

and the allegations against him even fewer—all based on a single meeting and a single email. Accordingly, as this answer repeatedly states, Tak generally lacks the knowledge and information sufficient to admit or deny the allegations. Moreover, Tak generally denies the characterizations of documents throughout the First Amended Complaint and states here, as below, that the referenced documents speak for themselves. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 1.

2. Ron defaulted on the loan and IFC sued Ron, TPTC, and PCDI in the district for repayment and sued Spirit for an injunction requiring Spirit to pay the sums promised to IFC. In 2008, IFC was awarded a judgment against Ron, TPTC, and PCDI, which it was unable to collect. In 2009, the court dismissed the injunction count against Spirit on the basis that IFC lacked standing at the time because the construction contemplated by the EPC Contracts had not yet begun.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 2.

3. Thereafter, on or about July 27, 2009, IFC filed for Chapter 7 Bankruptcy relief in the U.S. Bankruptcy Court for the Northern District of Illinois, BK No. 09-27094 (the “IFC Bankruptcy”). To date, the IFC Bankruptcy is still pending. During the pendency of the IFC Bankruptcy, Plaintiff RNS Servicing, LLC (“RNS Servicing”) entered into an “Asset Purchase and Transition Services Agreement” and a “Supplemental Asset Purchase and Transition Services Agreement” with the Chapter 7 trustee to IFC’s bankruptcy estate to purchase the assignment of IFC’s judgment against Ron, TPTC, and PCDI and also the claims against Spirit and Steve which are made in this Complaint.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 3.

PARTIES

4. RNS Servicing is a limited liability company existing and organized in the State of Illinois with its principal place of business in Cook County, Illinois. RNS Servicing has two members: Stephen Csar and Rebecca Elli, both of whom are individual persons. Both Mr. Csar and Ms. Elli consider the State of Illinois to be their permanent home, and both are therefore domiciled in the State of Illinois. Accordingly, both Mr. Csar and Ms. Elli are citizens of the State of Illinois.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 4.

5. RNS Servicing is engaged in financial services in the State of Illinois. RNS Servicing entered into an “Asset Purchase and Transition Services Agreement” and a “Supplemental Asset Purchase and Transition Services Agreement” with the Chapter 7 trustee for IFC’s bankruptcy estate (the “IFC Bankruptcy Trustee”) to purchase certain assets of the IFC Bankruptcy estate, as more fully described below.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 5.

6. Defendant Spirit is a corporation existing and incorporated under the laws of the State of Delaware with its principal place of business located in State of Georgia. As such, Spirit is a citizen of either the State of Delaware or the State of Georgia.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 6.

7. Spirit is a largescale construction contractor engaging in heavy industrial construction business throughout the United States, including in the State of Illinois, with considerable specific expertise in engineering, procurement, and construction of tissue paper plants. Spirit was the signatory on a certain Acknowledgment and Consent to Assignment in which Spirit made certain misrepresentations which are at issue in this case, as more fully described below.

RESPONSE: Tak admits that Spirit is a largescale construction contractor. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 7.

8. Defendant Steve is an individual person domiciled in the State of Wisconsin because the State of Wisconsin is his permanent home. Accordingly, Steve is a citizen of the State of Wisconsin.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 8.

9. Steve is Ron’s brother and was the signatory, on behalf of Spirit, on a certain Acknowledgment and Consent to Assignment in which Spirit made certain misrepresentations which are at issue in this case, as more fully described below.

RESPONSE: Tak admits only that Steve VDH is Ron's brother and lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 9.

10. Defendant Sharad is an individual person domiciled in State of Maryland because his permanent home is in the State of Maryland. Accordingly, Sharad is a citizen of the State of Maryland.

RESPONSE: Tak denies the allegations in paragraph 10 and affirmatively states that he is domiciled in the State of Florida and, accordingly, is a citizen of the State of Florida.

11. Sharad is the controlling member of ST Paper I and ST Paper II, LLC ("ST Paper II"), which are both Delaware limited liability companies with their principal offices in the State of Wisconsin.

RESPONSE: Tak denies the allegations in paragraph 11 and affirmatively states that he is the Manager of ST Paper Holdings, LLC. ST Paper Holdings, LLC is the Manager of ST Paper, LLC. Further answering, Tak admits that in 2007 he was the President of ST Paper, LLC and that ST Paper, LLC is a Delaware limited liability company with its principal place of business in the State of Wisconsin. Further answering, Tak affirmatively states that ST Paper, II, LLC is no longer operational.

12. ST Paper I presently owns and operates the Oconto Falls tissue paper mill which was previously owned and operated by Oconto Falls Tissue, Inc. before the events at issue in this case occurred. During the relevant time period, Sharad executed the EPC Contracts between Spirit and ST Paper I on behalf of ST Paper I as more fully described below.

RESPONSE: Tak admits the allegations in paragraph 12 to the extent that the Amended Complaint's reference to ST Paper I is the same as ST Paper, LLC.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this Action pursuant to 28 U.S.C. § 1332, as the amount in controversy exceeds \$75,000, exclusive of interest and costs, and diversity of citizenship exists between the Plaintiff and Defendants.

RESPONSE: The allegations in paragraph 13 are legal conclusions to which no response is required. To the extent a response is required, Tak denies the allegations to the

extent they are inconsistent with, or are Plaintiff's interpretation of, the text of the statute referenced therein.

14. Venue is proper in this district pursuant to 28 U.S.C. § 139(b) as a substantial part of the events or omissions giving rise to the claim occurred in this district. Additionally, a certain Continuing Pledge Agreement more fully described below, has a forum-selection clause designating this judicial district as the proper venue for this action.

RESPONSE: The allegations in paragraph 14 are legal conclusions to which no response is required. To the extent a response is required, Tak denies the allegations to the extent they are inconsistent with, or are Plaintiff's interpretation of, the text of the statute referenced therein.

OTHER RELEVANT NON-PARTIES

15. TPTC is a corporation existing and incorporated under the laws of the State of Wisconsin, having its principal place of business in the State of Wisconsin. TPTC is a party to a certain Settlement Agreement, as more fully described below, as well as certain Master Lease Agreements and a Continuing Pledge Agreement, also described more fully below.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 15.

16. PCDI is a corporation existing and incorporated under the laws of the State of Wisconsin, having its principal place of business in the State of Wisconsin. PCDI is a party to a certain Settlement Agreement, as more fully described below, as well as certain Master Lease Agreements and a Continuing Pledge Agreement, also described more fully below.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 16.

17. Eco-Fibre, Inc. (f/k/a Re-Box Paper, Inc.) ("Eco-Fibre"), is a corporation existing and incorporated under the laws of the State of Wisconsin, having its principal place of business in the State of Wisconsin. Eco-Fibre is a party to a certain Settlement Agreement, as more fully described below.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 17.

18. Oconto Falls Tissue, Inc. (“Oconto Falls”) is a corporation existing and incorporated under the laws of the State of Wisconsin, having its principal place of business in the State of Wisconsin. Oconto Falls is party to a certain Settlement Agreement, as more fully described below.

RESPONSE: Tak admits that Oconto Falls is a corporation having its place of business in the State of Wisconsin. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 18.

19. Ron is a citizen of the State of Wisconsin and resides in Wisconsin. Ron is the brother of Defendant Steve. During the relevant time period, Ron owned and/or operated TPTC, PCDI, Eco-Fibre, and Oconto Falls. Ron is also a party, individually, to a certain Settlement Agreement, as more fully described below.

RESPONSE: Tak admits that Ron resides in Wisconsin. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 19.

