

STATE OF WISCONSIN

:

CIRCUIT COURT
BRANCH 5

:

BROWN COUNTY

MARCO ARAUJO, M.D.
4367 Nicolet Drive
Green Bay, WI 54311,

Plaintiff,

v.

RONALD H. VAN DEN HEUVEL
2303 Lost Dauphin Road
De Pere, WI 54115,

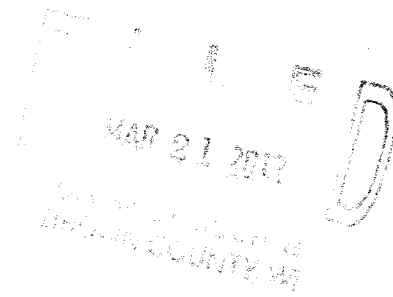
AND

GREEN BOX, N.A. GREEN BAY, LLC
2077-B Lawrence Drive
De Pere, WI 54115

Defendants.

Case No. 13-CV-463

Case Code: 30301



AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES the above-named Plaintiff, Marco Araujo, M.D., by his attorneys, and as and for a claim against the above-named Defendants, and each of them, alleges and shows the Court as follows:

1. Plaintiff, Marco Araujo, M.D. ("Araujo") is an adult citizen of the United States of America residing at 4367 Nicolet Drive, Green Bay, Wisconsin 54311 and is a licensed physician engaged in the practice of medicine in Brown County, Wisconsin.
2. Defendant, Ronald H. Van Den Heuvel ("Van Den Heuvel"), is an adult who resides at 2303 Lost Dauphin Road, De Pere, Wisconsin 54115, who holds himself out as a businessman and entrepreneur.

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3. Defendant, Green Box, N.A. Green Bay, LLC (“Green Box”), is a Wisconsin limited liability company having its principal offices located 2077-B Lawrence Drive, De Pere, Wisconsin 54115 which claims to be engaged in the business of manufacturing.

4. In mid-February 2011, Van Den Heuvel began soliciting Araujo to invest in Green Box which was represented by Van Den Heuvel to be an existing manufacturing facility that had a reclamation process for organic solid waste which waste stream was remanufactured into commercially marketable products without any wastewater discharge, and without any waste material going to landfill.

5. In mid-February 2011, Van Den Heuvel invited Araujo to a reception at the Perini Building, 3060 South Ridge Road, Green Bay, Wisconsin 54304 (the “Perini Building”).

6. Van Den Heuvel gave Araujo a tour of the entire Perini Building, representing that Green Box was already operating inside that building, which was false.

7. Van Den Heuvel represented to Araujo that he needed his investment money to buy the Perini Building, which he was going to purchase in a short sale for around \$3 Million.

8. In late February, Araujo and his family had dinner with Van Den Heuvel and his family. At that time, Van Den Heuvel stated that Araujo “will invest directly into Green Box Green Bay, N.A. and he will be a shareholder” like himself.

9. Van Den Heuvel assured Araujo’s wife, in front of Araujo, “Don’t worry, he is my friend. No, he will be protected because I will take care of you and of his girls. We will make millions for our girls.” Van Den Heuvel repeated these statements to Araujo several times.

10. Van Den Heuvel represented to Araujo that Green Box had contracts with McDonalds, Inc. and that it was being paid by a company in Canada to accept its waste stream. Those representations were false.

11. In late March 2011, Van Den Heuvel continued to solicit investment by Araujo in Green Box, promising him a mortgage on the Perini Building, and ten percent (10%) guaranteed interest to be paid quarterly, as well as a Uniform Commercial Code ("UCC") filing on the machinery required to build the Green Box machines necessary to process the organic material.

12. In fact, Van Den Heuvel was unable to purchase the Perini Building, a fact he did not disclose to Araujo.

13. Between mid-March and April 5, 2011, Van Den Heuvel was visiting Araujo at Araujo's clinic at 2595 Development Drive, Green Bay, Wisconsin, twice and spoke on the telephone with Araujo several times to discuss what he represented as the operations of Green Box and to answer questions. During these conversations, Van Den Heuvel represented that Green Box was operational and Van Den Heuvel needed Araujo's money to consolidate all Green Box operations in the Perini Building. Van Den Heuvel directed Araujo to block out time on his calendar for a grand opening ceremony for this purpose in the summer of 2011, but the ceremony never took place.

14. Green Box did not exist until March 25, 2011, at which time it was organized by Van Den Heuvel by filing for LLC status with the Wisconsin Department of Financial Institutions. Van Den Heuvel had a duty to inform Araujo of this, but he did not do so.

