

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH V

BROWN COUNTY

MARCO ARAUJO, MD

PLAINTIFF,

v.

CASE NO. 2013CV463
DEFENDANT ANSWER

RONALD HENRY VANDENHEUVEL

AND

GREEN BOX NA GREEN BAY, LLC

Defendants.

FILED
APR 10 2013
CLERK OF COURTS
BROWN COUNTY, WI

**ANSWER OF DEFENDANTS RONALD VAN DEN HEUVEL AND
GREEN BOX NA GREEN BAY, LLC**

NOW COMES DEFENDANTS, Ronald Henry Van Den Heuvel and Green Box NA Green Bay, LLC, by and through their attorney Ty C Willinganz, and each answers the allegations made by the Plaintiff in his Complaint in the following manner:

1. NEITHER ADMIT NOR DENY;
2. ADMIT;
3. ADMIT;
4. DENY. The allegations contained in Paragraph 4 are false. Van Den Heuvel never made the representations he is alleged to have made therein.

5. ADMIT.
6. DENY. Van Den Heuvel never claimed that Green Box was operating inside the Perini Building, and Plaintiff Araujo knew that Green Box was in the process of attempting to acquire the Perini Building, and in fact .
7. DENY. The details alleged in Paragraph 7 of Plaintiffs Complaint are false and misleading;
8. DENY. Van Den Heuvel did not provide the assurances he is claimed to have provided in Paragraph 8 of Plaintiff's Complaint, some of which he could not possibly have provided as Green Box NA Green Bay is a limited liability company and therefore has no "shareholders" per se.
9. DENY. Van Den Heuvel never offered the protections and assurances alleged in Paragraph 9. Both Araujo and his wife were told that they were making an investment which carried inherent risk of loss.
10. DENY. Van Den Heuvel never represented to anyone that Green Box NA Green Bay had any contracts with McDonald's Inc nor did he state that any company in Canada was paying Green Box NA Green Bay to accept its waste stream. Both transactions were outstanding at that time, and neither was completed.
11. DENY. Van Den Heuvel did not make an unconditional promise of conveying a mortgage on the Perini Building to Plaintiff, and Plaintiff was not guaranteed any amount of interest on his investment in Green Box NA Green Bay.
12. DENY. Van Den Heuvel did not know at that time that he would be unable to come to terms of purchase on the Perini Building, and was in fact actively negotiating said terms.

13. DENY. Van Den Heuvel did talk to and visit Plaintiff during the time alleged, but did not make any of the alleged assurances and never specifically outlined how the Plaintiff's investment money might specifically be used, other than in general terms stating that it would be used for the betterment and advancement of the Green Box project;
14. DENY. It is a matter of public record that Green Box DID in fact exist prior to date specified in Paragraph 14 of the Plaintiff's Complaint;
15. ADMIT;
16. DENY. The materials were an accepted form of commercial speech and contained the usual puffery allowed in such materials;
17. ADMIT;
18. DENY. The advertising materials were written by Green Box or parties commissioned by Green Box, not by Van Den Heuvel, and therefore it is inaccurate and false to represent Van Den Heuvel as having made any of the alleged representations set forth in Paragraphs 18-21 of Plaintiff's Complaint;
19. DENY. The advertising materials were written by Green Box or parties commissioned by Green Box, not by Van Den Heuvel, and therefore it is inaccurate and false to represent Van Den Heuvel as having made any of the alleged representations set forth in Paragraphs 18-21 of Plaintiff's Complaint;
20. DENY. The advertising materials were written by Green Box or parties commissioned by Green Box, not by Van Den Heuvel, and therefore it is inaccurate and false to represent Van Den Heuvel as having made any of the alleged representations set forth in Paragraphs 18-21 of Plaintiff's Complaint;

21. DENY. The advertising materials were written by Green Box or parties commissioned by Green Box, not by Van Den Heuvel, and therefore it is inaccurate and false to represent Van Den Heuvel as having made any of the alleged representations set forth in Paragraphs 18-21 of Plaintiff's Complaint;
22. DENY. The advertising materials were written by Green Box or parties commissioned by Green Box, not by Van Den Heuvel, and therefore it is inaccurate and false to represent Van Den Heuvel as having made any of the alleged representations set forth in Paragraphs 18-21 of Plaintiff's Complaint;
23. DENY. The advertising materials were written by Green Box or parties commissioned by Green Box, not by Van Den Heuvel, and therefore it is inaccurate and false to represent Van Den Heuvel as having made any of the alleged representations set forth in Paragraphs 18-21 of Plaintiff's Complaint;
24. DENY. The advertising materials were written by Green Box or parties commissioned by Green Box, not by Van Den Heuvel, and therefore it is inaccurate and false to represent Van Den Heuvel as having made any of the alleged representations set forth in Paragraphs 18-21 of Plaintiff's Complaint;
25. DENY.
26. DENY. Plaintiff knew at the time of his investment that the Perini Building was not yet in the ownership of Green Box NA, LLC and that it was projected to eventually be the headquarters for North American operations;
27. ADMIT;

