and sought forgiveness from Gitschel.

125. Gitschel considered defendant Buckle not only a business associate, but also a friend. Thus, Gitschel was willing to forgive and forget, and he did so. Nonetheless, Gitschel knew that, for OEC to prosper, he needed to have sufficient say in the affairs of the company to be able to maintain a nimble and adaptive strategy for implementing OEC's revolutionary technology in a vibrant marketplace. Defendant Buckle offered to assist in this goal, one aspect of which was the reorganization of OEC to more fairly and accurately reflect the contributions of the shareholders.

126. In April, May and June of 2012, Buckle negotiated a change of ownership in the company that resulted in Gitschel owning

68 to 79% of OEC. It is important to note that defendant Buckle carried out the negotiations exclusively on behalf of OEC (as an officer and BOD member) and as a shareholder. Defendant Buckle would have a contingency interest depending on the level of his involvement at and contributions to the company. If Defendant Buckle gave his full time and effort to OEC, he would own 22% of the stock; if not, he would own 11% of the shares. Defendants Gardner, Harris, and the Hansons would each own 2.5% of the shares of OEC.

127. In June of 2012, defendant Buckle presented to Gitschel an agreement drafted and signed by defendants Harris and Gardner that reflected the terms set forth above. Defendant Buckle assured Gitschel that the agreement had been rightfully negotiated, the contract was legally viable in all respects, the parties were in agreement with its terms, and it reflected the free will of all involved. Gitschel agreed to the terms presented, based on the representations made to him, signed the OEC Stock Purchase Agreement, and proceeded to devote his time and effort to OEC.

128. As an aside, at the time this agreement was signed, OEC had a variable cash flow, but it owned valuable assets that exceeded the sum of outstanding debts multiple times over. Thus, OEC was

stable and liquid, but it was critical for the company to continue to progress forward on pending projects. OEC required the substantial involvement, efforts, capital investment and management of Gitschel to have any chance of growing and prospering.

129. It was unknown to Gitschel at the time, but defendant Buckle had secretly entered into a side agreement with defendants Harris and Gardner by which Buckle assigned one-third of his interest in OEC's first two projects to Gardner and Harris each. Defendant Buckle's motivation for doing so will have to be explained by him, but Buckle's dishonesty with Gitschel in this transaction is one component of the conspiracy alleged in this lawsuit.

130. After executing the OEC Stock Purchase Agreement in June 2012, on or about July 28, 2012 Gitschel moved his family from the San Francisco Bay Area to Sugarland, Texas. Gitschel left all of his family and extensive network of lifelong friends to risk everything that he had to pursue his career-long dream of changing the world through the implementation of his game changing vision for OEC.

131. Gitschel spent his life-savings and borrowed everything that he could from family and friends to pursue growing OEC and supporting himself in the pursuit of succeeding the nearly impossible

challenge of singlehandedly transforming the extremely well entrenched solid waste, recycling, scrap metal and paper manufacturing industries. Gitschel took the equity proceeds from the sale of his home and used the funds to keep OEC and his family alive for another year. In addition, the City of Houston had made it very clear to Gitschel that he would have to personally manage their account on behalf of OEC. Thus, Gitschel also provided major support to the business affairs of OEC, with no contributions by the OEC co-founder defendants.

132. From June 2012 through the present date, OEC continued to progress forward, primarily due to the efforts of George Gitschel. The OEC co-founder defendants Harris, Gardner, Conly Hansen and Carl Hansen provided no recognizable support to the company whatsoever. On the contrary, Harris and Gardner refused to speak to Gitschel. The evidence in this case will show that Harris and Gardner sat idly by, doing nothing to benefit OEC, in direct contravention of their promises going back to 2009 when the company was formed and thereafter.

133. Defendants Conly Hansen and Carl Hansen also proved to be inconsequential in contributing to the success of OEC. These

defendants never assumed the degree of responsibility of Buckle, Harris, or Gardner, but they did obligate themselves to contribute meaningful intellectual property and commensurate time and energy to OEC. They did neither. Thus, these defendants also breached their duties to OEC and their fellow shareholder Gitschel, and the agreements referenced in this petition suffered from a failure of consideration.

134. Buckle continued to remain involved in the business of OEC, but his contributions were severely offset by his negative impact on the company. After the June 2012 change of ownership, Buckle decided to remain in California and initially appeared to be cooperative in the projects undertaken by Gitschel. However, defendant Buckle failed to deliver usable IP, meaningful deal flow, or strategic partnership alliances to OEC. It was very clear to Gitschel that Buckle was working very limited hours, if at all for OEC between June 2012 and July 2013, the timeframe that Gitschel was self-funding OEC. This was clear from the absolute lack of production by Buckle. In fact, Gitschel and Buckle rarely communicated during that timeframe. The only time that Gitschel saw Buckle was on those

occasions that Gitschel would travel from Texas to California to lead Roseville Facility Tours and associated presentations.

135. On August 7, 2013, Buckle signed a Professional Services Agreement (“PSA”) with OEC to serve as Chief Technical Officer. On or about October 2013, Buckle drafted a policy meant to control all financial transactions and check writing at OEC, including payment of budgeted expenses and all capital outlays. In early 2014, Buckle once again attempted to thwart the efforts of Gitschel by implementing an expense policy and refusing to pay bills that were vital to the viability of the intellectual property on which Gitschel had worked for many years. Buckle had no valid authority for his actions, and Gitschel eventually removed Buckle from the board of OEC in February 2014.

136. It was at this point in time – February 2014 - that Gitschel knew that Buckle’s word was meaningless, his friendship ephemeral, and his integrity nonexistent. Prior to February 2014, Gitschel had conducted himself as a reasonable and prudent individual and businessman, and he had no reason to suspect that his former friend Buckle was guilty of fraud and numerous acts of conspiracy. As of February 2014, Buckle no longer deserved the benefit of the doubt.

137. In the end, there was a non-delegable and inviolate duty on the part of each of these defendants to employ their integrity, loyalty, and honesty to do right by OEC and Gitschel, but each instead chose the pathway of deceit, selfishness, and betrayal.

X. FACTUAL BASIS OF THIS LAWSUIT -

THE MSWS DEFEDANTS

A. *OEC's relationship with MSWS*

138. Marketing of OEC's technology was an indispensable facet of OEC's future success. Gitschel was coordinating substantial effort toward this goal. In the fall of 2011, Gitschel was contacted by his brother-in-law, defendant Mark Crawford. Crawford was very close to the Gitschel family and was therefore someone who Gitschel trusted and wanted to help in forming a potentially lucrative business venture. Crawford had expressed a keen interest in Gitschel's environmental system vision since they had first met in 1999. Crawford proposed to start a company that would market OEC's technology to towns and cities in Texas. Gitschel was open to the idea, in large part as a result of his personal relationship with Crawford.

139. Crawford introduced Gitschel to co-defendant Darrin Stanton. Stanton was Crawford's first cousin and claimed to have solid business contacts in Dallas, which is one location OEC sought to pursue as a potential customer for its technology. Gitschel had met defendant Gorey in April of 2010 through a waste-to-energy project that he was trying to develop in New Orleans. Gorey was so enthralled with the OEC technology that he ended up leaving his company, Sun Energy, and formed OEC of Louisiana to pursue development projects as an independent agent for OEC in Louisiana. Gorey was not successful in his Louisiana efforts, so he joined Crawford and Stanton in their Texas endeavors for OEC. Crawford, Stanton, and Gorey were some of the founders of a company they named MSW Solutions ("MSWS").

140. The business purpose of MSWS was to promote OEC and its waste management and recycling technology. MSWS's relationship with OEC was incentive-based in that MSWS was to have the exclusive right to work to obtain a contract with two cities in Texas under various terms and conditions outlined in the contract with OEC. If MSWS succeeded, the company would earn a percentage of the profits to be paid to OEC. Thus, the consideration

underlying the MSWS-OEC contract was that OEC would actually achieve a contract with a city in Texas to implement OEC's technology.

141. George Gitschel went to great lengths to educate MSWS and its members about the waste industry and recycling businesses, the history and evolution of OEC, the technology of creating a single-bin mixed waste management system, and the benefits of implementing this technology. It was the contractual obligation of MSWS to secure a contract to build an OEC plant using the company's resources and effort. The MSWS defendants stood to reap significant financial benefits from their relationship with OEC – but only if MSWS succeeded in signing a contract with a city in Texas for construction of an OEC plant.

B. MSWS fails to achieve

142. It ultimately proved to be the case that MSWS and defendants Crawford, Stanton, and Gorey failed to achieve the overreaching purpose upon which the contract with OEC was based. The MSWS defendants accomplished very little that was of benefit to OEC's long-term goals. In spite of this fact, OEC and Gitschel consistently supported MSWS, including the following:

- Gitschel was available and assisted in educating MSWS and its members in all aspects of OEC's work, including the sophisticated systems that were the foundation of OEC's waste separation and conversion technologies;
- Gitschel provided MSWS with rights to serve as the exclusive outside marketing company for any two of the following Texas cities; Dallas, Fort Worth, San Antonio or Austin and up to four Texas cities, if they raised a total of \$1,000,000 to adequately market to such cities and secure MSW supply contracts for OEC. MSWS Solutions had the potential to create relationships that would secure enough waste to build up to 15 or more OEC plants.
- Gitschel created presentations for use by MSWS and personally presented information on OEC when asked by MSWS, despite the fact that it was MSWS's responsibility to educate potential customers about OEC's business model. Gitschel did this for MSWS for Dallas, Fort Worth, and Austin.
- Gitschel assisted in marketing OEC's technology in many other ways outside the scope of his or OEC's responsibility, including

leading tours of both the Roseville, CA plant and a comprehensive tour of various plants in Europe.

- In Dallas, Gitschel was integrally involved in presentations to the City Council and city staff. Dallas had the potential for five OEC plants.
- Gitschel was solely responsible for OEC regarding all aspects related to the 4.5 year project development efforts for the Houston “One Bin for All” project. Gitschel’s contributions included, but were not limited to, introduction, strategic approach, education, sales, community relations, international tours, city staff presentations, city staff interaction, strategic partnership recruiting, project finance, supply contract negotiations, RFQ preparation and submission, RFP preparation and submission, project engineering, EPC contract negotiations, project development, building design, site layout, permitting, hauling contract negotiations for municipal buildings and airport buildings waste supply, IT design, relationship management, and many other tasks. Houston has the potential for fifteen OEC plants. Since mid-2012, Gitschel made it very clear to MSWS that Houston would be handled directly by OEC

and would not be an eligible MSWS city. There were a multitude of reasons for this decision, most of which evolved from the failure of MSWS to succeed in developing a relationship with Houston. Neither MSWS nor any of the MSWS defendants secured any deals for OEC. In short, MSWS and its members failed to achieve the single goal for which MSWS was formed.

143. Contemporaneously with the internal affairs among the OEC defendants described *infra*, there was a parallel series of developments affecting OEC's relationship with MSWS. Most notably, it evolved to become clear that MSWS and defendants Crawford, Stanton, and Gorey proved to be incapable of understanding OEC's system and business model or presenting them in a lucid manner. Such was their ineptitude that officials for the city of Houston told Gitschel that the city did not want to work with MSWS, Gorey or Crawford. For this reason, Gitschel was left to nurture the relationship with the city and respond to the innumerable tasks that were required to be completed prior to the submission to Houston. Crawford and Gorey, and thus MSWS, were aware of this development and their failure to progress the relationship with the city

of Houston. MSWS was informed in the summer of 2012 to direct their efforts to cities other than Houston – Houston would no longer be a candidate subject to selection by MSWS.

144. As the marketing of OEC continued, MSWS and defendants Gorey, Crawford, and Stanton made no progress in their marketing skills. A tour of the Roseville, CA facility in the summer of 2012 was managed by Gitschel, due to the inability of the MSWS parties to provide a credible presentation to the attendees, which included officials from the city of Austin. Gitschel led a similar tour in July 2012 for officials from the city of Fort Worth. MSWS and defendants Crawford, Stanton and Gorey thus failed to accomplish the essential purpose of the OEC marketing contract.

145. In February of 2013, MSWS's original contract with OEC required MSWS to select two cities in Texas for exclusive protection, based upon the \$500,000 that they had originally raised in 2012. MSWS asked Gitschel to add two additional cities in Texas if they raised an additional \$500,000. MSWS also sought an extension on the exclusivity period for the first two cities relative to contract signing deadlines. OEC examined the track records of MSWS and defendants Crawford, Stanton, and Gorey and declined to allow

MSWS to add two more cities, even if they raised an additional \$500,000.

146. As the prospects of success on the Houston project became more likely, MSWS and Crawford, Stanton and Gorey sought to reassert themselves into this project on which they had already failed to make headway. These defendants were told unequivocally they could continue to attempt to market OEC in Texas, but the city of Houston was not available as a candidate to be groomed by MSWS. Prior to the summer of 2012, MSWS had no contact with the City of Houston, short of a few “face-to-face” meetings that Gitschel led. MSWS had no meaningful involvement in the Houston project since the summer of 2012, when Gitschel moved his family from California specifically to personally manage every aspect of the Houston project on behalf of OEC. Gitschel had done all of the meaningful work on Houston, had the relationships with the necessary parties, and was in the process of securing ancillary business relationships as a foundation for the Houston deal.