20. IFC is a dissolved corporation, which had been incorporated under the laws of the State of Illinois. IFC had been in the business of providing equipment lease financing to commercial and industrial entities throughout the United States. On or about July 27, 2009, IFC filed for Chapter 7 Bankruptcy. To date, the IFC Bankruptcy is still pending.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 20.

21. Fortress Credit Corporation (“Fortress”) is a corporation existing and incorporated in the State of Delaware with its principal place of business in New York City, New York. Fortress is engaged in the financing/lending business and entered into a certain “Lease Agreement Rights Purchase Agreement” with IFC, as more fully described below.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 21.

22. George Washington Savings Bank (“GWS Bank”) was an Illinois-based bank headquartered in Orland Park, Illinois, which was closed by the Illinois Department of Financial and Professional Regulation in February 2010. GWS Bank was engaged in the financing/lending business and had entered into a certain “Master Lease Receivable Sales Agreement” with IFC, as more fully described below.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 22.

COMMON ALLEGATIONS

23. On or about June 10, 2005, IFC, as lessor, entered into Master Equipment Lease Agreement No. 801056 (“Master Lease No. 801056”) with TPTC, PCDI, and Oconto Falls, jointly and severally, as co-lessees, for the lease of certain equipment and attachments used for tissue paper manufacturing at the Oconto Falls tissue paper plant in Oconto Falls, Wisconsin. (the “Line 1 Equipment”).

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 23.

24. IFC thereafter sold, assigned, and transferred to Fortress rights to certain specified lease payments related to Master Lease No. 801056 pursuant to a “Lease Agreement Rights Purchase Agreement” between IFC and Fortress.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 24.

25. On or about September 30, 2005, IFC, as lessor, entered into Master Lease Agreement No. 801070 (“Master Lease No. 801070”) with TPTC and Eco-Fibre, jointly and severally, as co-lessees, for the lease of sixteen industrial after-dryers (the “After-Dryers”), along with related equipment and attachments (the “After-Dryer Equipment”).

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 25.

26. Ron, PCDI, and Oconto Falls each executed an unconditional written guaranty of TPTC’s and Eco-Fibre’s obligations under Master Lease No. 801070 and attached Lease Schedules (the “Master Lease No. 801070 Guaranties”).

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 26.

27. IFC thereafter sold, assigned, and transferred to the GWS Bank certain rights and to certain specified lease payments under one of the Lease Schedules to Master Lease No. 801070 (the “Assigned Lease Schedule”). The Assigned Lease Schedule covered seven After-Dryers of the sixteen After-Dryers that comprise the After-Dryer Equipment (the “GWS Bank

After-Dryers”), as well as certain of IFC’s rights to the Master Lease No. 801070 Guaranties, all pursuant to a “Master Lease Receivable Sales Agreement” between IFC and GWS Bank.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 27.

28. By October 2005, it had become apparent to IFC, Fortress, and GWS Bank that TPTC, PCDI, Oconto Falls, and Eco-Fibre—all companies owned and operated by Ron—would default on Master Lease No. 801056 and Master Lease No. 801070.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 28.

29. In order to devise a plan whereby Ron could avoid a takeover by Fortress of the Oconto Falls Tissue Plant, Ron enlisted the assistance of his brother, Steve, and his national construction company, Spirit.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 29.

30. Sometime in October 2005, Steve and Ron proposed a solution to IFC and Fortress. The basic, simplified proposal was as follows:

a. Spirit would execute five EPC Contracts with three tissue paper companies to build or upgrade five tissue paper plants: three in Wisconsin, one in Maryland, and one in Utah.

b. In turn, Spirit would commit to using Ron’s companies as subcontractors on these significant projects to produce significant guaranteed future revenue for Ron’s companies.

c. This guaranteed future revenue would allow Ron to first sell off equity in paper plants owned by his companies in order to pay off money owed to Fortress and GWS Bank—and partially pay off money owed to IFC—with respect to Master Lease No. 801056 and Master Lease No. 801070.

d. Finally, the guaranteed revenue generated by the Ron companies’ subcontracting work for Spirit pursuant to the above referenced EPC Contracts would allow the Ron companies to buy back some equity in the paper plants and also fully pay off IFC over time.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 30.

31. In mid to late October 2005, Steve invited representatives from IFC to Wisconsin to discuss the complex proposal and to conduct some due diligence with respect proposed transaction.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 31.

32. During these meetings in October 2005, Steve reviewed and discussed the five pending EPC Contracts with IFC. Some of these EPC Contracts would later become the basis for the “Continuing Pledge Agreement” discussed in further detail below.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 32.

33. On or about November 25, 2005, attorneys collectively representing Ron and his companies, Steve, and Spirit faxed letters of intent regarding the five above-referenced EPC Contracts to IFC. *See* Letters of Intent, attached as Group Exhibit A.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 33.

34. One of the Letters of Intent, which outlined an EPC Contract between Spirit and Maryland Tissue Company (“MTC”) for the construction of the Maryland tissue plant, was executed by Steve and Spirit. Pursuant to this letter of intent, Steve and Spirit represented, *inter alia*, that:

a. Spirit would enter into a \$31 million EPC Contract with MTC to convert a de-inking pulp mill into a brand new tissue paper plant;

b. PCIDI would purchase 50% equity in MTC for \$5 million when the EPC Contract was signed;

c. TPTC would act as Spirit’s subcontractor on the project whenever appropriate;

d. TPTC would manage the newly constructed tissue paper plant in exchange for \$75,000 per month; and

e. TPTC would act as the marketing and sales agent for the newly constructed tissue paper plant in exchange for 4% of MTC's sales.

See Group Exhibit A at MTC LOI.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 34.

35. On or around December 27, 2005, Ron, Sharad, and ST Paper I presented IFC with a "Summary of Key Business Terms" regarding ST Paper I's intent to enter into three EPC Contracts with Spirit for the construction or upgrade of two of the Wisconsin tissue paper plants—including the Oconto Falls Tissue Paper Plant—and also the construction of the Utah tissue paper plant. See Summary of Key Business Terms, attached as Exhibit B.

RESPONSE: Tak denies that he or ST Paper, LLC presented to IFC the document referenced as Exhibit B to the Amended Complaint. To the extent that the remaining allegations in paragraph 35 reference a document, that document speaks for itself and Tak refers to the document for a true and complete statement of its contents and denies Plaintiff's characterizations of same.

36. TPTC, PCDI, Oconto Falls, and Eco-Fibre subsequently defaulted under the terms of Master Lease No. 801056 and Master Lease No. 801070. TPTC, PCDI, Oconto Falls, and Eco-Fibre failed to cure their defaults.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 36.

37. On August 25, 2006, IFC filed a lawsuit in the United States District Court for the Northern District of Illinois, Eastern Division, against TPTC and Eco-Fibre (as lessees) and Ron, PCDI, and Oconto Falls (as guarantors) (collectively, the "Ron Defendants"), Case No. 06 CV 4618 (the "IFC Lawsuit I"), asserting claims for breach of Master Lease No. 801070 and the related Lease Schedules; for breach of the Master Lease No. 801070 Guaranties; and for injunctive relief for return of the After-Dryer Equipment.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 37.

38. On July 21, 2006, GWS Bank (as an assignee of IFC) also filed a lawsuit in the United States District Court for the Northern District of Illinois, Eastern Division against the

Ron Defendants, Case No. 06 CV 3956 (the “GWS Bank Lawsuit”), asserting claims for breach of Master Lease No. 801070 and the Assigned Lease Schedules and for breach of the Master Lease No. 801070 Guaranties.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 38.

