

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

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

Case No. 14-C-1203

Plaintiffs,

v.

TAK INVESTMENTS, LLC and
SHARAD TAK,

Defendants.

DECLARATION OF JONATHAN T. SMIES

I, Jonathan T. Smies, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am counsel for the Defendants in this matter, Tak Investments, LLC and Sharad Tak. I make this declaration on personal knowledge and my review of the file.

2. Attached hereto as **Exhibit 1** are true and correct copies of pages 26, 105, 145, 152 and 157 from the transcript of the August 2, 2017 deposition of Ronald Van Den Heuvel.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the document marked as Exhibit 8 at the August 2, 2017 deposition of Ronald Van Den Heuvel.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the document marked as Exhibit 11 at the August 2, 2017 deposition of Ronald Van Den Heuvel.

5. Attached hereto as **Exhibit 4** is a true and correct copy of the document marked as Exhibit 16 at the August 2, 2017 deposition of Ronald Van Den Heuvel.

6. Attached hereto as **Exhibit 5** is a true and correct copy of the document marked as Exhibit 17 at the August 2, 2017 deposition of Ronald Van Den Heuvel.

Dated this 25th day of August, 2017.

s/ Jonathan T. Smies
Jonathan T. Smies

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

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

COPY

Plaintiffs,

Case No. 14-CV-1203

-vs-

TAK INVESTMENTS, LLC, and
SHARAD Tak,

Defendants.

DEPOSITION OF RONALD H. VAN DEN HEUVEL

August 2, 2017

8:58 a.m. to 2:35 p.m.

200 South Washington Street

Green Bay, Wisconsin

APPEARANCES:

TERSCHAN, STEINLE, HODAN & GANZER, LTD., by **MICHAEL GANZER**, Attorney at Law, 309 North Water Street, Suite 215, Milwaukee, Wisconsin 53202, appearing on behalf of the plaintiffs.

GODFREY & KAHN, S.C., by **JONATHAN T. SMIES**, Attorney at Law, P.O. Box 13067, Green Bay, Wisconsin 54307, appearing on behalf of the defendants.



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EXHIBIT

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1 did not-- I never seen anything from the banks that
2 combined them. And I know Barclays wasn't a party to
3 the 80 million and five million working capital loan.
4 Q So let's go back to that final business terms agreement
5 you mentioned. I think you said it was an agreement
6 Mr. Tak proposed or provided you. Is that-- Can you
7 explain that?
8 A We talked on the seven, eight, nine days. I had to get
9 some people that would take Mr. Tak's name on the note
10 in lieu of cash because I had--when it dropped from 80
11 to 65 and a five million working line, there wasn't
12 enough cash at closing to clear the title. So I had to
13 use about 16 million of investment notes, and I had to
14 get other people that had liened on the mill to take
15 those in lieu of--in lieu of cash.
16 Q So who were some of those other people who had liens on
17 the mill?
18 A Obviously, I talked Spirit into taking a \$5 million
19 note. I talked Spirit into taking--not Spirit. I
20 talked Vos Electric into taking a \$3 million note, and
21 I talked R&B, a guy named Bill Bain--
22 Q Who is Bill Bain? His name has come up obviously in
23 this litigation. Tell me how you know him.
24 A Thirty-five years ago he was married to my sister. He
25 had three wonderful girls, my nieces. Prior to Bill

1 THE WITNESS: That's correct. And--

2 MR. SMIES: Thank you for the testimony.

3 MR. GANZER: We've been going through this
4 for all this time, and it's a really simple concept,
5 and I don't think you two are communicating on the same
6 page.

7 MR. SMIES: It's a fairly complex,
8 convoluted transaction, a series of transactions,
9 however you want to look at it, but I appreciate that.

10 Q So the fact of the matter is, when Tak Investments made
11 these four notes, no money was paid to Tak Investments
12 as a result, right?

13 A No.

14 Q There were no services provided to Tak Investments?

15 A All he got was clean title.

16 Q Again, there's no reference in the notes themselves to
17 the provision of clean title, is there?

18 A The documents you requested will show where your firm
19 did the lien search and how me and Mr. Tak played these
20 four, five, six, seven people to get our money and move
21 these people to phase two over here to Eco Fibre. It
22 wasn't as easy as we're sitting here talking. It was a
23 panic.

24 Q I imagine given the timing. Now, you said you played
25 these people?

1 Q Okay. There's no reference to any investment notes,
2 we've established, in this document, correct?

3 A The reference to the final business terms agreement is
4 the fact that Mr. Tak signed it. You can see all the
5 iterations here and all the work he did to try to get
6 it done.