147. On or around February 2013, defendants Crawford, Gorey and Stanton informed their investor, Gary Becker (“Becker”), whose group invested \$500,000 in seed capital to MSWS for rights to

two Texas cities, that OEC would not allow MSWS to select Houston as a candidate city. When defendants Crawford, Gorey and Stanton thought the call had concluded and Becker had hung up, Becker overheard a conversation between Mark Crawford, Stanton and Gorey where they stated “Fuck Gitschel” and “We’re going to take him (Gitschel) for everything he’s got”, among other statements. Becker informed Gitschel and told him to “watch your back”. Gitschel confronted defendant Mark Crawford and he admitted to what they had said during the overheard conversation. Mark Crawford apologized profusely to Gitschel and Gitschel forgave him. Defendant Mark Crawford assured Gitschel that they were “just mad over the Houston deal” and would never do anything to hurt him or OEC. Since defendant Mark Crawford and Gitschel were brothers-in-law and “friends,” Gitschel gave Crawford a second chance. This turned out to be one of the biggest mistakes that Gitschel had ever made. This was the beginning of the scheme hatched by defendants Mark Crawford, Gorey and Stanton to overtake OEC and destroy Gitschel and, ultimately, OEC itself.

148. Gitschel knew that defendants Crawford, Gorey, and Stanton were extremely upset that he wouldn’t “give” them the

Houston deal, but he had no idea the lengths to which they would go to attain that to which they erroneously thought they were entitled. The truth of the matter is that MSWS and its principals had done absolutely nothing meaningful to achieve the Houston deal. To Gitschel, this was akin to giving up a child he had conceived and raised, which was inconceivable to Gitschel.

149. In May of 2013, MSWS was financially strained, and defendant Mark Crawford approached Gitschel and proposed to raise money for OEC in exchange for employment. Based in large part on his family relationship with Crawford, Gitschel agreed to continue to work with Crawford and Gorey, but did not hire Stanton. Gitschel agreed to hire defendants Crawford and Gorey, but Crawford obligated himself to raise capital for OEC. Defendant Mark Crawford brought his cousin defendant Stanton on as the first OEC Series A investor in OEC for a ½ unit investment of \$65,000 in July 2013. Defendant Stanton later took another ½ unit for a total investment of \$125,000 in OEC. Mark Crawford then worked with Stanton to bring several of Stanton's friends and associates on board with OEC as investors, including defendants Martin, Hodge, Darwin, and Brian Crawford, among others. In total, defendants Crawford and Stanton

raised \$750,000 in OEC Series A investments. OEC paid defendant Crawford over \$90,000 to raise \$750,000 for OEC through his fellow defendant Stanton and Stanton's friends. By contrast, during that same basic timeframe, Gitschel raised \$1,100,000. Thus, even when the MSWS group made progress, it was modest and inadequate.

150. As events unfolded between October 2013 and February 2014, the first round of investment capital had been raised, and defendant Mark Crawford had secured a salary from OEC and was on the inside of the company. Crawford and Stanton hatched a scheme, with Buckle, Lark, Condon, and Gorey, to take over OEC by attempting to terminate Gitschel as CEO. This would be accomplished by making false claims that Gitschel engaged in self-dealing and salary overpayment by Condon, then acting CFO of OEC.

151. There are many events that exemplify the disparity in the level of contributions made by Gitschel in contrast with that of the MSWS defendants. One of Crawford's only identifiable contributions to OEC was the initial identification of a plot of land proposed for development of an OEC facility on Ley Road. After spending thousands of dollars and dozens of hours to investigate this location, OEC learned the land was unsuitable for its proposed purpose.

Hence, Crawford's claimed contribution again proved to be nonviable and financially detrimental to OEC. In fact, OEC and its partner, ACS, lost over \$100,000 on this Crawford bungle.

152. In addition, over the last few years, defendant Crawford brought other allegedly "great deals" and "great strategic relationships" to Gitschel's and OEC's attention, all of which turned out to be an enormous waste of time and a drain on valuable company resources. A short list of Crawford's debacles include: Bobby Gregory, Texas Disposal Systems, Texas Campaign for the Environment, Mesut Konar, MOGUL, Michael Urazaev, Mela Selinsky, Russia, Turkey, India, Chile, Gilmore Ching, Hawaii, Corpus Christi, Egypt, Farmers Branch, Libya, Saudi Arabia, Waco, MHT Midspan, Hector Escamilla, Tramell Crow, Masterplan, Mark Housewright, and Rick Keister. At this time, it would be difficult to calculate the amount of time and money that OEC lost due to defendant Crawford's total ineptitude related to business.

153. Another plan that was designed to wrongfully benefit a subgroup of the defendants, led by Stanton and Crawford, at the expense of OEC is described in the follow paragraphs. In July 2013, defendant Jack Hodge, a good friend and business associate of

defendant Stanton, invested \$125,000 in an OEC Series A Subscription Agreement. The OEC post-money valuation equaled \$300,000,000. This investment by defendant Hodge amounted to a 0.00046% equity stake in OEC. Defendants Stanton and Mark Crawford brought defendant Hodge to OEC.

154. In August 2013, defendants Tony Darwin and Mark Martin, good friends and business associates of defendant Stanton, invested a total of \$125,000 in an OEC Series A Subscription Agreement through their company – 2GI, LLC. The OEC post-money valuation equaled \$300,000,000. This investment by defendant defendants Darwin and Martin amounted to a 0.00046% equity stake in OEC. Defendants Stanton and Mark Crawford brought defendants Darwin and Martin to OEC.

155. Toward the end of 2013, after many frustrating and unproductive months accommodating MSWS and its minions, OEC and Gitschel decided they could no longer accommodate Gorey, and he was terminated.

156. On information and belief and subject to additional tangible proof to be obtained as discovery progresses, Mark Crawford

and Stanton contrived a plan with Hodge, Martin, Darwin, and perhaps others who are currently unknown to OEC or Gitschel, to takeover or control OEC. It is alleged in this petition that these individuals were overtly guilty of acts that constitute fraud and conspiracy, or they were complicit in the wrongdoings committed by the other named defendants. Their plan was to continuously express sincere interest in investing in OEC, giving the company and Gitschel false hope of their intentions, but they never followed through on their promises. Eventually, this group made a “last minute” offer to invest \$750,000 (to fill out the remaining OEC Series A Subscription Agreements) in exchange for full control of OEC’s board, all management functions, future corporate financing decisions and OEC’s IP. At the time of their offer, OEC was in debt to creditors and financial taxed. Gitschel had expressed to Crawford that he had no idea how he was going to feed his two small children. Furthermore, Gitschel had informed Crawford that OEC’s creditors, all of which were close associates of Gitschel, were putting considerable pressure on Gitschel to pay their invoices. This had caused Gitschel to endure great embarrassment and stress, since he felt terrible

regarding OEC's ability to pay its creditors, employees and consultants.

157. Mark Crawford did not show up for a scheduled investor presentation at Gitschel's office on August 19, 2014, despite knowing that he had spent two months preparing and negotiating the deal assembled by Stanton, Crawford's cousin, and Stanton's friends who were previous investors in OEC. After declining the Stanton, Hodge, Darwin and Martin offer, Gitschel asked them to leave his home office. After the Defendants left Gitschel's home office, Gitschel read their Term Sheet offer. OEC made a counter-offer that was for a standard term \$750,000 Series A investment, but Stanton's attorney never responded. Mark Crawford later denied any knowledge of the Stanton Term Sheet terms or intent. When Gitschel contacted Mark Crawford two days after the Stanton meeting on August 21, 2014 to question him about Stanton's motives, Mark Crawford informed Gitschel; "I guess if you don't like the deal, maybe you shouldn't take it." That was the last time Gitschel ever spoke to Crawford, despite leaving several messages with him and trying to continue the relationship. Mark Crawford also cut off all communications with

Gitschel's wife, Jacquelyn, and Gitschel's children. Crawford never provided a reason for ending any of the family relationships.

C. OEC and Gitschel stand alone

158. It has previously been described how the culmination of events in early 2014 resulted in OEC and Gitschel being isolated from the company's co-founders, Gitschel's relatives, and key company insiders. With the refusal or inability of MSWS to competently represent the interests of OEC's, Gitschel and, therefore, OEC were left to fend for themselves in a torrid and evasive market. It is beyond the personal knowledge of Gitschel or OEC to describe with specificity the interactions among the named defendants, or perhaps others who are unknown at this time. What is virtually certain, and to be proven at the time of trial, is that the individuals and entities named in this complaint did not foster the best interests of OEC and engaged in numerous acts, both legal and illegal, that amount to a conspiracy to wrongfully appropriate the intellectual property developed by Gitschel.

159. As the facts outlined above attest, there were two primary factions who knew the business plan developed primarily by Gitschel.

On the one hand, the OEC co-founder defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen had obligated themselves to provide technological know-how and scientific expertise to the company. Even so, these defendants provided no meaningful intellectual property to the company and very little blood, sweat, or tears. It became clear to the OEC co-founder defendants that the creator of OEC's core technology and the individual responsible for its potential success was George Gitschel.

160. Contemporaneously, the MSWS defendants had undertaken to market OEC's technology to cities in Texas and perhaps elsewhere. The MSWS defendants proved to be incapable of successfully marketing this technology. However, the MSWS defendants recognized the value of OEC's patents, ideas, and future prospects. The individual MSWS defendants also knew that the OEC co-founder defendants owned stock in OEC and therefore had a degree of control over the company.

161. Ultimately, through means and manipulations that are not specifically known to OEC or Gitschel, the OEC co-founder defendants Buckle, Harris, and Gardner came to communicate with the MSWS defendants, Stanton, Gorey, and Mark Crawford, and

possibly others who are not currently known to your plaintiffs. They were collectively aware that OEC had been forced to file the original lawsuit in this court in 2014 in which it was alleged that Buckle and Condon engaged in conduct that was detrimental to the company and included acts of conspiracy and breaches of duties owed to the company. OEC and Gitschel, of course, did not know the true extent of the conspiracy at that time, as alleged herein. Nonetheless, plaintiffs allege these defendants engaged in tortious behavior, the details of which will be the subject of discovery and will be proven at trial.

D. The covetous conspiracies continue

162. A conspiracy by its very nature exists in secrecy and darkness. Hence, it is unknown exactly when the OEC co-founders and the MSWS defendants made the decision to engender a relationship to their mutual benefit. Even so, plaintiffs allege that there was a meeting of the minds among two or more of the named MSWS and OEC co-founder defendants. The goal of these defendants was to line their pockets by either appropriating OEC's technology or its stock. It will be shown there were numerous unlawful, overt acts perpetrated toward this goal, all of which were

unknown to George Gitschel or OEC at the time. The documentary and testimonial evidence will show that the OEC co-founder defendants acted in concert with the MSWS defendants to attempt to steal control of OEC from its rightful chief executive, George Gitschel.

163. In conclusion, the individual and collective behavior of the named defendants has all been calculated toward one goal: their own personal wealth and power. These defendants engaged in repeated, overt and covert misbehavior, both individually and in concert. There will be no meaningful evidence in this lawsuit that any of the defendants were the driving force behind OEC. On the contrary, the ingenuity, energy, and charisma of this revolutionary entity were attributable to one man – George Gitschel.

XI. LEGAL THEORIES AND CAUSES OF ACTION

A. *First cause of action: conspiracy*

164. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

165. Plaintiffs allege that the named defendants, two or more of them, engaged in wrongful conduct they knew was calculated to cause injury to OEC and Gitschel or they were aware harm was likely

to result from the wrongful conduct. These individuals, as more fully described in this pleading, knew the object and purpose of the conspiracy or conspiracies and had a meeting of the minds with the other conspirators to accomplish that object and purpose, intending to bring about the resulting injury.

166. The alleged co-conspirators participated in numerous torts and associated illegal behavior that would have been actionable against at least one of the conspirators individually. The injuries sustained by OEC and Gitschel were caused by the tort or statutory violation that the conspirators agreed with the perpetrators to bring about while intending the resulting harm. Each coconspirator is responsible for the actions of any coconspirator in furtherance of the conspiracy, and each element of the underlying tort or violation is imputed to each participant.

167. In addition to the otherwise lawful behavior alleged herein, plaintiffs allege the defendant-conspirators pursued one or more lawful objectives by unlawful means. In this instance as well, the resulting damages to OEC and Gitschel are actionable under Texas law.

168. OEC and Gitschel sustained millions of dollars in damages as a result of the horrendous behavior of the named defendants. The nature of these damages will be established by expert testimony and evidence, but include the loss of substantial profits from the loss of business opportunities that otherwise would have been secured by OEC.

169. Hence, plaintiffs allege generally that the defendants, singularly and in combination, had knowledge of, agreed to, and intended a common objective or course of action that resulted in the damages to Organic Energy Corporation and George Gitschel. There was a meeting of the minds to accomplish an unlawful purpose or to accomplish a lawful purpose by an unlawful means. One or more of the defendants involved in the conspiracy performed an act or acts to further the conspiracy. The defendants, individually or jointly, engaged in conduct that constitutes either a violation of Texas or federal law or a tort other than negligence that proximately caused the damages alleged in this pleading. The specific acts in furtherance of the conspiracy are described in the preceding pages of this petition and in the pages that follow, as many of these acts also amount to breaches of duty or other acts of civil disobedience.

170. Stated generally, the initial scheme was for the OEC co-founder defendants to hold onto an interest in the company that they neither earned nor ultimately deserved. The entire premise upon which OEC was founded was one of mutual contributions and effort, but the OEC co-founder defendants failed to provide the consideration upon which the formation of the company was based. Thus, with no intellect or creativity to offer, they resorted to acts of collusion and tortious misbehavior to manipulate the affairs of OEC.

171. Defendants Buckle, IES, Crawford, Condon, Gorey and Lark, in their capacities as former PSA employees of OEC, participated both actively and passively in the conspiracy contrived by the OEC co-founder defendants, as described herein.

172. The MSWS defendants, Crawford, Stanton, and Gorey first sought to ingratiate themselves into the success of OEC by professing to have the skills to market the sophisticated technology upon which OEC was based, but the recurrent failures that epitomized the efforts of these defendants left them on the outside looking in.