39. In September 2006, the IFC Lawsuit I was consolidated into the GWS Bank Lawsuit.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 39.

40. At this point in time, neither IFC nor Fortress filed a lawsuit with respect to the PCDI and Oconto Falls default on Master Lease No. 801056. However, the parties discussed the possibility of a Fortress takeover of the Oconto Falls Paper Plant if Fortress was not made whole through the type of transaction proposed by Steve and Ron referenced in Paragraph 26 of this Complaint.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 40.

41. For the next several months, IFC and GWS Bank on the one hand, and the Ron Defendants, on the other, negotiated settlement terms in an attempt to resolve all claims asserted against the Ron Defendants. The Ron Defendants agreed to pay all monies owed to GWS Bank pursuant to Master Lease No. 801070, all of the monies owed to Fortress pursuant to Master Lease No. 801056, and most of the monies owed to IFC on both leases.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 41.

42. On or around November 14, 2006, Spirit and ST Paper I executed the four CPA EPC Contracts referenced in paragraph 1 of this Amended Complaint. These four CPA EPC Contracts were all executed by Steve, on behalf of Spirit, as Contractor, and Sharad, on behalf of ST Paper I, as Owner.

RESPONSE: Tak denies the allegations in paragraph 42 and affirmatively states that on or around November 14, 2006, Spirit and ST Paper, LLC executed the four CPA EPC Contracts referenced in paragraph 1 of this Amended Complaint. Further answering, Tak admits that these

four CPA EPC Contracts were all executed by Steve, on behalf of Spirit, as Contractor, and Sharad, on behalf of ST Paper, LLC, as President.

43. Each of these four CPA EPC Contracts were essentially identical boilerplate contracts with minor differences attributable to differing sites for the construction work to be performed under each respective contract.

RESPONSE: Paragraph 43 references documents which speak for themselves, and Tak refers to these documents for true and complete statements of their contents and denies Plaintiff's characterization of same.

44. Each of these four CPA EPC Contracts listed TPTC as a subcontractor to be used on each project.

RESPONSE: Paragraph 44 references documents which speak for themselves, and Tak refers to these documents for true and complete statements of their contents and denies Plaintiff's characterization of same.

45. Spirit, Steve, and Sharad never intended to build the projects contemplated by these four CPA EPC Contracts.

RESPONSE: Tak denies that he never intended to build the projects contemplated by the four CPA EPC Contracts referenced in paragraph 45. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 45.

46. Spirit, Steve, and Sharad knew when they executed the four CPA EPC Contracts that the four CPA EPC Contracts would never be sufficient to secure financing for the projects the contracts contemplated.

RESPONSE: Tak denies the allegations in paragraph 46.

47. Spirit, Steve, and Sharad misrepresented these four CPA EPC Contracts as valuable collateral to induce IFC, Fortress, and GWS Bank to agree to the Settlement Agreement referenced below. *See* Settlement Agreement, attached as Exhibit D.

RESPONSE: Tak denies the allegations in paragraph 47.

48. Alternatively, Spirit, Steve, and Sharad, did not use and never intended to use TPTC and/or PCDI as subcontractors on the construction projects contemplated by the CPA EPC Contracts, despite the representations in the CPA EPC Contracts.

RESPONSE: Tak admits only that neither TPTC nor PCDI were used as a subcontractor for any work performed under the referenced contracts, and denies all other allegations in paragraph 48.

49. On or around December 22, 2006, in furtherance of a possible settlement agreement, IFC and the Ron defendants executed a “Memorandum of Understanding for Equipment Purchase Agreement and Lease Pay-Off” (the “MOU”). *See* MOU, attached as Exhibit C. In addition to a full payoff to Fortress and GWS Bank and a partial payoff to IFC, the MOU contemplated the execution of a new Master Lease whereby IFC would lease the sixteen After-Dryers to the Ron entities in exchange for \$3.4 million dollars, to be paid back to IFC in installments. *See* Exhibit C at Section 2.B. The MOU also contemplated assignment of the Ron Defendants’ “rights to receive payments under the Fixed Price Engineering, Procurement and Construction Agreement dated as of August 4, 2006 between ST Paper, LLC and Spirit Construction Services, Inc. up to \$340,000 per month and in an aggregate amount of \$3,400,000.” *See* Exhibit C at Section 2.B.iv.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 49.

50. On March 28, 2007, the court entered a judgment in favor of GWS Bank and against the Ron Defendants in the amount of approximately \$2.7 million.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 50.

51. On or about April 13, 2007, IFC and the Ron Defendants entered into a Settlement Agreement, effective March 28, 2007, resolving all claims then pending by and among IFC and the Ron Defendants in the IFC Lawsuit I as well as any potential claims IFC and Fortress may have had against the Ron Defendants with respect to the default on Master Lease No. 801056 (the “Settlement Agreement”). Pursuant to the Settlement Agreement, the Ron Defendants agreed to pay a Total Settlement Amount of approximately \$23,400,000.00 (the “Total Settlement Amount”). *See* Exhibit D.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 51.

52. On or about April 16, 2007, the Ron Defendants paid approximately \$20 million of the Total Settlement Amount from proceeds the Ron Defendants had obtained through the sale of equity in the Oconto Falls Paper Plant to Sharad and ST Paper I. Of the approximately \$20 million paid by Sharad and ST Paper I to purchase the Oconto Falls Paper Plant at a

discount, IFC received approximately \$17,300,000—with roughly \$17,000,000 of the \$17,300,000 earmarked to fully pay off Fortress with respect to Master Lease No. 801056—and GWS Bank received approximately \$2.7 million in satisfaction of its March 28, 2007 judgment. Sharad and ST Paper I still own and have continued to operate the Oconto Falls Paper Plant since this transaction was executed.

RESPONSE: Tak admits that in 2007, ST Paper purchased the Oconto Falls Paper Plant from Ron and that ST Paper still owns the Oconto Falls Paper Plant. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 52.

53. As part of the Settlement Agreement, IFC agreed that the remaining \$3.4 million of the Total Settlement Amount could be paid by PCDI and TPTC to IFC in ten consecutive monthly installments pursuant to a new Master Lease Agreement (“Master Lease No. 801109”), whereby IFC leased ten of the After-Dryers previously leased under Master Lease No. 801070 to PCDI and TPTC, as described in attached Lease Schedules, with amendments. *See* Master Lease 801070 w/ Lease Schedules and Amendments, attached as Exhibit E.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 53.

54. Ron also executed an unconditional written guaranty of PCDI’s and TPTC’s obligations under the new Master Lease No. 801109 and attached Lease Schedules, with amendments (the “Master Lease No. 801109 Guaranty”).

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 54.

55. In addition, and as a condition for IFC entering into the Settlement Agreement and new master Lease No. 801109, TPTC and PCDI also executed a Continuing Pledge Agreement dated March 28, 2007 (the “Continuing Pledge Agreement”). Pursuant to the Continuing Pledge Agreement, TPTC and PCDI pledged and assigned to IFC their right to receive \$3,400,000 in subcontractor payments that the two companies were to receive from Spirit in connection with the four, fully executed CPA EPC Contracts related to the four separate tissue paper plant construction projects referenced in Paragraphs 1–3 above as collateral for their indebtedness and lease obligations under the Settlement Agreement and new Master Lease No. 801109. *See* Continuing Pledge Agreement, attached as Exhibit F.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 55. To the extent that paragraph 55 references a document, it speaks for itself and Tak denies Plaintiff’s characterizations of same.