7 Q Exhibit 8, though, doesn't reference any of that, does
8 it?

9 MR. GANZER: The document speaks for
10 itself.

11 A Cancel the documents and give me 27 percent. That was
12 his out all the way.

13 Q My question is simple with noting your counsel's
14 objection. Nothing in this Exhibit 8 references--

15 A Nothing in this.

16 Q --the final business terms agreement or the investment
17 notes, correct?

18 A Final business terms agreement states--

19 Q Let me be clear. Nothing in Exhibit 8 references the
20 final business terms agreement or the investment notes?

21 A Correct.

22 Q And I note it says that Green Bay Title Company, Inc.,
23 has a role in this transaction. Could it be the case
24 that it was actually Green Bay Title and not Bay Title
25 that was the closing agent?

1 A It's not true today. Absolutely not true today. All
2 four of them were assigned at one time.

3 Q And none of that remains? None of the assignments--

4 A None of the assignments are together now. Even Bill
5 Bain's is paid.

6 Q At what point in time in your mind did those notes
7 cease to be assigned to those creditors?

8 A I read this to the OFTI group. Okay? At this time
9 there were no assignments; and when I canceled them,
10 there were no assignments. There was an assignment to
11 the Tissue Technology note at the time. Okay? And
12 Mr. Tak signed the reassignment. I ain't trying to
13 clarify what's in Mr. Tak's mind. He knows what's
14 going on here.

15 Q Sure. Notwithstanding your thoughts when you answered
16 the discovery requests, as you sit here today--

17 A I goofed up.

18 Q We all do.

19 A If you need this right here, if you're trying to say
20 were they ever assigned even to get the title cleaned,
21 your answer--my answer is wrong here.

22 Q Well, it says ever assigned, so--

23 A Correct.

24 Q --we understand that now to be incorrect.

25 A Correct.

1 couple things in here that are a little bit different,
2 but the concept, yes.

3 Q So you authorized it, but you didn't actually type and
4 hit the send button on a computer. You--

5 A No, I didn't authorize, hit the send button,
6 or--probably was on the road and didn't read it. Okay?
7 But I do remember what we talked about here.

8 Q And one of those things you talked about as reflected
9 in an e-mail, the third paragraph, is the
10 statement--I'll quote it--"The notes issued by Tak
11 Investments, LLC, to Tissue Products Technology Corp.
12 have been assigned in whole and/or part to various
13 creditors."

14 Do you see that?

15 A I see that.

16 Q So as of July 6, 2010, there were various of the
17 investment notes which, in fact, were assigned to other
18 creditors?

19 A They were, but the debts were paid off. See, there's
20 two things that I don't want anybody to get lost on.
21 Okay? If I got the shares back, everything's great. I
22 cancelled everything. The notes that these backed were
23 paid off. Paid off. There is no obligation-- Their
24 assignment means nothing anymore.

25 Q But they're still assigned though in 2010?

CLOSING STATEMENT	
BUYER: ST PAPER, LLC	
FED. ID. NO. 20-5714157	
SELLER: OCONTO FALLS TISSUE, INC.	
ASSET PURCHASE AGREEMENT DATED: AS OF APRIL 14, 2007	
DATE OF CLOSING: APRIL 14, 2007	
PURCHASE PRICE	
BASE PURCHASE PRICE	\$86,400,000.00
ADDITIONAL BUYER FUNDS	\$4,649,000.00
LESS SELLER NOTE	\$30,150,000.00
CASH PROCEEDS	\$60,460,000.00
CREDITS TO BUYER:	
TOTAL CREDITS TO BUYER	\$0.00
CHARGES TO BUYER:	
TOTAL CHARGES TO BUYER	\$0.00
TOTAL DUE FROM BUYER	\$60,460,000.00
TOTAL CASH DUE FROM BUYER	
TOTAL DUE SELLER BEFORE DISBURSEMENTS	
DISBURSEMENTS:	\$60,460,000.00
ASSOCIATED TRUST COMPANY, N.A. - AS TRUSTEE FOR TAX EXEMPT BONDS	\$24,722,688.20
US BANK TRUST COMPANY - AS TRUSTEE FOR WAREHOUSE BONDS	\$1,632,568.19
ASSOCIATED BANK - AS L.O.C. PROVIDER FOR WASTE WATER TREATMENT BONDS	\$4,305,730.83
FORTRESS CREDIT CORP	\$13,247,457.14
GEORGE WASHINGTON SAVINGS BANK	\$2,723,751.94
IFC CREDIT CORP	\$3,051,425.58
IFC CREDIT CORP	\$228,462.66
MICROBET NATIONAL BANK	\$2,981,706.23
OCONTO COUNTY TAXES	\$527,599.55
CITY OF OCONTO FALLS	\$89,614.52
CURTIS, MALLET-PREVOST, COLT & MOSLE, LLP	\$172,872.34
TITLE INSURANCE/CLOSING FEES/RECORDING	\$70,000.00
TRANSFER TAX	\$213,460.00
RECORDING FEES	\$750.00
MERRIOW FINANCIAL	\$50,000.00
INVENTORY PURCHASE - AS DIRECTED BY ST PAPER	\$4,600,000.00
FCOI	\$649,000.00
TOTAL DISBURSEMENTS	\$59,342,522.18
NET BALANCE DUE SELLER	\$1,117,477.82