173. In the end, the overwhelming and egocentric avarice of these defendants culminated in an act of overt and undeniable

voracity. In April of 2015, in the first truly ostentatious, overt act was made known to Gitschel, when defendants Buckle, Harris and Gardner purported to assign their OEC Stock Purchase Agreement “right to pursue claims” to Stanton and HNL, LLC, the entity formed by defendant Brian Crawford. This action was the first public admission that these defendants were acting in concert. Thus, as of April 2015, Gitschel and OEC first had notice that the conspiracy herein alleged was real and the wrongdoing of these defendants unmitigated.

B. Second cause of action: breaches of duties

174. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

175. The OEC co-founder defendants, Buckle, Harris, Gardner, Conly Hansen and Carl Hansen, and later defendants Buckle, IES, Condon, Lark, Gorey, and Mark Crawford, in their capacities as OEC shareholders and/or employees, engaged in repeated breaches of their respective duties based on their relationships with OEC.

176. Corporate officers and directors owe a strict duty to the corporation they serve. A special relationship may arise from a formal or informal relationship in which one person places special

confidence in another who, in equity and good conscience, is bound to act in good faith and with due regard for the interest of the person placing the confidence.—This duty requires that the company officers and directors, who were also shareholders, act solely for the benefit of OEC. The same duty of loyalty applied to the employee and contractor parties.

177. In addition to the foregoing, the OEC officers and directors owed a duty of obedience to OEC. This duty required that these parties be diligent and prudent in managing the corporation's affairs. The failure to preserve corporate interests, assets, and opportunities is actionable.

178. Defendant IES was the alter ego of defendant Buckle and thus is liable for his breaches of duty.

179. Defendant Buckle's conduct has been atrocious and inexcusable in his multiple violations of his duty of trust and integrity. Buckle was the oldest "friend" of Gitschel's and supposedly had the best interests of OEC at heart. This turned out to be far from the truth. Recall that in 2012, Buckle had implemented certain changes at OEC that amounted to an ouster of Gitschel from his position as president. When Gitschel took action to maintain his position, Buckle pleaded

for forgiveness and asked for a second chance; Gitschel relented and gave his colleague and friend another opportunity.

180. Over the next three years, Buckle committed numerous acts of betrayal, breaches of loyalty, and breaches of duty, including the following:

- On or about June 2012, defendant Buckle effectively “double dealt” the OEC Stock Purchase Agreement (“OEC SPA”) negotiating for himself and for OEC. Buckle engineered the deal so that he would get back his entire \$90,000 seed capital investment and 100% of all of his expenses, plus 5% interest, while retaining 22% of his original 30% equity stake in OEC. Buckle made virtually no meaningful contributions in OEC so that he had no real “sweat equity” investment. The manner in which Buckle undertook the OEC SPA was detrimental to OEC and amounted to a violation of Buckle’s duties as an officer and shareholder of the corporation;
- After the OEC SPA was signed on or about June 18, 2012, Buckle elected to stay in California while Gitschel sold his home and moved his family to Texas to pursue the Houston deal and other Texas deals. Defendant Buckle promised Gitschel, once

again, that he would “work day and night for OEC” and “dedicate his fulltime attention and efforts towards the success of OEC”. This representation turned out to be a complete and utter fabrication. In fact, Buckle made no meaningful contributions in the form of creation of IP, deal flow, investment capital raising, development of strategic alliance partnerships, technology R & D, or strategic vision from June 2012 through his removal for cause from OEC in February 2014;

- On or about September 2013, Buckle subtly orchestrated the institution of a three person accounting control system that included Gitschel being the “approver” of expenses, defendant Condon being in charge and managing OEC’s accounting department, and defendant Buckle being the “check signer”. When Gitschel sought funds for essential office equipment, Buckle refused to authorize the purchase. Buckle’s conduct violated his responsibility as an officer, but also jeopardized the productivity and success of OEC;
- Buckle sought to undermine the reputation and integrity of Gitschel for reasons that were unclear at the time. For example, Buckle made several very disparaging comments regarding

Gitschel to Dennis Murphy, a friend of Gitschel's for 40 years and an investor in OEC. The only possible explanation for Buckle's conduct, other than the prospect that he is a sociopath, is that Buckle wanted to assert control over OEC, in dereliction of his duty to the company;

- On or about February 2014, Buckle conspired with defendant Condon to falsely accuse Gitschel of self-dealing, based upon erroneous QuickBooks accounting records assembled by Condon. The truth of the matter was that Gitschel was, as always, seeking to protect the interests of the company and had undertaken to pay critical PCT patent application fees of approximately \$45,000, which were part of OEC's approved budget. Instead of paying these essential fees, Buckle and Condon engaged in self-dealing by approving reimbursement of unauthorized business expenses. As a result of Buckle's dereliction of duties and self-dealing actions, Gitschel had no choice but to eventually remove Buckle as director of the company;
- Subsequent to February 2014, Gitschel has made attempts to convince Buckle to sell his stock, either to Gitschel or others. It

was important to the financial and business well being of OEC to have stable ownership since potential parties and business associates would not agree to work with a divided, contentious group of shareholders. Buckle refused to consider selling. Thus, Buckle's selfish interests collided with those of OEC and his fellow shareholders. Buckle's conduct in remaining as an intransigent shareholder was unwarranted and poisonous to the health of OEC.

181. Another perpetrator in this plan was defendant John Condon. Gitschel met Condon in February 2012 during negotiations with the City of Lancaster, California for an OEC mixed waste processing plant. Condon was initially impressed with OEC's capabilities and expressed a desire to invest in the company. Gitschel and Condon discussed fundraising for a venture called Ecolution, which was formed to develop the Lancaster project. Condon spent from February 2012 through July 2013 interacting with Gitschel on an almost daily basis working on fundraising for Ecolution, OEC and other projects, strategic partnership opportunities, and other strategic planning discussions. Condon was fascinated with OEC's

technology and Gitschel's vision. Condon "just wanted to be involved and help in any way possible".

182. Gitschel initially found Condon to be intelligent and a good "people person" with excellent interpersonal skills. Over time, Gitschel believed the two had become friends. Condon entered into a PSA Agreement with OEC on September 24, 2013. Condon's services provided as per the PSA included raising capital, business development, strategic technology partnership development, and accounting for OEC.

183. In September and October of 2013, defendant Condon, along with defendant Buckle, attempted to modify various procedures at OEC, the result of which would be that he or others would increase their control of the company. Spurious accusations were made, communications were disrupted, and crucial business affairs were ignored. It is unknown to your plaintiffs exactly what transpired at this time among or between the co-conspirators and defendants Buckle, Mark Crawford, Lark, and Gorey, but whatever was done was done secretly and without notice to Gitschel, who maintained his optimism that problems with his friends Buckle and Condon could be resolved.

184. It was not until many months later, in mid-2014, Gitschel learned that Condon had either intentionally or as a result of gross negligence failed to maintain the integrity of the OEC accounts. Condon left the accounts in a state of total disarray, which had to be rectified by a new accountant. Thus, the state of the accounting system left Gitschel open to contrived accusations by Buckle that Gitschel was self-dealing and overpaying himself. The truth was that Gitschel was not proficient at accounting and was not guilty of any wrongdoing with respect to the books of OEC. On information and belief, it was Condon and Buckle, and perhaps others, who contrived to breach their duties to OEC and Gitschel with ill-founded and spurious complaints regarding the books of the company. Gitschel later found out through the new OEC bookkeeper and company accountant that defendant Condon had incorrectly created multiple journal entries for payments to Gitschel and that Gitschel had actually never been paid a single penny more than his PSA with OEC dictated.

185. Regarding defendant Michael Lark, on or about May 8, 2012, Gitschel met Lark through an introduction from Brian Bean, principal of Copper Creek Capital, OEC's investment banker at that point in time. Lark was looking for a job, and Bean had high praise

for him. Gitschel gave Lark a full overview of OEC and the circumstances of that moment regarding OEC. Lark was extremely intrigued with Gitschel's vision and possibilities of opportunity with OEC.

186. Gitschel ended up hiring Lark as an independent consultant to do work for OEC on or around July 2012. Gitschel paid defendant Lark out of his own pocket from July 2012 through August 2013, at which time defendant Lark was engaged by OEC under a Professional Services Agreement. Defendant Lark was the primary architect of all OEC models, including the Comprehensive Financial Model, Diversion Model, and the Renewable Energy and Sustainable Products Calculator. Gitschel provided Lark with conception, direction, and guidance with the models, as well as diligence management. Gitschel, at that time, believed Lark to be an extremely hard worker and very dedicated to OEC. Gitschel formed a friendship with Lark and felt that he had an excellent working relationship with Lark.

187. On or about September 2013 through February 2014, Lark stood in a position to disclose to Gitschel the fact that there was private, unique evidence that activity was afoot that involved

defendants Buckle, Condon, Gorey and Mark Crawford and the contention that Gitschel was engaged in some contrived wrongdoing. Lark could have and should have stood for OEC and Gitschel, but instead he turned a blind eye to the disloyalty of these defendants and stood silently by while unfounded allegations were leveled against Gitschel.

188. Inexplicably and without warning, defendant Lark later stopped speaking to and communicating with Gitschel on or around March 24, 2015. Lark's behavior was very troubling to Gitschel, as Lark and Gitschel were in the habit of communicating multiple times per day through telephone conversations and emails over their almost 3 year long relationship. Gitschel thought that he and Lark had an outstanding working and personal relationship.

189. On or around April 2, 2015, Gitschel finally had his calls returned by defendant Lark. Lark informed Gitschel that he didn't want to continue working for OEC and Gitschel knew OEC was out of funds and had no means to pay Lark his PSA fees. Gitschel still maintained that he and Lark had a stable relationship and he asked Lark to continue working as a consultant for OEC. Gitschel asked Lark to, at the very least, turn over his associated records, documents,

files, models, drawings and other OEC information, most of which was highly confidential, and to organize a professional transition and exit from OEC, if his decision was to quit. Lark agreed to the terms offered by Gitschel and actually said that he'd continue to do toll work for OEC as OEC continued on its quest to raise equity investment in the company to sustain operations.. The 45-minute conversation turned out to be extremely pleasant. Gitschel felt that everything was "back to normal" with Lark and he was extremely relieved. Unfortunately, that is the last time that Gitschel ever spoke to Lark, who had ceased all communications with Gitschel for the second time. Lark never turned over his significant volume of OEC's confidential and proprietary information, including trade secrets. Any disclosure of OEC's confidential, proprietary and trade secret information to companies in the solid waste, recycling, scrap metal and conversion technology industries would be extremely damaging to OEC. The damages could easily be estimated in the hundreds of millions of dollars.

190. Thus, Lark had the last and best opportunity to remain loyal to OEC and Gitschel, but instead he chose the path of disloyalty, all to the detriment of OEC and Gitschel.

191. MSWS and defendants Crawford, Stanton and Gorey owed a multi-faceted duty to OEC. On one hand, MSWS and its members acted as agents of OEC. An agent is subject to a duty to his principal to act solely for the benefit of the principal in all matters connected with his agency. Alternatively, the goals sought to be accomplished by OEC, in conjunction with MSWS and its principals, were akin to those of joint venturers, but only with regard to the creation of a duty of loyalty and fair dealing as to all matters within the scope of the undertaking.

192. In Texas, individuals in special relationships owe six general duties:

- a duty of loyalty and utmost good faith;
- a duty of candor;
- a duty to refrain from self-dealing;
- a duty to act with integrity of the strictest kind;
- a duty of fair, honest dealing; and
- a duty of full disclosure.

The joined defendants are guilty of breaches of each of the enumerated duties.

193. In the case at bar, perhaps the most egregious and rampant violations by the defendants were based on their disloyalty toward OEC. Loyalty to OEC required complete candor and full disclosure. Inappropriate self-dealing or disloyalty is prohibited when a special relationship exists, but reprehensible examples of self-dealing existed among the defendants named in this petition.

194. When parties to a special relationship enter into a transaction among themselves, there is an equitable presumption that the transaction was unfair to the party who did not profit or benefit from the transaction. The presumption that arises in special relationships places the burden of proving the transaction's fairness on the parties who owe the duty – OEC co-founders Buckle, Harris, Gardner, Conly Hansen and Carl Hansen and plaintiffs Stanton, Gorey, Lark, Condon, and Mark Crawford. Unlike most presumptions, the presumption of unfairness shifts both the burden of producing evidence and the burden of persuasion to these defendants. There is, and will be, no evidence that the actions of these defendants are fair or beneficial to OEC.

195. On the matter of damages, there are myriad damages that have resulted to OEC and Gitschel from the breaches of duties of

these defendants. These damages start with losses of personal and intellectual contributions that were owed by the defendants. OEC also sustained substantial out-of-pocket losses and corporate expenditures. Undoubtedly the largest element of damages is the loss of business opportunities, including lost profits. These losses included both definable and calculable losses from specific endeavors, as well as anticipated profits that will be established by competent evidence with reasonable certainty. Hence, the breaches of duties committed by the defendants resulted in harm to both OEC and Gitschel, for which recompense is sought in this proceeding.

C. Third cause of action: deceptive trade practices

196. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

197. Plaintiff OEC is a consumer as defined by the Texas Deceptive Trade Practices Act. OEC sought goods or services from MSWS.

198. Defendants MSW Solutions, LLC, Mark Crawford, Darrin Stanton, and Barney Gorey (collectively "MSWS") made representations, including those as described in this petition, that

were false, misleading and deceptive and engaged in unconscionable actions or courses of action as more fully described below.

199. As a result of deceptive trade practices and other prohibited conduct of which MSWS was guilty, OEC has suffered monetary and other losses, which are compensable under the DTPA. Texas law provides that actionable representations may be oral or written, and intent to make a misrepresentation is not required to recover under various provisions of the Act.