56. On or around April 18, 2007, in connection with the Settlement Agreement, new Master Lease No. 801109, and Continuing Pledge Agreement, PCDI and TPTC also borrowed an additional \$440,000.00 from IFC pursuant to a Master Amendment Agreement. (the “Master Amendment Agreement”). The Master Amendment Agreement made explicit reference to and amended the Continuing Pledge Agreement by increasing the amount of subcontractor payments pledged to IFC as collateral from \$3,400,000 to \$3,902,220. *See* Master Amendment Agreement, attached as Exhibit G.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 56. To the extent that paragraph 56 references a document, it speaks for itself and Tak denies Plaintiff’s characterizations of same.

57. As such, pursuant to the Continuing Pledge Agreement (as amended by the Master Amendment Agreement), TPTC and PCDI pledged and assigned any and all rights to payment of up to \$390,222.00 per month and payments in the aggregate of \$3,902,220.00. The Continuing Pledge Agreement further stated that “IFC shall have the first and paramount rights to receive payment under those contracts.” *See* Exhibit F at Section 1.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 57. To the extent that paragraph 57 references a document, it speaks for itself and Tak denies Plaintiff’s characterizations of same.

58. Given the distrust between IFC and the Ron Defendants created by the Ron Defendants’ continued defaults on payments owed to IFC, as a condition for and to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, and Master Amendment Agreement, Steve and Spirit executed Schedule B to the Continuing Pledge Agreement entitled “Acknowledgment and Consent to Assignment” which stated that TPTC and PCDI “are subcontractors in connection with the [CPA EPC Contracts] and that substantial sums of money in excess of \$3,902,220.00 will become owing to them pursuant to said contracts.” *See* Exhibit F at Schedule B.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 58. To the extent that paragraph 58 references a document, it speaks for itself and Tak denies Plaintiff’s characterizations of same.

59. Further, Steve and Spirit confirmed as follows:

We confirm that after the date hereof and until receipt by us of written notice to the contrary from you, we will pay all amounts due or to become due by us to TPTC or PCDI, up to \$390,222 per month and in the aggregate amount of \$3,900,222 under the [CPA] EPC Contracts to you by making payments to you at

8700 N. Waukegan Road, Suite 100, Morton Grove, IL 60053, or pursuant to such wire transfer instructions as you may from time to time provide to us. **We confirm that the terms of the [CPA] EPC Contracts remain in full force and effect and that Tissue Products Technology Corporation and Partners Concepts Development, Inc. are subcontractors there under** and that neither we nor TPTC or PCDI are presently in breach of the terms of the [CPA] EPC Contracts.

See Exhibit F at Schedule B (emphasis added).

RESPONSE: Tak admits only that as President of ST Paper and for that company, he entered into four EPC Contracts with Spirit for the new construction or construction modification of tissue paper manufacturing plants. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 59.

60. Given the distrust between IFC and the Ron Defendants created by the Ron Defendants' continued defaults on payments owed to IFC, as a condition for and to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, and Master Amendment Agreement and to agree to use the Ron Defendants' rights to payment under the EPC Contracts as collateral for the loan through the Continuing Pledge Agreement and Schedule B to the Continuing Pledge Agreement entitled "Acknowledgment and Consent to Assignment," Sharad met with Ron and IFC's CEO, Rudolph Trebels, and CFO, Marc Langs, at IFC's offices in Morton Grove, Illinois in late March or early April of 2007.

RESPONSE: Tak admits that he attended a meeting at IFC's offices in Morton Grove, Illinois in late March or early April of 2007. Tak denies the remaining allegations in paragraph 60.

61. At this meeting, Sharad made multiple misrepresentations to IFC which IFC relied on in order to enter into the Settlement Agreement, Master Lease No. 801109, and Master Amendment Agreement. To wit:

a. Sharad confirmed that the CPA EPC Contracts had been executed by Steve, on behalf of Spirit, as Contractor, and by Sharad, as Owner;

b. Sharad confirmed that Ron's TPTC and PCDI (Ron's companies) would be used as subcontractors under the CPA EPC Contracts;

c. Sharad confirmed that he fully intended to build the four projects contemplated by the CPA EPC Contracts;

d. Sharad told IFC that due to confidentiality concerns, Spirit and Sharad could not allow IFC to review the four CPA EPC Contracts; and

e. Sharad confirmed that the four CPA EPC Contracts were sufficient to secure financing for the projects contemplated; however, he knew they were not.

RESPONSE: Tak admits only that he confirmed that ST Paper entered into four EPC contracts with Spirit and that ST Paper had every intention that it and Spirit would proceed under the EPC Contracts. Tak denies the remaining allegations in paragraph 61.

62. On April 19, 2007, the consolidated GWS Bank Lawsuit/IFC Lawsuit I was dismissed with prejudice pursuant to settlement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 62.

63. PCDI and TPTC subsequently defaulted under the terms of Master Lease No. 801109 by, *inter alia*, failing to make the lease payments required under the Lease Schedules attached to Master Lease No. 801109 from approximately April 19, 2007 through September 6, 2007. PCDI and TPTC failed to cure their defaults.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 63.

64. On September 6, 2007, IFC filed a second lawsuit against the Ron Defendants and also against Spirit (1) alleging breach of the Settlement Agreement by all of the Ron Defendants; (2) alleging breach of Master Lease No. 801109 by PCDI and TPTC; (3) alleging breach of the Master Lease No. 801109 Guaranty by Ron, and (4) requesting a preliminary injunction prohibiting Spirit from transferring any money to PCDI or TPTC until the Ron Defendants' obligations under the Settlement Agreement, Master Lease No. 801109, and Master Amendment Agreement, and Continuing Pledge Agreement were paid to IFC in full (the "Second IFC Lawsuit").

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 64.

65. On August 13, 2008, the court in the Second IFC Lawsuit entered a judgment against TPTC, PCDI, and Ron, jointly and severally, in the total judgment amount of \$5,343,015.12 See IFC Judgment, attached as Exhibit H. Neither IFC nor RNS Servicing has been able to collect on this judgment from TPTC, PCDI, or Ron.

RESPONSE: The allegations in paragraph 65 concerning the judgment in the Second IFC Lawsuit reference a document which speaks for itself and Tak refers to this document for a true and complete statement of its contents and denies Plaintiff's characterizations of same. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 65.

66. On March 31, 2009, the court in the Second IFC Lawsuit granted summary judgment to Spirit on IFC's lone claim against Spirit on the sole basis that IFC did not have standing to bring a claim against Spirit for injunctive relief at that time. *See* March 31, 2009 Order, attached as Exhibit I.

RESPONSE: The allegations in paragraph 66 concerning the summary judgment ruling in the Second IFC Lawsuit reference a document which speaks for itself and Tak refers to this document for a true and complete statement of its contents and denies Plaintiff's characterizations of same. Tak lacks knowledge and information sufficient to admit or deny the remaining allegations in paragraph 66.

67. On July 27, 2009, IFC filed for Chapter 7 Bankruptcy. To date, the IFC Bankruptcy is still pending.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 67.

68. On August 7, 2014, the IFC Bankruptcy court authorized the IFC Bankruptcy Trustee to enter into an "Asset Purchase and Transition Services Agreement" with Plaintiff RNS Servicing (the "First RNS Asset Purchase Agreement"). Through the First RNS Asset Purchase Agreement, RNS Servicing purchased certain of IFC's bankruptcy estate's assets, including IFC's rights under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement and all claims and rights, and benefits arising there from, with or against all persons or entities relating to IFC's rights under those agreements, including the claims against Steve and Spirit made in this Complaint. *See* First RNS Asset Purchase Agreement at Art. 1.1, Art. 2.2, attached as Exhibit J. Further, pursuant to the First Asset Purchase Agreement, RNS Servicing did not assume any of the IFC Bankruptcy estate's liabilities. *See* Exhibit J at Art. 2.6.