28. DENY. The materials quoted in Plaintiff's Complaint are examples of commercial speech which may contain some degree of permitted puffery and contained no falsehoods;
29. ADMIT;
30. DENY. The picture identified in Paragraph 29 of Plaintiff's Complaint was correctly labeled;
31. ADMIT;
32. DENY. By definition, and by common commercial use, it is impossible for a "projection", which is what it was, to be either false, or "fictive".
33. NEITHER ADMIT NOR DENY.
34. DENY. Van Den Heuvel did not know any facts inconsistent with the Cash Flow Coverage portion of the marketing materials identified in Plaintiff's Complaint, and no specific facts are alleged by Plaintiff;
35. NEITHER ADMIT NOR DENY.
36. DENY. The factual representations identified by Plaintiff in Paragraph 35 of his Complaint were absolutely true, namely Van Den Heuvel did form an enterprise known as Nature's Choice Tissue, LLC k/n/a Environmental Advanced Reclamation Technology HQ, LLC, and the other representations identified by Plaintiff constitute commercial opinions and therefore cannot be false;
37. NEITHER ADMIT NOR DENY;
38. DENY. Van Den Heuvel did not know any facts inconsistent with the Manufacturing Facility brochure identified in Plaintiff's Complaint, and Van Den Heuvel did believe and continues to believe that the projections made therein

were very achievable, and no specific facts to the contrary are identified by Plaintiff;

39. DENY. Plaintiff knew that the materials identified in Paragraph 39 of his Complaint were “marketing” materials and contained a degree of allowable commercial puffery and opinion;

40. NEITHER ADMIT NOR DENY;

41. DENY. The projections contained therein are both “reasonable” and “realistic” income projections for Green Box, once it is a fully funded operation;

42. DENY. Any income projections made by Van Den Heuvel were necessarily speculative and contingent upon Green Box receiving full funding for its operation, a fact which was known to Plaintiff;

43. DENY. It is difficult to either admit or deny an allegation of “specific facts” when those facts are not alleged in either a detailed or a general manner;

44. DENY. Van Den Heuvel made no such specific assurance;

45. DENY. Van Den Heuvel is not clairvoyant and therefore could not have “known” the facts he was alleged to have known in Paragraph 45 of Plaintiff’s Complaint;

46. DENY. Van Den Heuvel had and continues to have every intention of making Green Box into a successful enterprise;

47. DENY. The enterprise known as Green Box was created in 2010, and as to its existing operations and commercial contracts, no such representations were made, and anyhow those were facts that Plaintiff could have readily confirmed or denied for himself through due diligence;

48. DENY. Van Den Heuvel did not make the specific factual representations

alleged in Paragraph 48 of Plaintiff's Complaint, and the representations as to Green Box's intended use of the Perini Building were accurate representations;

49. DENY. For the reasons set forth in Paragraph 48;

50. DENY. Van Den Heuvel made no such representations to Plaintiff;

51. DENY. For the reasons set forth in Paragraph 50.

52. ADMIT.

53. DENY. The representations alleged to have been made by Van Den Heuvel in Paragraph 52 of Plaintiff's Complaint were personal representations as to the future intentions held by Van Den Heuvel, and in so far as they were his intentions spoken by him, they are, and were at the time, necessarily true, and Plaintiff could have no basis for alleging otherwise;

54. ADMIT.

55. ADMIT.

56. NEITHER ADMIT NOR DENY;

57. NEITHER ADMIT NOR DENY;

58. ADMIT;

59. ADMIT IN PART, DENY IN PART. Plaintiff received and continues to hold the specifically identified Membership Units, which have value as speculative assets;

60. DENY. Green Box filed the promised security interest in certain sorting equipment owned by Green Box and necessary to the Green Box process;

61. DENY. Once again, it is impossible for Van Den Heuvel to have "known" that whether future events would or would not have occurred in advance of time.