200. OEC asserts that MSWS committed a number of false, misleading or deceptive acts and practices; or failed to disclose information concerning goods or services that was known at the time of the transaction and such failure was intended to induce the consumer into a transaction into which it would not have entered had the information been disclosed; or engaged in one or more unconscionable actions or courses of action; and the foregoing behavior is not characterized as advice, judgment, or opinion. The conduct in question includes the following express and implied representations and conduct of which MSWS is guilty:

- (a) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses,

benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection, which the person does not.

More specifically, MSWS represented that it had the financial resources and qualified personnel necessary to successfully identify and secure potential investors and strategic business partners and secure municipal solid waste contracts with major municipalities in Texas and establish other relationships beneficial to OEC in Texas. In truth, MSWS had none of what was represented to OEC and procured no “Feedstock Agreements” with any city in Texas, as evidenced by the fact that the efforts of MSWS did not lead to OEC securing a single “Feedstock Agreement” with any city in Texas during the term of the relationship between the parties. The representation by MSWS enticed OEC into retaining and continuing to maintain a relationship with MSWS when it would not have done so if disclosure had been made.

(b) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

More specifically, MSWS represented that its members, managers, and/or employees were eminently qualified to identify and secure potential investors and strategic business partners and secure municipal solid waste contracts with major municipalities in Texas and establish other relationships beneficial to OEC in Texas. In truth, MSWS had none of what was represented to OEC. MSWS's members, managers, and employees proved to be unqualified and incapable of fulfilling this representation, as evidenced by the fact that the efforts of MSWS did not lead to OEC securing a single "Feedstock Agreement" with any city in Texas during the term of the relationship between the parties. The representations by MSWS enticed OEC into retaining and continuing to maintain a relationship with MSWS when it would not have done so if disclosure had been made.

(c) Representing that an agreement confers or involves rights, remedies, or obligations, which it does not have or involve, or which are prohibited by law.

More specifically, MSWS represented that the "MSW Solutions, LLC Marketing Agreement" signed in January

2012 conferred rights beneficial to OEC and obligations owed by MSWS pursuant to which MSWS was to identify and secure potential investors and strategic business partners and secure municipal solid waste contracts with major municipalities in Texas and establish other relationships beneficial to OEC in Texas. In truth, the agreement did not confer this right or impose this obligation, as evidenced by the fact that the efforts of MSWS did not lead to OEC securing a single “Feedstock Agreement” with any city in Texas during the term of the relationship between the parties. The representation by MSWS enticed OEC into retaining and continuing to maintain a relationship with MSWS when it would not have done so if disclosure had been made.

(d) Failing to disclose information concerning goods or services that was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

More specifically, MSWS failed to disclose that the services forthcoming from its members, managers, and/or

employees were substandard; their marketing acumen marginal; their business relationships minimal; their fund raising talents questionable; and their overall expertise inferior, as evidenced by the fact that the efforts of MSWS did not lead to OEC securing a single “Feedstock Agreement” with any city in Texas during the term of the relationship between the parties. The representation by MSWS enticed OEC into retaining and continuing to maintain a relationship with MSWS when it would not have done so if disclosure had been made.

(e) Representing that MSWS would prepare and implement a marketing plan that would be financially beneficial to OEC in Texas, but failed to do so. Related to this representation was the foundational assertion that MSWS would identify and secure potential investors and strategic business partners and secure municipal solid waste contracts with major municipalities in Texas and establish other relationships beneficial to OEC in Texas.

As it turned out, MSWS not only failed to secure any agreement with a city in Texas to establish a new and innovative waste management and recycling program, MSWS’s

behavior was affirmatively detrimental to the efforts of OEC in securing such agreements. This conclusion is evidenced by the fact that the efforts of MSWS did not lead to OEC securing a single “Feedstock Agreement” with any city in Texas during the term of the relationship between the parties. This failure was known to MSWS throughout the period in which MSWS provided marketing services to OEC, and this failure was intended to induce the consumer into a transaction into which it would not have entered had the information been disclosed and continuing to maintain a relationship with MSWS when it would not have done so if disclosure had been made. Moreover, the representations by MSWS were continuing in nature, were made with knowledge of their falsity or without regard for whether they were false, and were made with the intention that OEC rely on these representations to maintain a business relationship and continue to do business with MSWS.

(f) MSWS engaged in an unconscionable action or course of action in its failure to investigate and understand the nature of the business in which OEC was engaged. This failure led to mis-marketing of a novel waste management and

recycling system, which thereby resulted in a failure of the business plan that otherwise would have been, in all probability, realistically achieved by OEC.

Most notably, OEC had a viable opportunity to partner with the City of Dallas in implementing a new and innovative waste management and recycling program, but MSWS engaged in inexplicably inept marketing of this proposal, the result of which was that OEC lost its opportunity to bid on the Dallas RFP and to subsequently partner with the city of Dallas and the substantial profits that would have been realized by virtue of that relationship. In fact, the City of Dallas spent two years evaluating alternative recycling technologies, during which timeframe MSWS presumably engaged the City of Dallas in marketing the OEC System. As a result of MSWS's abysmal failure, the City of Dallas specifically decided to only go forward with an RFP for Single Stream Recycling Processing and categorically rejected the OEC System of "mixed waste processing and anaerobic digestion." In fact, the City of Dallas decided to not even allow the OEC system as an option for the RFP submittal. This conduct was unconscionable in that, to the

detriment of OEC, it took advantage of the lack of knowledge, ability, experience, or capacity of OEC to a grossly unfair degree.

(g) Relatedly, OEC had an opportunity to partner with the City of Austin in implementing a new and innovative waste management program, but MSWS engaged in unaccountably inferior marketing of this proposal, the result of which was that OEC lost its opportunity to partner with the city of Austin and the substantial profits that would have been realized by virtue of that relationship. This conduct was unconscionable in that, to the detriment of OEC, it took advantage of the lack of knowledge, ability, experience, or capacity of OEC to a grossly unfair degree.

(h) OEC also had a feasible plan to partner with the City of Fort Worth in implementing a new and innovative waste management program, but MSWS again engaged in substandard marketing of this proposal, the result of which was that OEC lost its opportunity to partner with the City of Fort Worth and the substantial profits that would have been realized by virtue of that relationship. This conduct was unconscionable

in that, to the detriment of OEC, it took advantage of the lack of knowledge, ability, experience, or capacity of OEC to a grossly unfair degree.

(i) OEC had a valid prospect to partner with the City of San Antonio in implementing a new and innovative waste management program, but MSWS engaged in inexcusably poor marketing of this proposal, the result of which was that OEC lost its opportunity to partner with the City of San Antonio and the substantial profits that would have been realized by virtue of that relationship. This conduct was unconscionable in that, to the detriment of OEC, it took advantage of the lack of knowledge, ability, experience, or capacity of OEC to a grossly unfair degree;

(j) Further, OEC has participated in a lengthy and arduous effort to establish a relationship with the City of Houston, the goal of which would be to implement a new and innovative waste management and recycling program that has come to be known as “One Bin for All.”

MSWS was initially given an opportunity to contribute to this effort, but instead either failed to contribute, or

contributed in a negative and counterproductive manner. The result of MSWS's role in the Houston program was that city officials ultimately asked that MSWS not be involved in the Houston venture. The actions of MSWS were detrimental to the business activities of OEC in this endeavor. The conduct of MSWS was unconscionable in that, to the detriment of OEC, it took advantage of the lack of knowledge, ability, experience, or capacity of OEC to a grossly unfair degree.

(k) MSWS and its officers, directors, or owners also engaged in courses of conduct that are prohibited by the DTPA as falling within the definition of an "unconscionable action or course of action," including, but not limited to the following behavior:

- MSWS used its business relationship with OEC as the foundation for an illegal conspiracy to obtain control over various intellectual property rights owned by OEC by means of subterfuge, deception, and tortious behavior involving, on information and belief, third parties, the identifies of which are not fully known at this time other than as alleged in this petition;

- MSWS and its co-conspirators engaged in conduct, in further of this conspiracy, to gain control of the stock of OEC in a manner that violated Texas law, notably the Texas Securities Act Section 4 and Section 33, in that these co-conspirators sold or offered to sell shares of OEC by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. Thus, the defendants engaged in fraud under the cited statute. Additional allegations under this statute may be made at a future date;
- MSWS and its co-conspirators perpetrated mail fraud in connection with their communications with OEC, their cohorts and co-conspirators, parties with whom OEC did or sought to do business, or third parties with whom OEC had or sought a relationship, in that these conspirators engaged in conduct that violates the applicable federal statute, which prohibits: “Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses,

representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing...”

- MSWS and its co-conspirators perpetrated wire fraud in connection with their communications with OEC, their cohorts and co-conspirators, parties with whom OEC did or

sought to do business, or third parties with whom OEC had or sought a relationship, in that these conspirators engaged in conduct that violates the applicable federal statute, which prohibits: “Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice....”

- MSWS and its co-conspirators engaged in behavior that is prohibited by The Racketeer Influenced and Corrupt Organizations Act (RICO) based on the foregoing conduct as well as further proscribed behavior, which will be described in more detail at the appropriate time.

201. In summary, therefore, OEC engaged MSWS to provide important services for the benefit of OEC, which MSWS represented it was fully capable of providing, but MSWS failed in virtually every respect in fulfilling the bargain into which it had enticed OEC by the

use of deceptive acts and practices. There are further and additional violations of the DTPA that are intertwined with the foregoing, but this listing shall suffice to provide reasonable notice of the misfeasances, nonfeasances, and other tortious behavior of which MSWS and its collaborators and participants are guilty in their business relationship with OEC.

202. The above actions constitute express misrepresentations of material facts that cannot be characterized as advice, judgment, or opinion; or failures to disclose information in violation of Section 17.46(b)(24); or unconscionable actions or courses of action that cannot be characterized as advice, judgment, or opinion.

203. OEC was taken advantage of to a grossly unfair degree in its relationship with MSWS. The affirmative representations and deceptive conduct identified above caused OEC to lose substantial sums of money, both in the near and distant future. These unconscionable actions resulted in unfairness to the consumer, OEC.

204. The foregoing violations were committed knowingly and intentionally, and OEC relied on MSWS's representations, acts, and omissions to its detriment, thereby entitled OEC to statutory treble damages.

205. Under section 17.50(a), a DTPA plaintiff may recover economic damages for which the defendants' misconduct was a producing cause. Economic damages include both benefit-of-the-bargain damages similar to those recoverable for breach of contract and out-of-pocket damages. Additionally, recovery under the DTPA is not exclusively limited to only these two types of damages. Rather, the consumer may recover its total loss sustained as a result of the deceptive trade practice, including related and reasonably necessary expenses.

206. The total damages thus far suffered by OEC, which were produced as a direct consequence of the defendants' acts and omissions, include the loss of any prospect for a business relationship with the City of Dallas, which would have supported five OEC plants and generated millions of dollars in profits to OEC; the loss of any prospect for a business relationship with the City of Austin, which would have supported two or three OEC plants, each of which would have generated millions of dollars in net profits to OEC; the loss of any prospect for a business relationship with the City of Fort Worth, which would have supported one OEC plant, which would have generated millions of dollars in net profits to OEC; the loss of

any prospect for a business relationship with the City of San Antonio, which would have supported three or four OEC plants, which would have generated millions of dollars in net profits to OEC; additional consequential damages to be proven at trial, interest, attorneys' fees, and other statutory damages as allowed by law.

207. Defendants' conduct described above was committed knowingly and intentionally. Defendants were actually aware, at the time of the conduct of the falsity, deception, and unfairness of the conduct about which plaintiffs complain. Thus, exemplary and punitive damages are permitted under Texas law and will be sought to the fullest extent allowable under the law.

D. Fourth cause of action: fraud – common law and statutory

208. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

209. Plaintiffs allege that certain of the named defendants, individually and collectively, made material representations, which were false, the representations were either known to be false when made or were recklessly made as positive assertions without knowledge of their truth, the speakers made the representations with intent that they be acted upon, OEC and Gitschel took action in

reliance upon the misrepresentations, and OEC and Gitschel thereby suffered substantial injuries.

210. In addition to the foregoing, certain of the defendants engaged in a promise or promises to do an act or acts in the future, but these promises were made with the intention, design and purpose of deceiving OEC and Gitschel and with no intention of performing the act or acts. The court and jury are entitled to examine not only these defendants' intent at the time the representations were made, but also to assess the defendants' subsequent acts after the representations were made, from which it may reasonably be inferred that fraud was existed.

211. One such factor to evaluate, among others, is the consistent failure to perform and fulfill various promises made by the defendants, as more fully elucidated in this petition. The court and jury will be asked to scrutinize the circumstances in which the promises were made. Plaintiffs allege that this evidence will establish the necessary quantum of proof of fraud, which, when coupled with the breach of promise to perform, is sufficient to support a finding of fraudulent intent.

212. In the case under consideration, the OEC co-founder defendants perpetrated the most observable and palpable acts of fraud. It has been detailed above how these defendants – Buckle, Harris, Gardner, Conly Hansen and Carl Hansen – first committed fraud when they established OEC based on a promise of mutual contributions of time, talent, and effort, but they had no intention - or capability - of living up to this bargain. The wisdom and scientific know-how these defendants were supposed to impart to OEC did not exist at the time of the formation of OEC, even though they represented that it did. Moreover, these defendants steadfastly maintained that they were working on viable technology that would benefit OEC, when nothing of the sort existed or materialized.

213. After the initial deceptions, these defendants – most egregiously Buckle, Harris, and Gardner – continued to confirm their pledge of loyalty and fidelity to OEC and their commitment to provide identifiable contrivances to the company. These promises precipitated, in part, the signature of George Gitschel on two future documents, which purport to assign Gitschel's intellectual property rights to OEC. The promisors did not at the time, nor thereafter, possess the intent to abide by their commitments. Thus, they are

guilty of fraud in the inducement and promissory fraud, either of which vitiates the agreements signed by Gitschel.