RESPONSE: Tak admits only that Exhibit J purports to be a document titled "Asset Purchase and Transition Services Agreement," and states that the remaining allegations in

paragraph 68 reference a document which speaks for itself; Tak refers to this document for a true and complete statement of its contents and denies Plaintiff's characterizations of same. Further answering, Exhibit J appears to be an unsigned document with no indication that it was filed with any bankruptcy court, and it is unclear from the face of Exhibit J that any claim against Spirit was part of the assets described therein.

69. On February 4, 2015, the IFC Bankruptcy court authorized the IFC Bankruptcy Trustee to enter into a "Supplemental Asset Purchase and Transition Services Agreement" with Plaintiff RNS Servicing (the "Second RNS Asset Purchase Agreement"). Through the Second RNS Asset Purchase Agreement, RNS Servicing purchased certain of IFC's bankruptcy estate's assets, including the assignment of IFC's August 13, 2008 judgment against TPTC, PCDI, and Ron. *See* Second RNS Asset Purchase Agreement at Art. 1.1 and 2.1, attached as Exhibit K. Further, pursuant to the Second Asset Purchase Agreement, RNS Servicing did not assume any of the IFC Bankruptcy estate's liabilities. *See* Exhibit K at Art. 2.4.

RESPONSE: Tak admits only that Exhibit K purports to be a document titled "Supplemental Asset Purchase and Transition Services Agreement," and states that the remaining allegations in paragraph 69 reference a document which speaks for itself; Tak refers to this document for a true and complete statement of its contents and denies Plaintiff's characterizations of same. Further answering, Exhibit K appears to be an unsigned document with no indication that it was filed with any bankruptcy court, and it is unclear from the face of Exhibit K that any claim against Spirit was part of the assets described therein.

70. On March 21, 2016, RNS Servicing learned that the CPA EPC Contracts were frivolous contracts through an email from Sharad, one of the parties executing the EPC Contracts. *See* March 21, 2016 Email, attached as Exhibit L. Sharad also confirmed that Spirit and VOS Electric, Inc.—which on information and belief, RNS Servicing believes to be related to Steve, Sprit, and/or Ron—has executed other EPC Contracts, which resulted in actual construction. *See* Exhibit L. Further, Sharad admitted that he had not tried to secure financing for the CPA EPC Contracts, as Owner, but instead had "relied" on Ron, a supposed subcontractor under the CPA EPC Contracts, to secure financing for the largescale construction projects contemplated by the CPA EPC Contracts. *See* Exhibit L.

RESPONSE: Tak denies the allegation in paragraph 70 that the CPA EPC Contracts were frivolous at the time they were entered as the allegation mischaracterizes his intended

meaning when sending the March 21, 2016 email attached as Exhibit L. Tak admits that Spirit and VOS Electric, Inc. are affiliated entities that have executed CPA EPC Contracts which proceeded to construction. Tak denies the remaining allegations in paragraph 70.

COUNT I
NEGLIGENT MISREPRESENTATION – AGAINST SEVE AND SPIRIT

71. Plaintiff hereby restates, realleges, and incorporates herein by reference Paragraphs 1-70 as if set forth fully in this Paragraph 71.

RESPONSE: Tak realleges and incorporates by reference his responses to paragraphs 1 through 70 of the First Amended Complaint.

72. On or around March 28, 2007, Steve and Spirit made at least three false statements of material fact that induced IFC into executing the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement. To wit:

a. Steve and Spirit stated that TPTC and PCDI were subcontractors in connection with the four CPA EPC Contracts between Spirit and ST Paper I and that substantial sums of money in excess of \$3,902,220.00 will become owing to TPTC and PCDI pursuant to said contracts. *See* Exhibit F at Schedule B.

b. Steve and Spirit stated that after March 28, 2007 and until receipt by Steve and Spirit of written notice to the contrary from IFC, Spirit will pay all amounts due or to become due by Spirit to TPTC or PCDI, up to \$390,222 per month and in the aggregate amount of \$3,900,222 under the CPA EPC Contracts to IFC by making payment to IFC at 8700 N. Waukegan Road, Suite 100, Morton Grove, IL 60053, or pursuant to such wire transfer instructions as IFC may from time to time provide to Spirit. *See* Exhibit F at Schedule B.

c. Steve and Spirit stated that that the terms of the four CPA EPC Contracts remain in full force and effect and that TPTC and PCDI are subcontractors there under and that neither Spirit nor TPTC or PCDI are presently in breach of the terms of the CPA EPC Contracts. *See* Exhibit F at Schedule B

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 72.

73. Steve and Spirit owed IFC a duty to provide accurate information related to the complex transaction contemplated by the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement.

RESPONSE: The allegations in paragraph 73 are legal conclusions to which no response is required. To the extent a response is required, Tak denies the allegations to the extent they are inconsistent with applicable law.

74. Steve and Spirit knew or should have known that their March 28, 2007 statements referenced in paragraph 72 were false.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 74.

75. IFC communicated to Ron, Steve, and Spirit that IFC would not enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Steve and Spirit's signed confirmation of the statements made in Schedule B to the Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 75.

76. Steve and Spirit intended Schedule B to the Continuing Pledge Agreement and the false statements therein to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement with Ron, Steve's brother, and Ron's companies.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 76.

77. Indeed, IFC would not have entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Steve and Spirit's signed confirmation of the statements made in Schedule B to the Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 77.

78. In reliance of the Steve and Spirits statements in Schedule B to the Continuing Pledge Agreement—as well as Steve and Spirit's continued representations that Spirit would subcontract TPTC and PCDI to perform work related to various EPC Contracts during negotiation of the complex transaction from October 2005 through April 2007 which eventually materialized as the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement—IFC entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 78.

79. As a result of IFC's reliance on Steve and Spirits statements in Schedule B to the Continuing Pledge Agreement, RNS Servicing, as successor-in-interest to IFC's rights under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, RNS Servicing has not been paid the monies owed to it under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, that is \$3,900,222 plus accumulated interest.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 79.

80. As such, RNS Servicing's damages as a result of Steve and Spirit's negligent misrepresentations are in excess of \$15 million.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 80.

COUNT II
FRAUDULENT INDUCEMENT – AGAINST STEVE AND SPIRIT

81. Plaintiff hereby restates, realleges, and incorporates herein by reference Paragraphs 1–80 as if set forth fully in this Paragraph 81.

RESPONSE: Tak realleges and incorporates by reference his responses to paragraphs 1 through 80 of the First Amended Complaint.