15. Van Den Heuvel created written advertising materials which he provided to Araujo as part of his efforts to convince Araujo to invest in Green Box.

16. Van Den Heuvel represented that the written materials were true, although they contained numerous falsehoods.

17. One brochure provided to Araujo by Van Den Heuvel as part of Van Den Heuvel's campaign to solicit investment by Araujo in Green Box is titled "The Green Box

Manufacturing Facility” and “E.A.R.T.H.’s Greenest Path Forward.” A copy of this document is attached as Exhibit A and referred to below as the “Manufacturing Facility Brochure.”

18. Van Den Heuvel represented in the Manufacturing Facility Brochure that:

The Green Box is a manufacturing facility that has 100% reclamation process for 500 tons of organic solid waste each day. The waste stream is remanufactured into commercially marketable products, without any wastewater discharge, without any waste material going to the landfill. The 500 tons of waste material being processed is currently directed to landfills by the companies that generate it.

19. Van Den Heuvel also represented in the Manufacturing Facility Brochure that:

The Green Box performs this activity in a 240,000 square foot facility on approximately 30 acres, with about 250 employees. The 500 tons of waste material is sorted with white, brown and poly coated papers, and is converted into 200 tons per day of pulp. The pulp is converted into over 500,000 tons per year of tissue products such as bathroom and facial tissues, napkins and paper towels. Pulp is also converted into 600,000,000 paper cups per green box each year.

20. The representations described in Paragraphs 18 and 19 above were false.

21. Van Den Heuvel also in the Manufacturing Facility Brochure that:

Waste generated by the sorting system, pulping system, and tissue converting system is converted into hi-tech fuel pellets. These fuel pellets generate between 10,500 and 16,000 BTU’s per lb. and can be commercially sold or consumed by the in-house gasification process that also produces synthetic gas and biodiesel. The gas is used to power generators that make up to 12 megawatts of energy that completely power the entire Green Box operation. Any excess is sold back to the grid. Over 6.5M gallons of biodiesel per year is sold to be blended and used in diesel vehicle engines.

22. The representations described in Paragraph 21 above were false.

23. Van Den Heuvel also represented in the Manufacturing Facility Brochure that:

This process enables 100% reclamation and sustainability of organic waste stream.

24. The representation described in Paragraph 23 above was false.

25. Below the statements from the Manufacturing Facility Brochure described above, is a picture of the Perini Building and a caption to the photograph representing that, "The Green Box North America Headquarters."

26. The representation that the Perini Building was the Green Box North America Headquarters was false.

27. The Manufacturing Facility Brochure also represented the following "Key Business Strengths" existed with respect to Green Box:

- Industry leading intellectual property held by each Green Box
- Tax-exempt bond debt service is 100% covered by the solid waste disposal fee
- No electrical or natural gas cost for manufacturing pulp and tissue products
- Lowest production cost for synthetic diesel fuel, biogas, electricity & fuel pellets
- Lowest raw material cost means no raw material cost exposure
- Long-term waste stream supply contracts industry leading environmental, pulp, tissue and cup product line
- Agreements with Fortune 500 corporations
- USFDA approval on recycled products
- Over 200 years of combined management experience
- No landfill or affluent water discharge cost for Green Box facility

28. The representations of "Key Business Strengths" described above in Paragraph 27 were false and to the extent any of the same were opinions or projections, Van Den Heuvel knew facts inconsistent with the projections and that they were not true or achievable.

29. The Manufacturing Facility Brochure also represented, on a photograph showing equipment, that what was shown in the photograph was, "the Green Box state-of-the-art equipment for cleaning, washing, screening, and clarifying recycled fibers." (100% post-consumer).