214. In addition to the common law fraud alleged herein, defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen are guilty of statutory fraud pursuant to Tex. Bus. & Com. Code § 27.01. This statute provides that fraud in a transaction involving stock in a corporation or joint stock company consists of a:

- (1) False representation of a past or existing material fact, when the false representation is
 - (a) made to a person for the purpose of inducing that person to enter into a contract; and
 - (b) relied on by that person in entering into that contract; or
- (2) False promise to do an act, when the false promise is
 - (a) material;
 - (b) made with the intention of not fulfilling it;
 - (c) made to a person for the purpose of inducing that person to enter into a contract; and
 - (d) relied on by that person in entering into that contract.

- (3) A person who makes a false representation or false promise commits the fraud described in Subsection (a) of this section and is liable to the person defrauded for actual damages.
- (4) A person who makes a false representation or false promise with actual awareness of the falsity thereof commits the fraud described in Subsection (a) of this section and is liable to the person defrauded for exemplary damages. Actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness.
- (5) A person who (1) has actual awareness of the falsity of a representation or promise made by another person and (2) fails to disclose the falsity of the representation or promise to the person defrauded, and (3) benefits from the false representation or promise commits the fraud described in Subsection (a) of this section and is liable to the person defrauded for exemplary damages. Actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness.

- (6) Any person who violates the provisions of this section shall be liable to the person defrauded for reasonable and necessary attorney's fees, expert witness fees, costs for copies of depositions, and costs of court.

215. Plaintiffs allege that the conduct of the OEC co-founder defendants, as described in this petition, constitute a violation of this statute concerning the behavior of these defendants in inducing OEC, and its CEO Gitschel, into entering into the 2012 stock purchase agreement. This agreement was based on the false representation of a past or existing material fact, i.e., that Buckle, Harris, Gardner, Conly Hansen and Carl Hansen intended to abide by the terms of the agreement, including conveying stock to OEC upon payment as called for in the agreement, and this false representation was made solely for the purpose of inducing Gitschel, as a shareholder and Director of OEC, to enter into the contract.

216. There was a concurrent violation under the "false promise" provision of this statute in that these defendants made a false promise to OEC and Gitschel, i.e., that Buckle, Harris, Gardner, Conly Hansen and Carl Hansen intended to abide by the terms of the agreement, including conveying stock to OEC upon payment as

called for in the agreement, this promise was relied on by OEC and Gitschel, the promise was material and false and was made to OEC and Gitschel with the intention of not fulfilling it and to induce OEC and Gitschel to enter into the contract and OEC and Gitschel did, in fact, enter into the stock purchase agreement in reliance on this promise. The violations of this statute by Buckle, Harris, Gardner, Conly Hansen and Carl Hansen were done in concert with each other.

E. Fifth cause of action: promissory estoppel exclusively

217. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

218. The courts of the state of Texas entertain claims based on both legal and equitable grounds. The facts of this lawsuit cry out for relief based on the historical theory known as promissory estoppel. Plaintiffs have described previously the broad grounds for this contention, but here assert this claim independently to recognize the credibility of this allegation.

219. Texas courts recognize claims for relief arising from promissory estoppel based on a finding that the offending party made a promise, there was foreseeability that the promisee would rely on

the promise, and substantial reliance by the promisee to his detriment.

220. The facts set forth in this petition clearly and unequivocally establish the elements of a claim for promissory estoppel in favor of OEC and Gitschel as against the OEC co-founder defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen. The facts underlying the formation and early years of OEC are detailed above. The OEC co-founder defendants made serial, affirmative promises that formed a substantial part of the foundation of OEC and certainly were essential to its continued existence as an entity. Without the promises and assurances of the OEC co-founder defendants, Gitschel would not have agreed to the formation of the company under the terms that controlled, signed agreements purporting to convey intellectual property created by Gitschel to the company, or continued his relationship with OEC in 2012 after the stock purchase agreement. The law in Texas is clear:

[W]here one party has by his words or conduct made to the other a promise or assurance which was intended to affect the legal relations between them and to be acted on accordingly, then, once the other party has taken him at

his word and acted on it, the party who gave the promise cannot afterward be allowed to revert to the previous relationship as if no such promise had been made. This does not create a contract where none existed before, but only prevents a party from insisting upon his strict legal rights when it would be unjust to allow him to enforce them.

The law correspondingly recognizes that agreements and negotiations prior to or contemporaneous with the adoption of a writing are admissible in evidence to establish illegality, fraud, duress, mistake, lack of consideration, or other invalidating causes.

221. The relationship among the OEC co-founders was replete with examples of promises made, guarantees asserted, and representations offered to and among the co-founders. The only party who consistently lived up to his assertions was Gitschel. It would be a complete and unadulterated usurpation of the intellectual property created by Gitschel to permit the promise-breakers to reap the benefit of the two contracts signed by Gitschel or to benefit from challenging the validity of the 2012 stock purchase agreement. Hence, this petition alleges that the promises made by the OEC co-

founder defendants should estop them from obtaining relief under these circumstances.

F. Sixth cause of action: equitable estoppel

222. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

223. Plaintiffs also allege the corresponding legal theory known as equitable estoppel. Under Texas law, relief may be granted to a party who establishes that the defendant made a false representation or concealment of material facts; the representation was made with knowledge, actual or constructive, of those facts; it was made with the intention that it should be acted on; the representation was made to OEC and/or Gitschel without knowledge or means of obtaining knowledge of the facts; and OEC and Gitschel detrimentally relied on the representations.

224. The facts in support of this theory of recovery are described in this petition and are similar to those contained in the preceding section on promissory estoppel, as are the relief to which plaintiff is entitled.

G. *Seventh cause of action: racketeering*

225. The defendants named in this lawsuit, each and every one, are guilty of violations of the Racketeer Influenced and Corrupt Organization Act, commonly known as the RICO statute. This honorable court has original jurisdiction pursuant to the civil RICO remedies at 18 U.S.C. 1964, and the holdings of the U.S. Supreme Court in *Tafflin v. Levitt*, 493 U.S. 455.

226. The RICO statute permits a private individual damaged in his business or property by a racketeer to file a civil lawsuit. In this matter, the evidence will establish the existence of an enterprise, as defined by law. The evidence will also show that the defendants engaged in one of four specified, prohibited relationships between the defendants and the enterprise.

227. Plaintiff would show that the defendants named in this petition committed proscribed, predicate acts of racketeering activity; this behavior consisted of a pattern of such acts consisting of two or more acts of racketeering activity; and the acts were related to each other and have continuity, in that the activity or threat of such activity was ongoing. Moreover, the prohibited conduct in which the

defendants engaged had the same or similar purposes, results, participants, victims, or methods of commission.

228. Among other illegal acts, the defendants jointly and separately perpetrated mail fraud in connection with their communications with OEC and/or Gitschel, parties with whom OEC did or sought to do business, or third parties with whom OEC had or sought a relationship, in that these conspirators engaged in conduct that violates the applicable federal statute, which prohibits: “Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial

interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing...”

229. The defendants, as more fully described in this pleading, perpetrated wire fraud in connection with their communications with OEC and/or Gitschel, parties with whom OEC did or sought to do business, or third parties with whom OEC had or sought a relationship, in that these conspirators engaged in conduct that violates the applicable federal statute, which prohibits: “Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice....”

230. In summary, the co-conspirators engaged in behavior that is prohibited by The Racketeer Influenced and Corrupt Organizations

Act based on the conduct described in the foregoing paragraphs as well as further proscribed behavior, which will be presented in more detail at the appropriate time.

231. Texas law also prohibits the types of conduct described in this petition. The criminal law of this state provides a foundation by which certain aspects of one's conduct may be adjudged in civil actions. Thus, plaintiffs provide the court with the following overview of the relevant provisions of Texas criminal law.

232. Under the Texas Penal Code, a person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination, the person commits or conspires to commit various unsavory acts, including:

- Deceptive business practices, including intentionally, knowingly, recklessly, or with criminal negligence committing one or more of the following deceptive business practices:
 - passing off property or service as that of another;
 - making a materially false or misleading statement in connection with the purchase or sale of property or service.

- Commercial bribery, including when a person who is in a position of trust, but intentionally or knowingly solicits, accepts, or agrees to accept any benefit from another person on agreement or understanding that the benefit will influence the conduct of the individual in relation to the affairs subject to review.
- Misapplication of property, including when one intentionally, knowingly, or recklessly misapplies property he holds in a position of true in a manner that involves substantial risk of loss to the owner of the property or to a person for whose benefit the property is held.
- Securing execution of a document by deception, including when one, with intent to defraud or harm any person, he, by deception, causes another to sign or execute any document affecting property or service or the pecuniary interest of any person.

233. Whether alleged under the provisions of state or federal law, plaintiffs would show that the named defendants have, individually and/or jointly, engaged in a pattern of activity that violates the above laws; or conspired to engage in such behavior;

and such behavior took place across state lines. The predicate acts are set forth above and include, most prominently, mail and wire fraud. The primary objective of the enterprise(s) was to gain control over the intellectual property and corresponding assets of OEC. Hence, defendants are accountable for all forms of relief available under federal or state law.

H. Eighth cause of action: unjust enrichment

234. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

235. Plaintiffs also seek relief pursuant to the equitable principles of unjust enrichment. Texas law holds that one who receives benefits unjustly should make restitution for those benefits, regardless of the existence, vel non, of a wrong. One is unjustly enriched when he obtains a benefit from another by fraud, duress, or the taking of an undue advantage.

236. The facts of the case under adjudication cry out for relief under these precepts in that the defendants, as the parties sought to be charged, have wrongfully sought to appropriate valuable assets through fraud, duress, and taking undue advantage; other of the defendants have passively received or hope to receive these

benefits. Under the facts of this case, it would be unconscionable to permit the defendants to retain the stock in OEC, or the intellectual property upon which OEC's business is based, or even a remnant of the success of OEC. The relief sought by plaintiffs is nothing less than that these defendants relinquish the stock wrongfully obtained, accede control of the assets immorally possessed, and repay restitution for the benefits illegitimately usurped.

I. Ninth cause of action: tortious interference with contract

237. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

238. These allegations are made alternatively, as permitted by Texas law. Texas law recognizes a cause of action for tortious interference with an existing contract upon a finding of an existing contract subject to interference, a willful and intentional act of interference with the contract, that proximately caused the plaintiff's actual damages or loss. Plaintiffs allege the facts of this case support a claim for tortious interference with various existing contracts, as more fully alleged infra.

J. Tenth cause of action: aiding and abetting

239. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

240. This theory of recovery is ancillary in nature in that it is alleged in order to hold accountable parties who, while not personally responsible for the civil wrongs alleged herein, are nonetheless equally culpable in their commission.

241. Under Texas law, an actor may be held to answer for conduct of another if he causes or aids a person to engage in tortious behavior; if he solicits or encourages such misconduct; or, having a legal duty to deport himself for the benefit of others, fails to act with reasonable prudence to fulfill his duty.

242. In the instant action, there are multiple examples of impermissible and legally cognizable acts of aiding and abetting, as more fully depicted in this petition. Most prominently, the OEC co-founder defendants, Buckle, Harris, Gardner, Conly Hansen and Carl Hansen, acted in concert with defendants Crawford, Gorey, Condon and Lark to promote the various acts of misbehavior summarized in this petition.

243. The MSWS defendants (MSWS, Stanton, Gorey, and Mark Crawford), are alleged to have aided and abetted defendants Buckle, Harris, Gardner, Conly Hansen and Carl Hansen in various civil wrongs, all of which were calculated to undermine the relationship between OEC and Gitschel, or promote the interests of these defendants to the detriment of OEC, or engaged in breaches of contract or breaches of duties as more fully addressed in this petition.

244. Upon a finding of aiding and abetting, the individuals found guilty of so acting are responsible to the full extent of the law for the damages resulting therefrom.

K. Eleventh cause of action: Joint Enterprise

245. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

246. Joint enterprise or joint venture is a legal doctrine that imputes liability to a party for the direct conduct of another. This lawsuit is particularly appropriate for the application of this theory because of the ongoing, mischievous, and conspiratorial nature of the actions of the named defendants. Plaintiffs allege that the evidence in this lawsuit will show an agreement, express or implied,

among the members of a group; a common purpose to be carried out by the group; a common pecuniary interest in that purpose, among the members; and an equal right to a voice in the direction of the enterprise, which gives an equal right of control. Under these circumstances, each of the defendants found to be a member of the joint enterprise is jointly and severally liable for the wrongdoings of the entire group.

L. Twelfth cause of action: alter ego

247. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes as if set forth herein verbatim.

248. This petition names entities that are associated with specific individuals, including International Engineering Services, Inc., which is supposedly a corporation formed under California law by defendant Larry Buckle. On information and belief, International Engineering Services, Inc. is not a legally cognizable entity and its existence should be ignored in evaluating the conduct of defendant Buckle.

249. A corporate or other independent legal entity may be discounted upon a finding that the individuals who otherwise would be insulated by the entity engaged in fraud or other malfeasance.

This theory finds purchase in cases in which the corporation, LLC, or other entity was organized and operated as a mere tool or business conduit of another corporation. Upon a finding of the facts above, plaintiffs will ask the court to ignore these entities and hold their principals responsible for the acts of the entities themselves.

M. Thirteenth cause of action: conspiracy, fraud, and breach of duty

250. There is a further, distinct act of wrongdoing that impacted the overall business of OEC for the benefit of a subset of the named defendants. Gitschel and OEC entered into a Professional Services Agreement (PSA) with Mark Crawford on August 13, 2013. The term of the agreement was 1 year. Terms included a \$7,500 monthly consulting fee, plus expenses. Crawford's primary function was to assist in raising funds for OEC's Series A and Series B investment offerings. Crawford assured Gitschel that he had extensive experience in raising money for business ventures and that he'd been doing it for years. OEC also paid Crawford a bonus of 3% for all the investment dollars he helped bring into OEC as a "finder." Crawford was paid over \$90K from August 2013 until July 2014 to raise \$750K of Series A investment into OEC, all of which came from Crawford's cousin, Darrin Stanton, and Stanton's friends and family.