62. DENY.

63. DENY.

64. DENY.

65. DENY. Van Den Heuvel never misrepresented Green Box operations to Plaintiff and Green Box continues to hold tremendous promise as a viable business operation;

66. DENY.

67. DENY.

BREACH OF CONTRACT CLAIM

68-71. Defendants vehemently deny the claim for breach of contract set forth in Paragraphs 68 to 71 of Plaintiffs Complaint and demand that the Court dismiss the claim with prejudice;

COMMON LAW FRAUD CLAIM

72-76: Defendants vehemently deny the Common Law Fraud claim set forth in Paragraphs 72 to 76 of Plaintiffs Complaint in its entirety and demand that the Court dismiss the claim with prejudice;

NEGLIGENT MISREPRESENTATION CLAIM

77-80 Defendants vehemently deny the Negligent Misrepresentation Claim set forth in Paragraphs 77 to 80 of Plaintiffs Complaint in its entirety and demand that the Court dismiss the claim with prejudice;

STRICT LIABILITY FOR MISREPRESENTATION CLAIM

81-85 Defendants vehemently deny the Strict Liability for Misrepresentation Claim set forth in Paragraphs 81 to 85 of Plaintiffs Complaint and demand that the Court dismiss the claim with prejudice;

WISCONSIN SECURITIES LAW CLAIM

86-96 Defendants deny the Wisconsin Securities Law Claim set forth in Paragraphs 86 to 96 of Plaintiffs Complaint in its entirety and demand that the Court dismiss the claim with prejudice;

RESCISSION CLAIM

97-98 Defendants deny that Plaintiff is entitled to rescind his investment as set forth in Paragraphs 97 and 98 of the Plaintiffs Complaint in Green Box and demand that the Court dismiss the claim with prejudice;

WIS STATS 100.18 CLAIM

99-102 Defendants deny the Wisconsin Statutes 100.18 Claim set forth in Paragraphs 99 to 102 of Plaintiffs Complaint in its entirety and demand that the Court dismiss the claim with prejudice;

MISAPPROPRIATION CLAIM

103-110 Defendants deny the Misappropriation Claim set forth in Paragraphs 103 to 110 of Plaintiffs Complaint in its entirety and demand that the Court dismiss the claim with prejudice;

PUNITIVE DAMAGES CLAIM

111-113 Defendants deny the grounds for Punitive Damages set forth in Paragraphs 111 to 113 and demand that the Court dismiss the claim for the same with prejudice

AFFIRMATIVE DEFENSES

114. As and for their Affirmative Defenses, Defendants state as follows:

AFFIRMATIVE DEFENSE ONE

115. Plaintiff has failed to state a claim upon which relief may be granted;

AFFIRMATIVE DEFENSE TWO

116. Plaintiffs claims are barred by one or more statute of limitations;

AFFIRMATIVE DEFENSE THREE

117. Plaintiffs claims are barred, in whole or in part, by the Doctrine of Clean Hands, as he has not been free of inequitable conduct in this matter;

AFFIRMATIVE DEFENSE FOUR

118. Plaintiff has not suffered any cognizable damage as a result of the actions of Defendants and therefore lacks the standing necessary to bring any of the Claims set forth in his Complaint;

AFFIRMATIVE DEFENSE FIVE

119. Plaintiff actions constitute a waiver of certain claims alleged by him in his Complaint;

AFFIRMATIVE DEFENSE SIX

120. Plaintiff knew that the money he transferred to Defendants constituted an investment and that he would not be entitled to a return on said investment until such time as the investment bore fruit;

AFFIRMATIVE DEFENSE SEVEN

121. Plaintiff had the capacity and ability to independently determine whether representations made by Defendants were accurate or mere puffery, but failed to perform due diligence on his own;

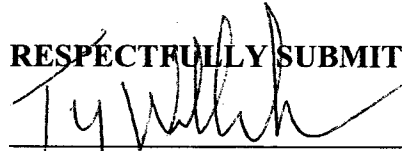
AFFIRMATIVE DEFENSE EIGHT

122. Plaintiff's claims for Fraud and Misrepresentation lack the specificity required by Wisconsin Statutes 802.03 (2), in that many of the necessary allegations are based

upon Defendant Van Den Heuvel having knowledge of certain facts, when those
“certain facts” are not set forth in detail;

DATED THIS 10th DAY OF APRIL, 2013

RESPECTFULLY SUBMITTED,



Ty C. Willihnganz, Esq.
State Bar No. 1026693
Attorney for Defendants
Green Box NA Green Bay, LLC
& Ronald Van Den Heuvel

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