30. The representation described in Paragraph 29 above was false.

31. The Manufacturing Facility Brochure contained a projection of a Green Bay Master Operational Chart on page 11.

32. The Green Box Master Operational Chart was false and fictive.
33. The Manufacturing Facility Brochure on page 13 contained "Cashflow Coverage" for Green Box and is incorporated herein by this reference.
34. Van Den Heuvel knew facts inconsistent with the cash flow projections contained on page 13 of the Manufacturing Facility Brochure and he knew that those projections were in fact unachievable at the time he represented them as true and realistic to Araujo.
35. Van Den Heuvel represented in the Manufacturing Facility Brochure on page 14 that Van Den Heuvel had recently formed an enterprise known as Nature's Choice Tissue, LLC and that "Nature's Choice Tissue's strength and point of differentiation in the marketplace are that it produces the most environmental friendly, recycled pulp for tissue and cup products, made with 100% post-consumer recycled materials."
36. The representations described in Paragraph 35 above were false.
37. The Manufacturing Facility Brochure on page 15 makes various representations originating with Van Den Heuvel projecting performance of the Green Box in glowing terms and is incorporated herein by reference.
38. Van Den Heuvel knew facts inconsistent with the projections on page 18 of the Manufacturing Facility Brochure and he knew that the projections were untrue and unachievable at the time he falsely represented them to Araujo as true and achievable.
39. Van Den Heuvel represented to Araujo that the representations in the Manufacturing Facility Brochure were true and accurate.
40. In his efforts to convince Araujo to invest in Green Box, Van Den Heuvel also provided him with a document entitled "Green Box N.A., LLC Sound Path to Biomasses Most

Efficient Technologies” which was stamped confidential; a copy is attached as **Exhibit B** and referred to below as the “Sound Path.”

41. Pages 6 and 7 of the Sound Path Brochure contain unreasonable and unrealistic projections of income which Van Den Heuvel knew to be false and knew facts inconsistent with, but nonetheless he falsely represented them to Araujo as true and accurate.

42. To induce Araujo to invest in Green Box, Van Den Heuvel represented that Green Bay N.A. Green Bay, LLC would generate income sufficient to provide a guaranteed minimum rate of return to Araujo of 10% per annum on his investment of \$600,000 to be paid not less than quarterly.

43. Van Den Heuvel knew facts inconsistent with said representation and knew said representation was false and unachievable and that there was no intention to perform the promise made.

44. Van Den Heuvel represented to Araujo that it was reasonable to expect net income from Green Box in the range of \$40 million per year.

45. Van Den Heuvel knew that Green Box would never produce income of \$40 million per year or anything remotely in that range.

46. At the time he made said representations and promises to Araujo, Van Den Heuvel had no intention of performing the same and knew that they were, in fact, impossible of performance because of facts known to him at that time which he never disclosed to Araujo.

47. Van Den Heuvel did not inform Araujo that Green Box was only created on March 25, 2011 and led him to believe that it was an existing, operating business with existing contracts to dispose of the waste of major corporations.

48. Van Den Heuvel represented that Green Box was already operating, selling cups, paper, diesel and other products at the so-called "Eco Fiber Facility" and that Green Box was buying the Perini Building to consolidate everything there and to "continue" to grow the company.

49. Van Den Heuvel knew that the representations described in Paragraph 48 above were false.

50. Van Den Heuvel represented to Araujo that there were two groups of investors who together invested \$100 million in Green Box.

51. The representations described in Paragraph 50 above were false.

52. Van Den Heuvel told Araujo that he was looking for other investors to invest in Green Box but that no investment of less than \$300,000 would be permitted.

53. The representation described in Paragraph 52 above was false.

54. On April 4, 2011, Araujo entered into an agreement to issue stock and to provide collateral between Green Box and Araujo. A copy of this Agreement (the "Agreement") is attached as Exhibit C. Van Den Heuvel signed the Agreement on behalf of Green Box representing himself to be the "Director of Technology" of Green Box.

55. Pursuant to the Agreement, Araujo was to invest \$600,000 within two (2) business days of the execution of the Agreement.

56. In the Agreement, Green Box agreed in exchange for Araujo's \$600,000 to: (a) transfer 600,000 membership units in Green Box to Araujo, representing a .6% ownership interest in the LLC; (b) provide a security interest to Araujo in and UCC filing on sorting equipment identified on Exhibit A (which Exhibit did not exist based on an oral representation to Araujo that certain equipment would be subject to the UCC filing and security for Araujo's

investment); (c) provide a mortgage on the Perini Building, upon the successful closing of the purchase of the property; (d) provide a guaranteed minimum rate of return to Araujo of 10% per annum to be paid not less than quarterly; and (e) provide a distribution to Araujo for income tax liabilities once per year as indicated in the paragraph below.

57. The Agreement also stated that:

GBNA [Green Box] agrees it will provide Marco [Araujo] a K-1 each fiscal year representing the financial results attributable to Marco's ownership interest in GBNA. Additionally, GBNA will provide a cash distribution for income taxes to Marco within 15 days of issuance of the K-1 of no less than 40% of the net income reported on the K-1.

Example: GBNA reports net income of \$40M. GBNA issues a K-1 to Marco for 0.6% of the net income, \$240,000. GBNA forwards a distribution to Marco for \$96,000 within 15 days of issuing the K-1.