251. On February 3, 2014, Mark Crawford told Gitschel that he had several investors that would invest and reinvest in OEC, including Hodge, Martin, Stanton, and Darwin. However, a condition precedent to these investments was that Gitschel and OEC would have to lower OEC's valuation to \$100M, post-money, from the current \$300M post-money valuation.

252. While Gitschel was reluctant to lower OEC's valuation, Crawford, with the implicit concurrence of the other named investors, promised Gitschel and OEC that this action would lead to additional investments, which were needed by OEC. Crawford's scheme also involved representing to Gitschel that substantial additional funds would be invested in OEC if the valuation of the stock was lowered to \$100M for all investors.

253. Based on the promises and affirmations thus made, Gitschel and OEC lowered the stock valuation. This act of pure deception by Crawford, who owed OEC and Gitschel a duty of integrity and fair dealing, effectively tripled the share counts of all the Series A investors. The ironic thing is that Martin, Stanton, Darwin, and Hodge never invested anything more into the OEC Series A at the new \$100M post-money valuation. They effectively tripled their

equity in OEC, without investing another penny, thanks to this scheme. These actions violated both the common law and the Texas Securities Act pertaining to civil liability of buyers of securities, as set forth above.

254. Owing a duty of fidelity to the corporation, not to mention contractual obligations, Crawford instead chose the course of self-dealing, along with his cohorts, the result being that the named defendants took undue advantage of OEC under circumstances that subject these individuals, jointly and severally, to damages for conspiracy, fraud in a stock transaction, and usurping a corporate opportunity. OEC will seek all available damages flowing from the conduct of these actors.

N. Fourteenth cause of action: actual and punitive damages and equitable relief

255. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes the same as if set forth herein verbatim.

256. The court will define the measure of damages to which plaintiffs are entitled under Texas law. It is generally recognized that the damages recoverable in an action for civil conspiracy are those

damages resulting from the commission of the wrong, not the conspiratorial agreement.

257. In Texas, the measure of damages in a fraud case is the actual amount of the plaintiffs' loss that directly and proximately results from the defendant's fraudulent conduct. Plaintiffs will present competent proof of the losses sustained in the past and likely to be sustained in the future by OEC and Gitschel as a direct result of the fraud perpetrated by the defendants.

258. The relief to which plaintiffs are entitled under the doctrine of promissory estoppel is the amount necessary to restore them to the position it would have been in had it not acted in reliance on the promise. Plaintiffs will present evidence and ask the court and jury to award damages commensurate with the harm sustained by OEC and Gitschel as a direct consequence of the failure of the OEC co-founder defendants to live up to the promises made to OEC and Gitschel.

259. Damages to which plaintiffs are entitled under the Deceptive Trade Practices Act are diverse and substantial. The DTPA outlines the damages that may be awarded under the statute, and plaintiffs will seek recovery of damages to the full extent allowed by law, both actual and treble damages. Plaintiffs will seek recovery

of economic damages, including compensatory damages as defined by law, including those calculable under the benefit of the bargain rule or the out-of-pocket rule or any other standard deemed by the court to be valid and accepted.

260. A party found to have breached a duty is liable for all of the damages proximately caused by the breach. At law, these damages include all economic damages established by competent proof, including, but not limited to, lost profits in the past and future and out of pocket costs associated with the breaches.

261. In addition to money damages, the remedies available to OEC include equitable ones. In Texas, courts may fashion equitable remedies that are appropriate to the nature of the breach. In the present lawsuit, considering the relationships of the parties and the gravity of the disloyalty, Gitschel will seek rescission of the March 20, 2010 Employee Invention Assignment and Confidentiality Agreement and the January 16, 2012 Manager Agreement. These contracts were the result of breaches of duties and fraud, in addition to a gross failure of consideration and failure of the minds of the contracting parties to meet. Hence, these contracts should be deemed legal nullities.

262. OEC and Gitschel hereby allege that there should be a disgorgement of any profits or capital increases in favor of the OEC co-founder defendants. OEC and Gitschel pray that the court create a constructive trust as a remedy for a breach of duty by the OEC co-founder defendants. This constructive trust is the only instrument that can ensure these wrongdoers are not unjustly enriched by their serial breaches. The trust should be endowed with all of the shares held by the OEC co-founder defendants, with these shares to remain in the treasury of the company until such time as OEC arrives at a decision as to its proper resolution.

263. OEC will also ask that the court require each of the OEC co-founder defendants to provide an accounting that documents their complete financial relationship with OEC. These defendants will be compelled to memorialize their contributions of time, talent, money, and other tangible or intangible things of value leading up to and during the existence of OEC. These defendants also will be called on to account for all other uses of their time and sources of income from January 1, 2009 to the present. If there are other things that constitute alleged consideration for the shares held by the OEC co-founder defendants in OEC, or consideration for any post-formation

contracts or agreement, these defendants will be charged with producing that evidence. The OEC co-founder defendants will be compelled to account for their business and personal activities for the past ten (10) years in all respects.

264. In addition, prayer will be made that all other defendants account for their interactions that touched on or had the potential to impact OEC or its affairs. Hence, MSWS and its principals, including Crawford, Stanton, and Gorey should be ordered to provide an accounting that documents their complete financial relationship with OEC or Gitschel and account for all business or personal activities that pertain to OEC as well as any other individual or entity who participates in the waste or recycling business or the agents of same. These defendants should be ordered to account for their sources of income from OEC, all business activities alleged to have been performed on behalf of OEC, and any other business or personal activities that concern the waste or recycling industries. The court will be asked to order these defendants to account for their business and personal activities for the past ten (10) years in all respects.

265. Stanton, Crawford and Gorey must also be called on to account for their relationship with Buckle, Harris and Gardner and Conly Hansen and Carl Hansen.

266. In the present action, there is an abundance of clear and convincing evidence that the conduct of the defendants was either intentional or that it represents a willful and malicious disregard for the interests of the party owed the duty, or that the defendants engaged in fraud, or they engaged in other conduct that establishes a right to recovery of exemplary damages under Texas law. In either event, exemplary damages are permitted by law and will be sought at the time of trial.

267. Plaintiffs have set forth with specificity the nature of the damages sustained by OEC and Gitschel as a result of the misconduct of the defendants. While the apportionment of these damages may be difficult, Texas law provides that any tortfeasor who acts with intent to harm is jointly and severally liable for all damages for which that defendant is responsible.

268. Plaintiffs also are entitled to all other damages allowed by law, including attorneys' fees, pre-judgment interest and post-

judgment interest at the statutory rate, and statutory penalties and/or treble damages, as allowed by law.

XII. ADDITIONAL MATTERS

A. *Laches*

269. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes the same as if set forth herein verbatim.

270. Texas law holds that equity aids the diligent and not those who slumber on their rights. In this matter, OEC and Gitschel have steadfastly and reliably devoted their full attention to the development of a mixed solid waste and recycling apparatus for the betterment of society. There are milestones in the evolution of this process in which OEC and Gitschel took action based on either representations of the OEC co-founder defendants or forewent the opportunity to take action in such reliance. Under the equitable doctrine of laches, therefore, OEC and Gitschel may show that the OEC co-founder defendants are guilty of an unreasonable delay by the opposing party in asserting supposed rights. At the same time, OEC and Gitschel acted in good faith and suffered an otherwise detrimental change in position because of the delay.

271. The OEC co-founder defendants should thereby be precluded from defending this lawsuit or asserting a claim that would run afoul of the equitable doctrine of laches.

B. *Equitable tolling*

272. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes the same as if set forth herein verbatim.

273. The same facts and circumstances support the application of the doctrine of equitable tolling, which applies to preserve a plaintiff's claims in circumstances in which strict application of the statute of limitations would be inequitable. Plaintiffs are entitled to rely upon this doctrine to the extent necessary to permit justice to prevail under the facts declared in this petition.

C. *Fraudulent concealment and the discovery rule*

274. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes the same as if set forth herein verbatim.

275. Fraud vitiates all that it touches. Hence, under facts such as those present in this case in which one of more of the defendants was under a duty to make a disclosure, but fraudulently conceals the

existence of a cause of action from the party to whom it belongs, the defendant is estopped from relying on the defense of limitations until the party learns of the right of action or should have learned thereof through the exercise of reasonable diligence.

276. The same outcome exists due to the secret and inherently undiscoverable nature of the many wrongs and breaches committed by the defendants. Plaintiffs affirmatively plead they are entitled to the relief noted in response to any claim of bar by defendants.

XIII. JURY DEMAND

277. Plaintiffs hereby respectfully demand a trial by jury.

XIV. REQUESTS FOR DISCLOSURE

278. Pursuant to Texas Rules of Civil Procedure 194, you are hereby requested to disclose the information and the material described in Rule 194.2(a) through (i).

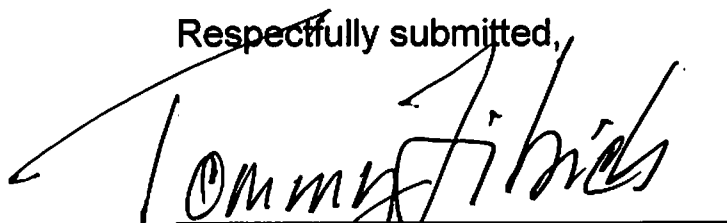
XV. PRAYER AND REQUEST FOR RELIEF

279. For the foregoing reasons, plaintiffs request that, upon final trial or other disposition of this lawsuit, plaintiffs have and recover judgment against defendants jointly and severally for the following:

(a) all damages requested and specified herein;

- (b) reasonable and necessary attorneys' fees;
- (c) pre-judgment and post-judgment interest as provided by law;
- (d) costs of court;
- (e) exemplary damages; and
- (f) such other and further relief, at law or in equity, to which plaintiffs may show themselves to be justly entitled.

Respectfully submitted,

A handwritten signature in black ink that reads "Tommy Fibich". The signature is written in a cursive style and is positioned above a horizontal line.

Tommy Fibich
State Bar No. 06952600
tfibich@fibichlaw.com
Jay Henderson
State Bar No. 09424050
jhendersron@fibichlaw.com
Erin Copeland
State Bar No. 24028157
ecopeland@fibichlaw.com

FIBICH LEEBRON
COPELAND BRIGGS JOSEPHSON
1150 Bissonnet
Houston, Texas 77005
Telephone: (713) 751-0025
Facsimile: (713) 751-0030

Certificate of Service

I hereby certify that on February 11, 2016, a true and correct copy of the foregoing was served upon the below-listed counsel of record by e-mail.

Attorney for Buckle, Condon, and IES:

David C. Holmes
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
Dholmes282@aol.com

/s/ Jay Henderson
Jay Henderson

CASE N. 2014-21649

**ORGANIC ENERGY
CORPORATION and
GEORGE GITSHEL**

Plaintiffs

v.

LARRY BUCKLE, ET. AL.

Defendants

§ **IN THE DISTRICT COURT**
§
§
§
§ **HARRIS COUNTY, TEXAS**
§
§
§ **113th JUDICIAL DISTRICT**
§
§
§
§

DEFENDANTS BARNEY GORY AND JACK HODGE’S ORIGINAL ANSWER

COMES NOW, Barney Gorey and Jack Hodge file this Original Answer and state as follows:

GENERAL DENIAL

Defendants deny each and every allegation of Plaintiffs’ Second Amended Petition and demand strict proof thereof as required by the Texas Rules of Civil Procedure.

PRAYER

Defendants pray that the Court enter a judgment in favor of Defendants, award Defendants the costs of court, attorney's fees, and such other and further relief as Defendants may be justly entitled to receive, at law or in equity.

Respectfully submitted,

S/ Michael Burns
SBN: 03447980
P.O. Box 992
Allen, Texas 75013
Phone: 214-354-1667
E-mail: burnslaw@outlook.com
Attorney for the Defendants Barney Gorey
and Jack Hodge

CERTIFICATE OF SERVICE

I certify that on March 18, 2016 a copy of this pleading was delivered by regular mail/certified mail, or E-mail in accordance with the Texas Rules of Civil Procedure to the following counsel or parties of record:

Tommy Fibich
tfibich@fibichlaw.com
Jay Henderson
jhenderson@fibichlaw.com
Erin Copeland
ecopeland@fibichlaw.com

Fibich Leebron Copeland Briggs Josephson
1150 Bissonet
Houston, Texas 77005

David C. Holms
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
Dholmes282@aol.com

/s/ Michael Burns

CASE N. 2014-21649

**ORGANIC ENERGY
CORPORATION and
GEORGE GITSHEL**

Plaintiffs

v.

LARRY BUCKLE, ET. AL.

Defendants

§ **IN THE DISTRICT COURT**

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**DEFENDANTS MARK CRAWFORD, MICHAEL LARK
AND ANTHONY W. DARWIN'S ORIGINAL ANSWER**

COMES NOW, Mark Crawford, Michael Lark and Anthony Darwin file this Original Answer and state as follows:

GENERAL DENIAL

Defendants deny each and every allegation of Plaintiffs' Second Amended Petition and demand strict proof thereof as required by the Texas Rules of Civil Procedure.

PRAYER

Defendants pray that the Court enter a judgment in favor of Defendants, award Defendants the costs of court, attorney's fees, and such other and further relief as Defendants may be justly entitled to receive, at law or in equity.