82. On or around March 28, 2007, Steve and Spirit made at least three false statements of material fact that induced IFC into executing the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement. To wit:

a. Steve and Spirit stated that TPTC and PCDI were subcontractors in connection with the four CPA EPC Contracts between Spirit and ST Paper I and that substantial sums of money in excess of \$3,902,220.00 will become owing to TPTC and PCDI pursuant to said contracts. *See* Exhibit F at Schedule B.

b. Steve and Spirit stated that after March 28, 2007 and until receipt by Steve and Spirit of written notice to the contrary from IFC, Spirit will pay all amounts due or to become due by Spirit to TPTC or PCDI, up to \$390,222 per month and in the aggregate amount of \$3,900,222 under the CPA EPC Contracts to IFC by making

payment to IFC at 8700 N. Waukegan Road, Suite 100, Morton Grove, IL 60053, or pursuant to such wire transfer instructions as IFC may from time to time provide to Spirit. *See* Exhibit F at Schedule B.

c. Steve and Spirit stated that the terms of the four CPA EPC Contracts remain in full force and effect and that TPTC and PCDI are subcontractors there under and that neither Spirit nor TPTC or PCDI are presently in breach of the terms of the CPA EPC Contracts. *See* Exhibit F at Schedule B.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 82.

83. Steve and Spirit knew that their March 28, 2007 statements referenced in Paragraph 82 were false.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 83.

84. IFC communicated to Ron, Steve, and Spirit that IFC would not enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Steve and Spirit's signed confirmation of the statements made in Schedule B to the Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 84.

85. Steve and Spirit intended Schedule B to the Continuing Pledge Agreement and the false statements therein to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement with Ron, Steve's brother, and Ron's companies.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 85.

86. Indeed, IFC would not have entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Steve and Spirit's signed confirmation of the statements made in Schedule B to the Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 86.

87. In reliance of the Steve and Spirits statements in Schedule B to the Continuing Pledge Agreement—as well as Steve and Spirit’s continued representations that Spirit would subcontract TPTC and PCDI to perform work related to various EPC Contracts during negotiation of the complex transaction from October 2005 through April 2007 which eventually materialized as the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement—IFC entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 87.

88. As a result of IFC’s reliance on Steve and Spirits statements in Schedule B to the Continuing Pledge Agreement, RNS Servicing, as successor-in-interest to IFC’s rights under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, RNS Servicing has not been paid the monies owed to it under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, that is \$3,900,222 plus accumulated interest.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 88.

89. As such, RNS Servicing’s damages as a result of Steve and Spirit’s fraudulent misrepresentations are in excess of \$15 million.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 89.

COUNT III
VIOLATION OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE
BUSINESS PRACTICES ACT (815 ILCS 505/2) – AGAINST STEVE AND SPIRIT

90. Plaintiff hereby restates, realleges, and incorporates herein by reference Paragraphs 1–89 as if set forth fully in this Paragraph 90.

RESPONSE: Tak realleges and incorporates by reference his responses to paragraphs 1 through 89 of the First Amended Complaint.

91. On or around March 28, 2007, Steve and Spirit made at least three false statements of material fact that induced IFC into executing the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement. To wit:

a. Steve and Spirit stated that TPTC and PCDI were subcontractors in connection with the four CPA EPC Contracts between Spirit and ST Paper I and that substantial sums of money in excess of \$3,902,220.00 will become owing to TPTC and PCDI pursuant to said contracts. *See Exhibit F at Schedule B.*

b. Steve and Spirit stated that after March 28, 2007 and until receipt by Steve and Spirit of written notice to the contrary from IFC, Spirit will pay all amounts due or to become due by Spirit to TPTC or PCDI, up to \$390,222 per month and in the aggregate amount of \$3,900,222 under the CPA EPC Contracts to IFC by making payment to IFC at 8700 N. Waukegan Road, Suite 100, Morton Grove, IL 60053, or pursuant to such wire transfer instructions as IFC may from time to time provide to Spirit. *See Exhibit F at Schedule B.*

c. Steve and Spirit stated that that the terms of the four CPA EPC Contracts remain in full force and effect and that TPTC and PCDI are subcontractors there under and that neither Spirit nor TPTC or PCDI are presently in breach of the terms of the CPA EPC Contracts. *See Exhibit F at Schedule B.*

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 91.

92. The statements referenced in Paragraph 91 were false.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 92.

93. IFC communicated to Ron, Steve, and Spirit that IFC would not enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Steve and Spirit's signed confirmation of the statements made in Schedule B to the Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 93.

94. Steve and Spirit intended Schedule B to the Continuing Pledge Agreement and the false statements therein to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement with Ron, Steve's brother, and Ron's companies.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 94.

95. Indeed, IFC would not have entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Steve and Spirit's signed confirmation of the statements made in Schedule B to the Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 95.

96. In reliance of the Steve and Spirits statements in Schedule B to the Continuing Pledge Agreement—as well as Steve and Spirit's continued representations that Spirit would subcontract TPTC and PCDI to perform work related to various EPC Contracts during negotiation of the complex transaction from October 2005 through April 2007 which eventually materialized as the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement—IFC entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 96.

97. As a result of IFC's reliance on Steve and Spirits statements in Schedule B to the Continuing Pledge Agreement, RNS Servicing, as successor-in-interest to IFC's rights under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, RNS Servicing has not been paid the monies owed to it under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, that is \$3,900,222 plus accumulated interest.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 97.

98. As such, RNS Servicing's damages as a result of Steve and Spirit's violation of the Illinois Consumer Fraud and Deceptive Business Practices Act are in excess of \$15 million.

RESPONSE: Tak lacks knowledge and information sufficient to admit or deny the allegations in paragraph 98.

COUNT IV **NEGLIGENT MISREPRESENTATION – AGAINST SHARAD**

99. Plaintiff hereby restates, realleges, and incorporates herein by reference Paragraphs 1–98 as if set forth fully in this Paragraph 99.

RESPONSE: Tak realleges and incorporates by reference his responses to paragraphs 1 through 98 of the First Amended Complaint.

100. At a meeting taking place at IFC's offices in Morton Grove, Illinois sometime between March 1, 2007 and April 30, 2007, Sharad made at least five false statements of material fact that induced IFC into executing the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement. To wit:

- a. Sharad confirmed that the CPA EPC Contracts had been executed by Steve, on behalf of Spirit, as Contractor, and by Sharad, as Owner;
- b. Sharad confirmed that Ron's TPTC and PCDI (Ron's companies) would be used as subcontractors under the CPA EPC Contracts;
- c. Sharad confirmed that he fully intended to build the four projects contemplated by the CPA EPC Contracts;
- d. Sharad told IFC that due to confidentiality concerns, Spirit and Sharad could not allow IFC to review the four CPA EPC Contracts; and
- e. Sharad confirmed that the four CPA EPC Contracts were sufficient to secure financing for the projects contemplated; however, he knew they were not.

RESPONSE: Tak denies the allegations in paragraph 100.

101. Sharad owed IFC a duty to provide accurate information related to the complex transaction contemplated by the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement.

RESPONSE: The allegations in paragraph 101 are legal conclusions to which no response is required. To the extent a response is required, Tak denies the allegations to the extent they are inconsistent with applicable law.

102. Sharad knew or should have known that his statements at the meeting referenced in Paragraph 100 were false.

RESPONSE: Tak denies the allegations in paragraph 102.

103. IFC communicated to Sharad that IFC would not enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Sharad's confirmations referenced in Paragraph 100.

RESPONSE: Tak denies the allegations in paragraph 103.

104. Sharad intended his statements at the meeting referenced in Paragraph 100 to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement with Ron, Steve's brother, and Ron's companies so that he would be able to purchase the Oconto Falls Paper Plant as part of the transaction contemplated in those agreements.

RESPONSE: Tak denies the allegations in paragraph 104.

105. Indeed, IFC would not have entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Sharad's confirmation of the facts in the Continuing Pledge Agreement related to the CPA EPC Contracts.

RESPONSE: Tak lacks knowledge and information sufficient to respond to the allegations in paragraph 105.