58. Araujo wired \$600,000 to Green Box on April 5, 2011.

59. Green Box transferred 600,000 membership units to Araujo. These units are of no value.

60. Green Box filed a UCC form giving Araujo a security interest in certain garbage processing equipment, but not in the equipment that had been represented to Araujo as the equipment which would be subject to his security interest.

61. Van Den Heuvel knew on and before April 4, 2011, that Green Box would never acquire the Perini Building and, of course, Araujo would never be given a mortgage on it; Van Den Heuvel did not, however, disclose these facts to Araujo.

62. Green Box never provided any rate of return to Araujo of 10% or any other amount which was not paid quarterly or otherwise and Van Den Heuvel knew on and before April 4, 2011 that Green Box would never be able to generate such revenue.

63. Green Box never provided a distribution to Araujo for income tax liabilities as indicated in the Agreement and Van Den Heuvel knew on and before April 4, 2011 that Green Box never would.

64. Green Box never operated and never had any net income and never paid anything to Araujo.

65. Even after April 4, 2011, Van Den Heuvel continued to misrepresent the actual lack of operations and prospects of Green Box in an effort to dissuade Araujo from protecting his interests and property.

66. Despite multiple emails requesting payment of interest, payment of distributions and issuance of a K-1, and a formal demand from a lawyer acting on Araujo's behalf, Van Den Heuvel did not fulfill any of his promises and his many representations described above turned out to be false.

67. Araujo demanded return of his investment by Van Den Heuvel. Although vaguely suggesting he would do so, Van Den Heuvel failed to repay anything to Araujo.

BREACH OF CONTRACT

68. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 67, above.

69. Green Box breached its agreement with Araujo by failing to perform the Agreement as described above.

70. As a result of Green Box's breach of the Agreement, Araujo has been damaged in the amount of \$600,000 plus interest thereon at the rate of ten percent (10%) per annum from April 5, 2011.

71. Araujo is entitled to judgment against Green Box for \$600,000 plus interest at ten percent (10%) per annum from April 5, 2011.

COMMON LAW FRAUD CLAIM

72. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 71, above.

73. Van Den Heuvel intentionally made the representations described above deceitfully when he knew or should have known that they were false.

74. Araujo reasonably relied upon Van Den Heuvel's false representations to enter into the Agreement and to pay Green Box \$600,000.

75. Van Den Heuvel knew that Araujo would reasonably rely upon his representations described above and made them for the purpose of inducing that reliance and payment.

76. As a result of Van Den Heuvel's fraud and misrepresentations described above, Araujo has been damaged in the amount of \$600,000 plus interest.

NEGLIGENT MISREPRESENTATION CLAIM

77. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 76, above.

78. If Van Den Heuvel did not make the representations described above intentionally, he did so negligently.

79. Araujo reasonably relied upon Van Den Heuvel's false representations.

80. Because of his reliance upon Van Den Heuvel's false representations, Araujo has been damaged in the amount of \$600,000 plus interest.

STRICT LIABILITY FOR MISREPRESENTATION CLAIM

81. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 80, above.

82. Van Den Heuvel made the representations described above with the implied and actual representation that he knew those representations were true and accurate based on his own personal knowledge.

83. Van Den Heuvel made the representations in connection with a transaction from which he stood to personally benefit financially and did, in fact, benefit personally.

84. Araujo reasonably relied upon Van Den Heuvel's false representations.

85. Araujo has been damaged by his reliance upon Van Den Heuvel's false representations in the amount of \$600,000 plus interest.

WISCONSIN SECURITIES LAW CLAIM

86. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 85, above.

87. The interest referenced to in the Agreement and transferred under it to Araujo in exchange for his payment of \$600,000 was a "security" within the meaning of Wis. Stat. § 551.102(28).

88. Van Den Heuvel's false representations were in violation of § 551.501 of the Wisconsin Statutes.

89. Van Den Heuvel employed a device, scheme or artifice to defraud Araujo in the offer, sale and purchase of a security.

90. Van Den Heuvel made untrue statements of a material fact and omitted to state material facts necessary in order to make the statements he made, in light of the circumstances under which they were made, not misleading, as described above.

91. Van Den Heuvel engaged in an act, practice or course of dealings that operated and would operate as a fraud or deceit upon Araujo.

92. Araujo did not know the untruths or omissions by Van Den Heuvel.

93. Araujo did not know and, in the exercise of reasonable care, could not have known of the untruth or omission contained within Van Den Heuvel's statements, representations and conduct described above.

94. Pursuant to Wis. Stat. § 551.509(2)(a), Araujo is entitled to recover the \$600,000 paid for the security under the Agreement, and interest at the legal rate under § 138.04 from the date of the purchase, costs and reasonable attorney's fees as provided in § 551.509(2)(a).