Respectfully submitted,

S/ Michael Burns
SBN: 03447980
P.O. Box 992
Allen, Texas 75013
Phone: 214-354-1667
E-mail: burnslaw@outlook.com
Attorney for the Defendants Mark Crawford,
Michael Lark and Anthony Darwin

CERTIFICATE OF SERVICE

I certify that on March 24, 2016 a copy of this pleading was delivered by regular mail/certified mail, or E-mail in accordance with the Texas Rules of Civil Procedure to the following counsel or parties of record:

Tommy Fibich
tfibich@fibichlaw.com
Jay Henderson
jhenderson@fibichlaw.com
Erin Copeland
ecopeland@fibichlaw.com

Fibich Leebron Copeland Briggs Josephson
1150 Bissonet
Houston, Texas 77005

David C. Holms
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
Dholmes282@aol.com

/s/ Michael Burns

CASE N. 2014-21649

**ORGANIC ENERGY
CORPORATION and
GEORGE GITSHEL**

Plaintiffs

v.

LARRY BUCKLE, ET. AL.

Defendants

§ **IN THE DISTRICT COURT**
§
§
§
§ **HARRIS COUNTY, TEXAS**
§
§
§ **113th JUDICIAL DISTRICT**
§
§
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§

DEFENDANT MSW SOLUTIONS, LLC’S ORIGINAL ANSWER

COMES NOW, MSW Solutions, LLC files this Original Answer and states as follows:

GENERAL DENIAL

Defendant denies each and every allegation of Plaintiffs’ Second Amended Petition and demands strict proof thereof as required by the Texas Rules of Civil Procedure.

PRAYER

Defendant prays that the Court enter a judgment in favor of Defendants, award Defendants the costs of court, attorney's fees, and such other and further relief as Defendants may be justly entitled to receive, at law or in equity.

Respectfully submitted,

S/ Michael Burns
SBN: 03447980
P.O. Box 992
Allen, Texas 75013
Phone: 214-354-1667
E-mail: burnslaw@outlook.com
Attorney for MSW Solutions, LLC

CERTIFICATE OF SERVICE

I certify that on March 24, 2016 a copy of this pleading was delivered by regular mail/certified mail, or E-mail in accordance with the Texas Rules of Civil Procedure to the following counsel or parties of record:

Tommy Fibich
tfibich@fibichlaw.com
Jay Henderson
jhenderson@fibichlaw.com
Erin Copeland
ecopeland@fibichlaw.com

Fibich Leebron Copeland Briggs Josephson
1150 Bissonet
Houston, Texas 77005

David C. Holms
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
Dholmes282@aol.com

/s/ Michael Burns

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

DEFENDANTS GREGORY HARRIS AND KURT GARDNER’S SPECIAL APPEARANCE, PLEA IN ABATEMENT, AND ORIGINAL ANSWER

Defendants Gregory Harris and Kurt Gardner file this Special Appearance, Plea in Abatement, and Original Answer, and would show the following:

Special Appearance

1. Defendants Harris and Gardner specially appear and deny that this Court has personal jurisdiction over them. As shown by the declarations that are Exhibits 1 and 2, Defendants Harris and Gardner are residents of California, do not conduct business in Texas, do not own property in Texas, do not have employees in Texas, and have no substantial contacts to Texas. They are former officers of OEC, but at the time they were officers, OEC was based in California, not Texas. After they resigned as officers and sold the bulk of their stock to George Gitschel, OEC relocated to Texas. At this time, Defendants Harris and Gardner are owners of small minority interests (2.5% each) in OEC. In sum, this Court lacks personal jurisdiction because (a) Defendants Harris and Gardner do not have systematic and continuous contacts to Texas, which are required for general jurisdiction; and (b) Defendants Harris and Gardner have not taken any actions in Texas that are related to the causes of action against them, which is required for specific jurisdiction.

2. Plaintiffs allege three jurisdictional facts, none of which are sufficient to establish personal jurisdiction. First, Plaintiffs allege the following:

[T]he nonresident defendants' purposefully availed themselves of the privilege of conducting activities within the state of Texas; the headquarters of OEC has been in Texas since 2012. These defendants maintained their relationship as shareholders with OEC during this time, and otherwise were involved in the business affairs of OEC, thus invoking the benefits and protections of the laws of this state.

Second Amended Petition ¶ 26. As shown in the declarations, OEC was based in California when Defendants were officers and were actively involved in the business of OEC. Gitschel moved the company to Texas after Defendants ceased to be officers and ceased to be actively involved in the company. While Defendants still own a small percentage of stock in the company, this is not a basis for personal jurisdiction.

3. In fact, the fiduciary shield doctrine prohibits the use of acts of non-resident officers, directors, and shareholders as a basis for personal jurisdiction in Texas. *Nichols v. Tseng Hsiang Lin*, 282 S.W.3d 743, 750 (Tex. App. – Dallas 2009, no pet.) (“The fiduciary shield doctrine protects a nonresident corporate officer or employee from a trial court's exercise of general jurisdiction over the individual when all of his contacts with Texas were made on behalf of the employer.”). In other words, even if Defendants had some connection to Texas as officers or shareholders, that would not be a “contact” for purposes of personal jurisdiction.

4. Moreover, OEC's contacts to Texas are not attributable to Defendants. “[J]urisdiction over an individual cannot be based upon jurisdiction over a corporation.” *Nichols*, 282 S.W.3d at 750.

5. Second, Plaintiffs allege the following:

[T]he activities of the non-resident defendants were purposeful, not random, isolated, or fortuitous. The quality of the contacts was meaningful, with these defendants maintaining ownership in or association with OEC and utilizing that

position to their advantage, as they deemed necessary for their own personal benefit.

Second Amended Petition ¶ 27. This allegation is too vague to support personal jurisdiction. In any event, the only contacts identified by Plaintiffs are pre-2012 actions when the company was based in California. Otherwise, any actions by Defendants are subject to the fiduciary shield doctrine.

6. Third, Plaintiffs allege the following:

[T]he defendants sought a benefit, advantage, or profit by virtue of their activities in Texas. Texas was the location in which the first serious OEC projects were being negotiated, and the defendants intended to retain their ownership in and association with the company and profit thereby.

Second Amended Petition ¶ 28. The fact that OEC had projects in Texas is irrelevant to whether this Court has jurisdiction over Defendants. Again, the fiduciary shield doctrine prohibits the imputation of OEC's contacts to Defendants.

7. In sum, there is no basis for personal jurisdiction over Defendants Harris and Gardner. The Court should dismiss Plaintiffs' claims for want of personal jurisdiction.

Plea in Abatement

8. OEC is a Delaware corporation. Litigation is pending in Delaware between some of the newly added defendants, on the one hand, and Gitschel and OEC, on the other hand. This lawsuit appears to be an effort to sidestep the Delaware proceeding by dragging all of the parties into this Court.

9. The Delaware court has dominant jurisdiction over this case. The Court should therefore grant this plea in abatement and dismiss all of the claims added in the Second Amended Petition.

Answer

10. Defendants generally deny Plaintiff's allegations.

11. Plaintiffs' claims are barred by the statute of limitations.

For the foregoing reasons, the Court should (1) dismiss the claims against Defendants for want of personal jurisdiction, (2) alternatively, dismiss the claims against Defendants due to the pending Delaware litigation, or (3) alternatively, enter judgment that Plaintiff take nothing by way of this suit and that Defendants recover their costs of court.

Respectfully submitted,

/s/ David C. Holmes

David C. Holmes
State Bar No. 09907150
Law Offices of David C. Holmes
13201 Northwest Freeway, Suite 800
Houston, Texas 77040
Telephone: 713-586-8862
Fax: 713-586-8863
dholmes282@aol.com

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading was sent either electronically, by fax, or by regular mail, postage prepaid, to all counsel of record on March 28, 2016.

/s/ David C. Holmes

David C. Holmes

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

EXHIBIT 1

TO

DEFENDANTS GREGORY HARRIS AND KURT GARDNER'S SPECIAL APPEARANCE, PLEA IN ABATEMENT, AND ORIGINAL ANSWER

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

DECLARATION OF KURT GARDNER

1. My name is Kurt Gardner. I am a defendant in this lawsuit. I have personal knowledge of the matters stated in this declaration, all of which are true and correct.

2. I am a resident of California. I work in California. My home and business are in California. I pay state and local taxes in California. I am registered to vote in California.

3. I have never resided or worked in Texas with the exception of a 6 month temporary assignment 17 years ago for a different company on unrelated business. I do not work in Texas. I am not registered to vote in Texas. I do not own property in Texas. I do not have employees or agents in Texas. I do not receive income from Texas.

4. I was one of the founding shareholders of Organic Energy Corporation (OEC). OEC is a Delaware corporation that was based in California. All of the founding shareholders lived in California or Utah.

5. I have read Plaintiff's Second Amended Original Petition in this lawsuit. While I dispute many of the allegations, everything that I am alleged to have done relates to the time period when OEC was based in California. None of these things happened in Texas. In fact, I have never done anything in connection with OEC in Texas with the exception of helping to prepare marketing materials as an officer of the company prior to my resignation and the

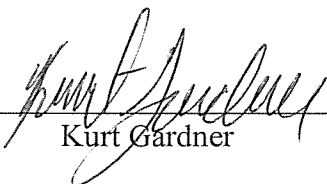
company's subsequent relocation to Texas. I have never attended meetings or anything else in connection with the business of OEC after my resignation and the company's subsequent relocation to Texas.

6. After we agreed to give control of the company to Mr. Gitschel in 2012, Mr. Gitschel relocated the company to Texas. I had no involvement in that decision. Since that time, I have had no involvement in the management or operations of OEC. I continue to own stock in OEC, but my interest is only 2.5 %.

7. There is a pending lawsuit against Mr. Gitschel in Delaware. I have had involvement with that lawsuit. However, my involvement has not involved any actions in Texas, but instead has involved actions relating to the Delaware litigation.

8. In sum, I have no continuous and systematic contacts to Texas, nor do I have any contacts to Texas relating to the allegations against me in the lawsuit.

My name is Kurt Gardner, my date of birth is 09/14/1962, and my address is 1335 New Hampshire Drive, Concord, Contra Costa County, California. I declare under penalty of perjury that the foregoing is true and correct. Executed in Contra Costa County, California, on March 25th, 2016.


Kurt Gardner

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

EXHIBIT 2

TO

**DEFENDANTS GREGORY HARRIS AND KURT GARDNER'S SPECIAL
APPEARANCE, PLEA IN ABATEMENT, AND ORIGINAL ANSWER**

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

DECLARATION OF GREGORY HARRIS

1. My name is Gregory Harris. I am a defendant in this lawsuit. I have personal knowledge of the matters stated in this declaration, all of which are true and correct.

2. I am a resident of California. I work in California. My home and business are in California. I pay state and local taxes in California. I am registered to vote in California.

3. I have never resided or worked in Texas. I do not work in Texas. I am not registered to vote in Texas. I do not own property in Texas. I do not have employees or agents in Texas. I do not receive income from Texas.

4. I was one of the founding shareholders of Organic Energy Corporation (OEC). OEC is a Delaware corporation that was based in California. All of the founding shareholders lived in either California or Utah. During my entire employment as Chief Financial Officer of OEC, the headquarters and mailing address for OEC was my office in Clayton, California.

5. I have read Plaintiff's Second Amended Original Petition in this lawsuit. While I dispute many of the allegations, everything that I am alleged to have done relates to the time period when OEC was based in California. None of these things happened in Texas. During my employment as Chief Financial Officer of OEC I did attend business development meetings in Texas, other states, and Canada. Since my resignation as Chief Financial Officer of OEC more

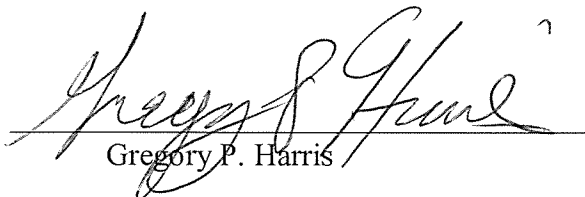
than 3 years ago, I have never attended meetings or anything else in connection with the business of OEC.

6. After we agreed to give control of the company to Mr. Gitschel in 2012, Mr. Gitschel relocated the company to Texas. I had no involvement in that decision. Since that time, I have had no involvement in the management or operations of OEC. I continue to own stock in OEC, but my interest is only 2.5%.

7. There is a pending lawsuit against Mr. Gitschel in Delaware. I have had involvement with that lawsuit. However, my involvement has not involved any actions in Texas, but instead has involved actions relating to the Delaware litigation.

8. In sum, I have no continuous and systematic contacts to Texas, nor do I have any contacts to Texas relating to the allegations against me in the lawsuit.

My name is Gregory P. Harris, my date of birth is January 4, 1967, and my address is 4408 Sugarland Court, Concord, Contra Costa County, California. I declare under penalty of perjury that the foregoing is true and correct. Executed in Contra Costa County, California, on March 24, 2016.


Gregory P. Harris

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

DEFENDANTS CARL HANSEN AND CONLEY HANSEN’S SPECIAL APPEARANCE, PLEA IN ABATEMENT, AND ORIGINAL ANSWER

Defendants Carl Hansen and Conly Hansen file this Special Appearance, Plea in Abatement, and Original Answer, and would show the following:

Special Appearance

1. Defendants specially appear and deny that this Court has personal jurisdiction over them. As shown by the declarations that are Exhibits 1 and 2, Defendants are residents of Utah, do not conduct business in Texas, do not own property in Texas, do not have employees in Texas, and have no substantial contacts to Texas. They are former officers of OEC, but at the time they were officers, OEC was based in California, not Texas. After they resigned as officers and sold the bulk of their stock to George Gitschel, OEC relocated to Texas. At this time, Defendants are owners of small minority interests in OEC. In sum, this Court lacks personal jurisdiction because (a) Defendants do not have systematic and continuous contacts to Texas, which are required for general jurisdiction; and (b) Defendants have not taken any actions in Texas that are related to the causes of action against them, which is required for specific jurisdiction.