WIRE CHECK

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BUYER AND SELLERS AGREE THAT THIS STATEMENT IS ACCEPTED AS TRUE, CORRECT AND COMPLETE.
THIS STATEMENT MAY BE EXECUTED IN COUNTERPARTS AND BY FACSIMILE SIGNATURE.

THE RESPONSIBILITY OF GREEN BAY TITLE COMPANY, INC. (AND THEIR ASSIGNS), IS LIMITED TO THE DISBURSEMENTS AS SET FORTH ON THIS CLO STATEMENT. GREEN BAY TITLE COMPANY, INC. SHALL NOT BE RESPONSIBLE FOR MAKING DISBURSEMENTS (OR OTHERWISE RESPONSIBLE) FOR A OBLIGATIONS THAT ARE NOT ON THIS STATEMENT. THE PARTIES HERETO, CONSENT AND AGREE TO HOLD GREEN BAY TITLE COMPANY, INC. (AND THEIR ASSIGNS) HARMLESS FROM ANY DISPUTES ARISING FROM OBLIGATIONS AND DISBURSEMENTS NOT SET FORTH ON THIS CLOSING STATEMENT.

BUYER:
ST PAPER, LLC
BY: Sharad K. Tak
NAME: SHARAD K. TAK
TITLE: PRESIDENT

SELLER:
OCONTO FALLS TISSUE, INC.
BY: Ronald H. Van Den Heuvel
NAME: RONALD H. VAN DEN HEUVEL
TITLE: PRESIDENT

VanDenHeuvel
Exhibit No. 8
John Gales 8/2/17

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EXHIBIT

EXHIBIT

A

Ron Van Den Heuvel

From: Ron Van Den Heuvel
Sent: Friday, July 16, 2010 10:10 AM
To: 'Griepentrog, Paul'
Subject: RE: Call Ron Van Den Heuvel to discuss-thank you
Attachments: damm tak email-716092337-0001.pdf

Paul,

Please see the attached correspondence in reference to your email to me on 7/14/10.

Feel free to call me to discuss.

Thank you

Ron Van Den Heuvel
ron.vdh@issuetechnology.net
(920) 347-3838 (Main)
(920) 347-3840 (Fax)

-----Original Message-----

From: Griepentrog, Paul [mailto:pgriepen@gklaw.com]
Sent: Wednesday, July 14, 2010 2:40 PM
To: Ron Van Den Heuvel
Cc: Sharad Tak
Subject: RE: Call Ron Van Den Heuvel to discuss-thank you

Ron - attached are copies of the documents that were previously sent to you/that you signed. I will wait to receive copies of the assignment documents that you referred to on our call, and we will talk again. Thanks.

Paul W. Griepentrog
Attorney

N21 W23350 Ridgeview Parkway
Waukesha, WI 53188
Phone: 262-951-7000
Direct: 262-951-7129
Fax: 262-951-7001
Email: pgriepentrog@gklaw.com
<http://www.gklaw.com>

**Pursuant to Circular 230 promulgated by the Internal Revenue Service, if this email, or any attachment hereto, contains advice concerning any federal tax issue or submission, please be advised that it was not intended or written to be used, and that it cannot be used, for the purpose of avoiding federal tax penalties unless otherwise expressly indicated.

This is a transmission from the law firm of Godfrey & Kahn, S.C. and may contain information which is privileged, confidential, and protected by the attorney-client or attorney work product privileges. If you are not the addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this transmission in error, please destroy it and notify us immediately at our telephone number (262) 951-7000.**

-----Original Message-----

From: Ron Van Den Heuvel [mailto:ron.vdh@tissue technology.net]
Sent: Tuesday, July 13, 2010 4:29 PM
To: Griepentrog, Paul
Subject: Call Ron Van Den Heuvel to discuss-thank you

Good Afternoon Mr.Griepentrog,

Please review the note below and call me to discuss.

Thank you for your attention to this matter.

Regards,

Ron

Ron Van Den Heuvel
ron.vdh@tissue technology.net
(920) 347-3838 (Main)
(920) 347-3840 (Fax)

-----Original Message-----

From: Ron Van Den Heuvel
Sent: Tuesday, July 06, 2010 6:04 PM
To: 'Sharad Tak'
Subject: FW: Scan from a Xerox WorkCentre

Sharad,

In reviewing your draft of a settlement agreement, it is not possible to be agreed to in its present form. One of the reasons is certain notes and agreements indicated in the draft have been pledged to support TAK obligations.