106. In reliance on Sharad's statements at the meeting referenced in Paragraph 100, IFC entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement.

RESPONSE: Tak denies the allegations in paragraph 106.

107. As a result of IFC's reliance on Sharad's statements at the meeting referenced in Paragraph 100, RNS Servicing, as successor-in-interest to IFC's rights under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, has not been paid the monies owed to it under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, that is \$3,900,222 plus accumulated interest.

RESPONSE: Tak denies the allegations in paragraph 107.

108. As such, RNS Servicing's damages as a result of Steve and Spirit's negligent misrepresentations are in excess of \$15 million.

RESPONSE: Tak lacks knowledge and sufficient information to respond to the allegation regarding what RNS Servicing's damages are as a result of Steve and Spirit's alleged negligent misrepresentations. Tak affirmatively denies that he has caused RNS Servicing to be damaged.

WHEREFORE, Tak respectfully requests that this Court enter judgment in his favor against Plaintiff as it deems just and fair.

COUNT V
FRAUDULENT INDUCEMENT – AGAINST SHARAD

109. Plaintiff hereby restates, realleges, and incorporates herein by reference Paragraphs 1–108 as if set forth fully in this Paragraph 109.

RESPONSE: Tak realleges and incorporates by reference his responses to paragraphs 1 through 108 of the First Amended Complaint.

110. At a meeting taking place at IFC's offices in Morton Grove, Illinois sometime between March 1, 2007 and April 30, 2007, Sharad made at least five false statements of material fact that induced IFC into executing the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement. To wit:

a. Sharad confirmed that the CPA EPC Contracts had been executed by Steve, on behalf of Spirit, as Contractor, and by Sharad, as Owner;

b. Sharad confirmed that Ron's TPTC and PCDI (Ron's companies) would be used as subcontractors under the CPA EPC Contracts;

c. Sharad confirmed that he fully intended to build the four projects contemplated by the CPA EPC Contracts;

d. Sharad told IFC that due to confidentiality concerns, Spirit and Sharad could not allow IFC to review the four CPA EPC Contracts; and

e. Sharad confirmed that the four CPA EPC Contracts were sufficient to secure financing for the projects contemplated; however, he knew they were not.

RESPONSE: Tak denies the allegations in paragraph 110.

111. Steve and Spirit knew that his statements referenced in Paragraph 110 were false.

RESPONSE: Tak lacks knowledge and information sufficient to respond to the allegations in paragraph 111.

112. IFC communicated to Sharad that IFC would not enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Sharad's confirmations referenced in Paragraph 110.

RESPONSE: Tak denies the allegations in paragraph 112.

113. Sharad intended his false statements referenced in Paragraph 110 to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement with Ron, Steve's brother, and Ron's companies so that he

would be able to purchase the Oconto Falls Paper Plant as part of the transaction contemplated in those agreements.

RESPONSE: Tak denies the allegations in paragraph 113.

114. Indeed, IFC would not have entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Sharad's statements referenced in Paragraph 110.

RESPONSE: Tak denies the allegations in paragraph 114.

115. In reliance of Sharad's statements referenced in Paragraph 110, IFC entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement.

RESPONSE: Tak denies the allegations in paragraph 115.

116. As a result of IFC's reliance on Sharad's statements referenced in Paragraph 110, RNS Servicing, as successor-in-interest to IFC's rights under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, has not been paid the monies owed to it under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, that is \$3,900,222 plus accumulated interest.

RESPONSE: Tak denies the allegations in paragraph 116.

117. As such, RNS Servicing's damages as a result of Sharad's fraudulent misrepresentations are in excess of \$15 million.

RESPONSE: Tak denies the allegations in paragraph 117.

WHEREFORE, Tak respectfully requests that this Court enter judgment in his favor against Plaintiff as it deems just and fair.

COUNT VI
VIOLATION OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE
BUSINESS PRACTICES ACT (815 ILCS 505/2) – AGAINST SHARAD

118. Plaintiff hereby restates, realleges, and incorporates herein by reference Paragraphs 1-117 as if set forth fully in this Paragraph 118.

RESPONSE: Tak realleges and incorporates by reference his responses to paragraphs 1 through 117 of the First Amended Complaint.

119. At a meeting taking place at IFC's offices in Morton Grove, Illinois sometime between March 1, 2007 and April 30, 2007, Sharad made at least five false statements of material fact that induced IFC into executing the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement. To wit:

a. Sharad confirmed that the CPA EPC Contracts had been executed by Steve, on behalf of Spirit, as Contractor, and by Sharad, as Owner;

b. Sharad confirmed that Ron's TPTC and PCDI (Ron's companies) would be used as subcontractors under the CPA EPC Contracts;

c. Sharad confirmed that he fully intended to build the four projects contemplated by the CPA EPC Contracts;

d. Sharad told IFC that due to confidentiality concerns, Spirit and Sharad could not allow IFC to review the four CPA EPC Contracts; and

e. Sharad confirmed that the four CPA EPC Contracts were sufficient to secure financing for the projects contemplated; however, he knew they were not

RESPONSE: Tak denies the allegations in paragraph 119.

120. The statements referenced in Paragraph 119 were false.

RESPONSE: Tak denies the allegations in paragraph 120.

121. IFC communicated to Sharad that IFC would not enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement without Sharad's statements of confirmation referenced in Paragraph 119.

RESPONSE: Tak denies the allegations in paragraph 121.

122. Sharad intended the statements referenced in Paragraph 119 to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement with Ron, Steve's brother, and Ron's companies so that he would be able to purchase the Oconto Falls Paper Plant as part of the transaction contemplated in those agreements.

RESPONSE: Tak denies the allegations in paragraph 122.

123. Sharad intended the statements referenced in Paragraph 119 to induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement with Ron, Steve's brother, and Ron's companies so that he would be able to purchase the Oconto Falls Paper Plant as part of the transaction contemplated in those agreements.

RESPONSE: Tak denies the allegations in paragraph 123.

124. In reliance of Sharad's confirmation statements referenced in Paragraph 119, IFC entered into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement.

RESPONSE: Tak denies the allegations in paragraph 124.

125. As a result of IFC's reliance on Sharad's confirmation statements referenced in Paragraph 119, RNS Servicing, as successor-in-interest to IFC's rights under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, has not been paid the monies owed to it under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, that is \$3,900,222 plus accumulated interest.

RESPONSE: Tak denies the allegations in paragraph 125.

126. As such, RNS Servicing's damages as a result of Sharad's violation of the Illinois Consumer Fraud and Deceptive Business Practices Act are in excess of \$15 million.

RESPONSE: Tak denies the allegations in paragraph 126.

WHEREFORE, Tak respectfully requests that this Court enter judgment in his favor against Plaintiff as it deems just and fair.

COUNT VII
CIVIL CONSPIRACY – AGAINST STEVE, SPIRIT, AND SHARAD

127. Plaintiff hereby restates, realleges, and incorporates herein by reference Paragraphs 1-126 as if set forth fully in this Paragraph 127.

RESPONSE: Tak realleges and incorporates by reference his responses to paragraphs 1 through 126 of the First Amended Complaint.

128. Since at least November 2006, Steve, Spirit, Ron, PCDI, TPTC, and Sharad agreed and conspired to wrongfully and unlawfully induce IFC to enter into the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement with no intention of honoring the obligations under those agreements.

RESPONSE: Tak denies the allegations in paragraph 128.

129. As such, the underlying torts for this Civil Conspiracy count are Counts II and V of this Complaint alleging Fraudulent Inducement against Steve and Spirit (Count II) and Sharad (Count V).