95. Araujo is entitled to recover from Van Den Heuvel actual damages of \$600,000 plus interest at the legal rate under § 138.04 from the date of purchase, costs and reasonable attorney's fees determined by the Court under § 551.509(2)(c).

96. Araujo hereby tenders the interest in Green Box to Green Box and Van Den Heuvel and indicates his willingness to exchange such security for \$600,000 less the value of the security, which is nothing, together with interest at the legal rate under § 138.04 from the date of the purchase, together with costs and reasonable attorney's fees determined by the Court.

RESCISSION CLAIM

97. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 96, above.

98. By reason of said misrepresentations, breaches and violations of statute described above, and Araujo's tender of the security, Araujo is entitled to rescission of the Agreement and return of the consideration paid pursuant to it plus interest.

WIS. STAT. § 100.18 CLAIM

99. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 98, above.

100. The oral and written advertisements, announcements, statements and representations made by Van Den Heuvel as described above contain untrue, deceptive and misleading statements of fact, in violation of Wis. Stat. § 100.18(1).

101. As a result of Van Den Heuvel's untrue, deceptive and misleading advertisements, announcements, statements and representations to the public including Araujo containing false assertions, false representations, and statements of fact, Araujo suffered pecuniary loss in the amount of \$600,000 plus interest.

102. Accordingly, pursuant to Wis. Stat. § 100.18(11)(b), Araujo is entitled to recover twice the amount of his pecuniary loss, that is, twice \$600,000 or \$1,200,000, plus interest (doubled), together with costs, including reasonable attorney's fees.

MISAPPROPRIATION CLAIM

103. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 102, above.

104. The \$600,000 paid by Araujo to Van Den Heuvel in accordance with the Agreement was Araujo's personal property.

105. Green Box was Van Den Heuvel's alter ego, completely under his control, and Van Den Heuvel obtained and personally used for his own personal benefit all or part of the \$600,000 paid by Araujo to Green Box.

106. Van Den Heuvel, accordingly, obtained title to Araujo's property by intentionally deceiving Araujo with false representations known by Van Den Heuvel to be false, made with intent to defraud Araujo, and which did, in fact, defraud Araujo.

107. The "false representation" described above and referred to here include promises made with the intent not to perform them, which was a part of the false and fraudulent scheme undertaken by Van Den Heuvel against Araujo.

108. Van Den Heuvel committed intentional theft contrary to Wis. Stat. § 943.20(1)(d).

109. Araujo suffered damage and loss by reason of Van Den Heuvel's intentional conduct in violation of Wis. Stat. § 943.20 within the meaning of Wis. Stat. § 895.446(1).

110. Accordingly, Araujo is entitled to recover from Van Den Heuvel actual damages in the amount of \$600,000 plus interest, together with costs of investigation and litigation reasonably incurred and exemplary damages of not more than three times the amount of damages awarded in accordance with Wis. Stat. § 895.446(3).

PUNITIVE DAMAGES

111. Repeats and incorporates here by this reference as though set out here at length, all of the allegations contained in Paragraph 1 through 110, above.

112. Van Den Heuvel acted maliciously toward Araujo and in intentional disregard of Araujo's rights within the meaning of Wis. Stat. § 895.043(3) when he committed the acts and omissions described above.

113. Accordingly, Araujo is entitled to recover punitive damages from Van Den Heuvel in an amount not exceeding twice his compensatory damages or \$200,000 in accordance with Wis. Stat. § 895.043(6).

WHEREFORE, Araujo demands judgment against Green Box for breach of contract in the amount of \$600,000 plus interest at ten percent (10%) per year from April 5, 2011, for rescission and return of the \$600,000 plus interest, and for judgment against Van Den Heuvel for compensatory and statutorily enhanced damages of \$1,200,000 plus interest, and exemplary damages, and for damages based on a tort claim seeking the recovery of money for which this demand for judgment may not specify the amount of money sought pursuant to Wis. Stat. § 802.02(1)(m), punitive damages in an amount to be determined by the jury and the Court, statutory costs and disbursements, actual reasonable attorney's fees, costs of investigation, and litigation expenses as determined by the Court, together with such other and further relief as the Court deems just and equitable in the premises.

JURY DEMAND: PLAINTIFF DEMANDS TRIAL BY JURY OF 12 OF ALL ISSUES
HEREIN TRIABLE BY JURY.

Dated this 20 day of March, 2013.

GODFREY & KAHN, S.C.

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