Please forward a copy of the referenced "Indemnity Claim dated 2-9-2010" and referenced "Compromise Agreement dated 3-31-2009".

Also, as you are aware, the notes ST Paper, LLC issued to Oconto Falls Tissue, LLC and the notes issued by TAK Investments, LLC to Tissue Products Technology Corp. have been assigned in whole and or part to various creditors. Including assignments in support of TAK obligations.

Additionally, the Sales and Marketing Agreement has been assigned to Nicolet National Bank. The obligations associated with these assignments will have to be considered in developing any settlement agreement.

Sharad, remember, the creditors at one time accepted a settlement offer that could still be renegotiated.

Any settlement agreement as you know will need to include off-take and supply agreements with Natures Choice Tissue, LLC including allowing Natures Choice Tissue, LLC the use and future use of ST Paper LLC's equipment, facilities, etc. to fulfill its requirements for parent rolls and the right of first refusal of any existing and future off-take contracts after SCA Tissue's contract terminates.

Lastly, if we are intending this to be a final settlement document, TAK will need to release issues related to the referenced "Indemnity Claim dated 2-9-2010" and referenced "Compromise Agreement dated 3-31-2009".

I am open to discussing a compromise if a complete settlement and resolution of the issues and obligations can be resolved in a timely manner. I have attached the old global cash flow settlement proposal and a new one for discussion at a substantially reduced amount.

A global settlement of the scope we are seeking cannot be signed-off on by just me. Other parties will need to agree in writing prior to our final document. Considering the time that this will take, please give this your prompt consideration.

Sincerely,

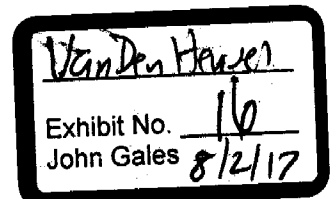
Ron Van Den Heuvel
ron.vdh@tissue technology.net
(920) 347-3838 (Main)
(920) 347-3840 (Fax)

Notes Receivable TPTC and OFTI

<u>Note</u>	<u>Amount</u>	<u>Assigned to</u>
Note #1	\$8,000,000	Stonehill
Note #2	\$8,000,000	Stonehill
Note #3	\$8,000,000	VHC/Nicolet
Note #4	<u>\$6,589,000</u>	VHC
Total	\$30,589,000	

Note #5	\$5,000,000	VHC	
Note #6	\$4,400,000		open
Note #7	\$4,000,000	Associated	
Note #8	<u>\$3,000,000</u>	VHC	
Total	\$16,400,000		

EXHIBIT



Ron Van Den Heuvel

From: Ed Kolasinski
Sent: Saturday, October 15, 2016 3:58 PM
To: Steve Smith; Ron Van Den Heuvel
Subject: TAK Financial Summary
Attachments: Tak Case in Detail - Financial Summary October 2016.xlsx

head
File Tak
Case
TK

See attached.

Issue yet to resolve – Global Settlement less than Assigned Amount + Lawyer Fees of \$26,740,000 – Order of Disbursement?

Discussed \$15 Million with Monthly Payment Stream on \$40M Note from ST Paper

Direct assignment of Investor and Seller Notes - \$13,000,000

IRS - \$2,540,000

Other Assignees across total TAK Collection Efforts – \$11,200,000

If cases reach conclusion separately:

Settlement or Payment on Investment Notes Case – Priority

Direct assignment of \$9,000,000

Priority of Balance – IRS

Priority of Balance – Other Assignees across total TAK Collection Efforts – Kolasinski, Smith, Lawyers

Settlement of Sales and Marketing Case – Priority

Direct assignment – None

Priority of Balance – IRS

Priority of Balance – Other Assignees across total TAK Collection Efforts – Kolasinski, Smith, Lawyers

Settlement or Payment on Seller Notes Case – Priority

Direct assignment of \$4,000,000

Priority of Balance – IRS

Priority of Balance – Other Assignees across total TAK Collection Efforts – Kolasinski, Smith, Lawyers

My 2 Cents – IRS will be all over any settlement or payment coming into PCDI. This needs to get paid 1st. Direct assignment of specific notes payable to amounts owed would come 2nd. There will be significant disagreement related to priority of assignees who have been assigned proceeds across the TAK Collection Efforts.

Ed Kolasinski
Chief Operating Officer
Reclamation Technology Systems, LLC
2107 American Blvd.
De Pere, WI 54115
Office 920.347.3647
Mobile 503.703.2802

EXHIBIT