RESPONSE: Tak admits only that Plaintiff purports to so proceed and denies all other allegations in paragraph 129.

130. Steve, Spirit, Ron, PCDI, TPTC, and Sharad conspired to allow Steve, Spirit, Ron, PCDI, TPTC to keep the funds Ron, PCDI, and TPTC borrowed from IFC pursuant to the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement and to allow Sharad to purchase the Oconto Falls Paper Plant at a discount through unlawful means such as the false statements made by Steve and Spirit in Schedule B to the Continuing Pledge Agreement and the false statements made by Sharad at the meeting in March or April 2007 at IFC's offices in Morton Grove, Illinois.

RESPONSE: Tak denies the allegations in paragraph 130.

131. Pursuant to and in furtherance of this conspiracy, Steve, Spirit, and Sharad knowingly, tortiously, maliciously, and unlawfully committed overt acts, including but not limited to Steve and Spirit's false statements made in Schedule B to the Continuing Pledge Agreement and Sharad's at the meeting in March or April 2007 at IFC's offices in Morton Grove, Illinois.

RESPONSE: Tak denies the allegations in paragraph 131.

132. At all times relevant, Steve, Spirit, and Sharad understood the general objective of the conspiracy and agreed, either explicitly or implicitly, to do their respective parts to further the objects of the conspiracy. The general objective of the conspiracy was for Steve, Spirit, Ron, PCDI, and TPTC to obtain and take control of funds borrowed by Ron, PCDI, and TPTC without repayment and to secure Sharad's ownership of the Oconto Falls Paper Plant at a discount.

RESPONSE: Tak denies the allegations in paragraph 132.

133. As a direct and proximate result of the conspiracy, RNS Servicing, as successor-in-interest to IFC's rights under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, has not been paid the monies owed to it under the Settlement Agreement, Master Lease No. 801109, Master Amendment Agreement, and Continuing Pledge Agreement, that is \$3,900,222 plus accumulated interest.

RESPONSE: Tak denies the allegations in paragraph 133.

134. As such, RNS Servicing's damages as a result of the conspiracy are in excess of \$15 million.

RESPONSE: Tak denies the allegations in paragraph 134.

WHEREFORE, Tak respectfully requests that this Court enter judgment in his favor against Plaintiff as it deems just and fair.

AFFIRMATIVE DEFENSES

Tak sets forth the following affirmative defenses:

First Affirmative Defense – Statute of Limitations

1. Under Illinois law, Plaintiff's Counts IV, V, and VII, for Negligent Misrepresentation, Fraudulent Inducement, and Civil Conspiracy, are subject to the 5-year statute of limitations of 735 ILCS § 5/13-205. Count VI, for violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, is subject to a 3-year statute of limitations under 815 ILCS § 505/10a(e). These statutes of limitation generally run from the time when a person knows or reasonably should know of his injury and also knows that it was wrongfully caused. At that point the burden is upon the injured party to inquire further as to the existence of a cause of action. *Knox College v. Celotex Corp.*, 430 N.E.2d 976, 980-81 (Ill. 1981).

2. To the extent that any alleged injury occurred for which Tak is alleged to be responsible, IFC was or should have been aware of the fact of that injury and its wrongful cause as soon as Ron defaulted on his obligations pursuant to the Settlement Agreement and related documents, which default, Plaintiff has alleged in its Complaint, at ¶ 63, occurred on April 19, 2007.

3. Furthermore, in a filing in its suit against Ron, TPTC, PCDI and Spirit on October 8, 2008, IFC stated, *inter alia*, that, with reference to the representations made by Spirit in the Acknowledgement and Consent to Assignment, "they evidence the fraud committed by Spirit Construction to induce IFC to enter into the Settlement Agreement . . . it is clear that, notwithstanding its statement to IFC, Spirit Construction never intended to engage TPTC or

PCDI in connection with the CPA EPC Contracts . . . Similarly, IFC's statement that Spirit Construction's representations were not true is, by now, obvious."

4. Accordingly, IFC not only had actual notice of its cause of action herein, but in fact was alleging the same facts that form the basis of its allegations against Tak, and referring to those allegations as "fraud," designed to "induce" IFC to enter into the Settlement Agreement, by October 8, 2008.

5. Plaintiff's claims against Tak were filed on September 25, 2017, nearly ten years after Ron defaulted, according to RNS, and more than 8 years after IFC asserted, in open court, that it had been fraudulently induced into entering into the Settlement Agreement. Accordingly, the claims herein are barred by the applicable statutes of limitations.

Second Affirmative Defense – Laches

6. In support of this affirmative defense, Tak incorporates by reference the grounds for his First Affirmative Defense.

Third Affirmative Defense - Waiver

7. In support of this affirmative defense, Tak incorporates by reference the grounds for his First Affirmative Defense.

Fourth Affirmative Defense – Failure to Mitigate

8. In the event that Plaintiff was to succeed on any of its claims at issue, IFC and RNS have failed to mitigate any damages. Neither IFC nor RNS availed itself of avenues of collection including Ron and his companies' assets, the seizure and sale of collateral. Any damages suffered must be reduced accordingly.

Fifth Affirmative Defense – Good Faith

9. To the extent that any representations on the part of Tak are shown to be false, such representations were made in good faith.

10. At all times, Tak believed that the projects underlying the CPA EPC Contracts would go forward. Accordingly, at all times, Tak acted in good faith with respect to the representations at issue herein.

Sixth Affirmative Defense – No Personal Liability

11. ST Paper's articles of organization do not contain provisions subjecting Tak to personal liability.

12. Tak and ST Paper did not operate as a single economic entity nor was ST Paper created as a sham entity designed to defraud investors and creditors.

13. Even if Tak had knowledge of the other defendants' alleged fraudulent actions, under controlling Delaware law, a corporate officer must have more than mere knowledge to be found liable under the personal participation doctrine. Accordingly, Tak cannot be held liable for actions he is alleged to have taken as the Manager of ST Paper LLC.

14. Tak reserves his right to raise this defense as he did in his Motion to Dismiss after discovery has been completed.

Seventh Affirmative Defense – Undue Burden

15. Plaintiff's 134 paragraph Amended Complaint violates the requirements set forth in Federal Rule of Civil Procedure 8 to state claims for relief in "a short and plain statement." Accordingly, Tak reserves his right to seek fees and costs related to responding to the Amended Complaint.

Reservation of Rights to Add Additional Affirmative Defenses

16. Discovery in this matter is not yet completed, and Tak reserves his right to raise additional affirmative defenses as he discovers facts giving rise to such defenses. Tak also reserves his right to bring cross claims against the other defendants in this action following additional discovery.

WHEREFORE, Tak respectfully requests that this Court enter judgment in his favor and against Plaintiff as it deems just and fair.

Respectfully submitted,

By: /s/Brian C. Spahn

Brian C. Spahn
Illinois State Bar No. 6290809
GODFREY & KHAN, S.C.
833 East Michigan Street, Ste. 1800
Milwaukee, WI 53202-5615
Telephone: 414-273-3500
Facsimile: 414-273-5198
Email: bspahn@gklaw.com

Scott Nehls
Illinois State Bar No. 6290318
FUCHS & ROSELLI, LTD
440 W. Randolph Street, Ste. 500
Chicago, IL 60606
Telephone: 312-651-2400
Facsimile: 312-651-2499
Email: snehls@frltd.com

Attorney for Defendant Sharad Tak

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 20, 2018, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

By: /s/Brian C. Spahn

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