2. Plaintiffs allege three jurisdictional facts, none of which are sufficient to establish personal jurisdiction. First, Plaintiffs allege the following:

[T]he nonresident defendants' purposefully availed themselves of the privilege of conducting activities within the state of Texas; the headquarters of OEC has been in Texas since 2012. These defendants maintained their relationship as shareholders with OEC during this time, and otherwise were involved in the business affairs of OEC, thus invoking the benefits and protections of the laws of this state.

Second Amended Petition ¶ 26. As shown in the declarations, OEC was based in California when Defendants were officers and were actively involved in the business of OEC. Gitschel moved the company to Texas after Defendants ceased to be officers and ceased to be actively involved in the company. While Defendants still own a small percentage of stock in the company, this is not a basis for personal jurisdiction.

3. In fact, the fiduciary shield doctrine prohibits the use of acts of non-resident officers, directors, and shareholders as a basis for personal jurisdiction in Texas. *Nichols v. Tseng Hsiang Lin*, 282 S.W.3d 743, 750 (Tex. App. – Dallas 2009, no pet.) (“The fiduciary shield doctrine protects a nonresident corporate officer or employee from a trial court's exercise of general jurisdiction over the individual when all of his contacts with Texas were made on behalf of the employer.”). In other words, even if Defendants had some connection to Texas as officers or shareholders, that would not be a “contact” for purposes of personal jurisdiction.

4. Moreover, OEC's contacts to Texas are not attributable to Defendants. “[J]urisdiction over an individual cannot be based upon jurisdiction over a corporation.” *Nichols*, 282 S.W.3d at 750.

5. Second, Plaintiffs allege the following:

[T]he activities of the non-resident defendants were purposeful, not random, isolated, or fortuitous. The quality of the contacts was meaningful, with these defendants maintaining ownership in or association with OEC and utilizing that position to their advantage, as they deemed necessary for their own personal benefit.

Second Amended Petition ¶ 27. This allegation is too vague to support personal jurisdiction. In any event, the only contacts identified by Plaintiffs are pre-2012 actions when the company was based in California. Otherwise, any actions by Defendants are subject to the fiduciary shield doctrine.

6. Third, Plaintiffs allege the following:

[T]he defendants sought a benefit, advantage, or profit by virtue of their activities in Texas. Texas was the location in which the first serious OEC projects were being negotiated, and the defendants intended to retain their ownership in and association with the company and profit thereby.

Second Amended Petition ¶ 28. The fact that OEC had projects in Texas is irrelevant to whether this Court has jurisdiction over Defendants. Again, the fiduciary shield doctrine prohibits the imputation of OEC's contacts to Defendants.

7. In sum, there is no basis for personal jurisdiction over Defendants Harris and Gardner. The Court should dismiss Plaintiffs' claims for want of personal jurisdiction.

Plea in Abatement

8. OEC is a Delaware corporation. Litigation is pending in Delaware between some of the newly added defendants, on the one hand, and Gitschel and OEC, on the other hand. This lawsuit appears to be an effort to sidestep the Delaware proceeding by dragging all of the parties into this Court.

9. The Delaware court has dominant jurisdiction over this case. The Court should therefore grant this plea in abatement and dismiss all of the claims added in the Second Amended Petition.

Answer

10. Defendants generally deny Plaintiff's allegations.

11. Plaintiffs' claims are barred by the statute of limitations.

For the foregoing reasons, the Court should (1) dismiss the claims against Defendants for want of personal jurisdiction, (2) alternatively, dismiss the claims against Defendants due to the pending Delaware litigation, or (3) alternatively, enter judgment that Plaintiff take nothing by way of this suit and that Defendants recover their costs of court.

Respectfully submitted,

/s/ David C. Holmes

David C. Holmes

State Bar No. 09907150

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading was sent either electronically, by fax, or by regular mail, postage prepaid, to all counsel of record on March 29, 2016.

/s/ David C. Holmes

David C. Holmes

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

EXHIBIT 1

TO

**DEFENDANTS CARL HANSEN AND CONLY HANSEN'S SPECIAL APPEARANCE,
PLEA IN ABATEMENT, AND ORIGINAL ANSWER**

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

DECLARATION OF CARL HANSEN

1. My name is Carl Hansen. I am a defendant in this lawsuit. I have personal knowledge of the matters stated in this declaration, all of which are true and correct.

2. I am a resident of Utah. I work in Utah. My home and business are in Utah. I pay state and local taxes in Utah. I am registered to vote in Utah.

3. I have never resided or worked in Texas. I do not work in Texas. I am not registered to vote in Texas. I do not own property in Texas. I do not have employees or agents in Texas. I do not receive income from Texas.

4. I was one of the founding shareholders of Organic Energy Corporation (OEC). OEC is a Delaware corporation that was based in California. All of the founding shareholders lived in California or Utah.

5. I have read Plaintiff’s Second Amended Original Petition in this lawsuit. While I dispute many of the allegations, everything that I am alleged to have done relates to the time period when OEC was based in California. None of these things happened in Texas. In fact, I have never done anything in connection with OEC in Texas. I have never attended meetings or anything else in Texas in connection with the business of OEC.

6. After we agreed to give control of the company to Mr. Gitschel in 2012, Mr. Gitschel relocated the company to Texas. I had no involvement in that decision. Since that time, I have had no involvement in the management or operations of OEC. I continue to own stock in OEC, but my interest is only 2.5%. The original 5% that I owned is in dispute.

7. In sum, I have no continuous and systematic contacts to Texas, nor do I have any contacts to Texas relating to the allegations against me in the lawsuit.

My name is Carl Hansen, my date of birth is Nov. 13 1942, and my address is 4005W. 15600 N. Garland, Utah 84312, Box Elder County, Utah. I declare under penalty of perjury that the foregoing is true and correct. Executed in Box Elder County, Utah, on March 28, 2016.



Carl Hansen

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

EXHIBIT 2

TO

**DEFENDANTS CARL HANSEN AND CONLY HANSEN'S SPECIAL APPEARANCE,
PLEA IN ABATEMENT, AND ORIGINAL ANSWER**

NO. 2014-21649

ORGANIC ENERGY CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	HARRIS COUNTY, T E X A S
	§	
LARRY BUCKLE, et al.,	§	
	§	
Defendants.	§	113TH JUDICIAL DISTRICT

DECLARATION OF CONLY HANSEN

1. My name is Conly Hansen. I am a defendant in this lawsuit. I have personal knowledge of the matters stated in this declaration, all of which are true and correct.

2. I am a resident of Utah. I work in Utah. My home and business are in Utah. I pay state and local taxes in Utah. I am registered to vote in Utah.

3. I have never resided or worked in Texas. I do not work in Texas. I am not registered to vote in Texas. I do not own property in Texas. I do not have employees or agents in Texas. I do not receive income from Texas.

4. I was one of the founding shareholders of Organic Energy Corporation (OEC). OEC is a Delaware corporation that was based in California. All of the founding shareholders lived in California or Utah.

5. I have read Plaintiff's Second Amended Original Petition in this lawsuit. While I dispute many of the allegations, everything that I am alleged to have done relates to the time period when OEC was based in California. None of these things happened in Texas. In fact, I have never done anything in connection with OEC in Texas. I have never attended meetings or anything else in Texas in connection with the business of OEC.

6. After we agreed to give control of the company to Mr. Gitschel in 2012, Mr. Gitschel relocated the company to Texas. I had no involvement in that decision. Since that time, I have had no involvement in the management or operations of OEC. I continue to own stock in OEC, but my interest is only 5%. (It is in dispute whether I own 5% or 2.5%)

7. In sum, I have no continuous and systematic contacts to Texas, nor do I have any contacts to Texas relating to the allegations against me in the lawsuit.

My name is Conly Hansen, my date of birth is 11 Sept, 1946, and my address is 1310 E 3100 N, North Logan, Cache County, Utah. I declare under penalty of perjury that the foregoing is true and correct. Executed in Cache County, Utah, on March 28th, 2016.



Conly Hansen

CAUSE NO. 2014-21649

<p>ORGANIC ENERGY CORPORATION and GEORGE GITSCHERL, <i>Plaintiffs,</i></p> <p>v.</p> <p>LARRY BUCKLE, ET AL., <i>Defendants.</i></p>	<p>§ § § § § § § §</p>	<p>IN THE DISTRICT COURT OF</p> <p>HARRIS COUNTY, TEXAS</p> <p>113TH JUDICIAL DISTRICT</p>
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DEFENDANT DARRIN STANTON’S ORIGINAL ANSWER TO PLAINTIFFS’ SECOND AMENDED ORIGINAL PETITION AND AFFIRMATIVE DEFENSES

COMES NOW Defendant Darrin Stanton (“Stanton”) and files this, *Defendant Darrin Stanton’s Original Answer to Plaintiffs’ Second Amended Original Petition and Affirmative Defenses*, and in support thereof would respectfully show this Court the following:

I.
GENERAL DENIAL

1. Stanton generally denies each and every allegation in Plaintiffs’ Second Amended Original Petition, and any and all supplements and amendments thereto, and demands strict proof thereof by a preponderance of the credible evidence.

II.
AFFIRMATIVE DEFENSES

2. Pleading further, Stanton contends that Plaintiffs’ claims are barred, in whole or in part, by Plaintiffs’ own prior material breaches of the contracts at issue.

3. Pleading further, Stanton contends that Plaintiffs’ claims are barred, in whole or in part, by Plaintiffs’ own wrongful acts and omissions.

4. Pleading further, Stanton contends that Plaintiffs’ claims are barred, in whole or in part, by waiver.

5. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by estoppel.

6. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by unclean hands.

7. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by ratification.

8. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' own fraud.

9. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' actual knowledge of the falsity of any representation Plaintiffs allege to have been false.

10. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by laches.

11. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' failure to mitigate.

12. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by the business-judgment rule.

13. Pleading further, Stanton contends that Plaintiffs' DTPA claims are barred because Plaintiffs are not a "consumer" within the definition of that term in the DTPA.

14. Pleading further, Stanton contends that Plaintiffs' DTPA claims are barred because Plaintiffs' claims are exempt under TEX. BUS. & COM. CODE §§ 17.49(f) and (g).

15. Pleading further, Stanton contends that Plaintiffs' DTPA claims are barred because Plaintiffs' claims are exempt under TEX. BUS. & COM. CODE § 17.49(c) and (d).

16. Pleading further, Stanton contends that Plaintiffs' DTPA claims are barred because Plaintiffs' claims are exempt under TEX. BUS. & COM. CODE ANN. § 17.565.

17. Pleading further, Stanton contends that Plaintiffs' DTPA claims are barred because Plaintiffs' claims are based on a breach of contract and thus are not actionable under the DTPA.

18. Pleading further, Stanton contends that Plaintiffs' claims are barred, in whole or in part, by the statute of limitations.

19. Pleading further, Stanton invokes its rights under the Due Process Clause and Equal Protective Clause of the Fourteenth Amendment of the United States Constitution and affirmatively pleads that Plaintiffs' pleading for punitive damages and/or exemplary damages is violative of the Fourteenth Amendment. Further, Stanton further pleads that the assessment and any award of punitive damages is violative of the Eighth Amendment of the United States Constitution as it is applied to the States through the Fourteenth Amendment of the United States Constitution, in that such awards potentially constitute an excessive fine imposed without the protections of fundamental due process. Accordingly, Stanton invokes its rights under the Eighth and Fourteenth Amendments and respectfully requests that this Court disallow any award of punitive damages in as much as any such award in this case would be violative of Stanton's constitutional rights. Stanton further invokes its rights under the Fifth Amendment, as applied through the Fourteenth Amendment to the United States Constitution, wherein it reads in part "No person shall be . . . deprived of . . . property without due process of law . . ."

20. Pleading further, Stanton contends that any award of punitive damages and/or exemplary damages must be supported by clear and convincing evidence.

21. Pleading further, Stanton contends that any award of punitive damages and/or exemplary damages is capped per applicable law.

III.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Darrin Stanton requests that the Court dismiss this suit or render judgment that Plaintiffs take nothing, assess costs against Plaintiffs, and that Defendant be granted all such other relief, at law and in equity, to which he may show himself justly entitled.

Respectfully submitted,

GRUBER ELROD JOHANSEN HAIL SHANK, LLP

/s/ Brian N. Hail

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**ATTORNEYS FOR DEFENDANT
DARRIN STANTON**

CERTIFICATE OF SERVICE

The undersigned counsel of record for Defendant certifies that a true and correct copy of the foregoing was served on all parties via electronic filing on March 28, 2016 in accordance with Texas Rule of Civil Procedure 21a.

/s/ Brian N. Hail

BRIAN N. HAIL

2014-21649

COURT: 113th

FILED DATE: 4/17/2014

CASE TYPE: DEBT



ORGANIC ENERGY CORPORATION

Attorney: FIBICH, KENNETH T.

VS.

MOOREHEAD, DON

Attorney: HOLMES, DAVID C.

Trial Settings

Date	Comment
8/31/2015	Docket Set For: Trial Setting
2/29/2016	Docket Set For: Trial Setting
7/5/2016	Docket Set For: Trial Setting

Docket Sheet Entries

Date	Comment
7/1/2014	SBSRX - ORDER GRANTING SUBSTITUTED SERVICE SIGNED
6/15/2015	11E - PARTIAL DISMISSAL ON AGREEMENT OF PARTIES
6/15/2015	CAFX - ORDER SIGNED GRANTING TRIAL CONTINUANCE
12/16/2015	CAFX - ORDER SIGNED GRANTING TRIAL CONTINUANCE
12/28/2015	SBATX - ORDER SIGNED SUBSTITUTING ATTORNEY OF RECORD