

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

FORTUNE AVENUE, LLC,

Case No. 18-CV-1362

Plaintiff,

v.

HOWARD BEDFORD,

Defendant.

DECLARATION OF HOWARD BEDFORD

I, Howard Bedford, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 as follows:

1. I am the Defendant in this matter and make this declaration on personal knowledge.
2. I was introduced to Ronald Van Den Heuvel (“Ron”) in 2010. Ron pitched a new business opportunity to me involving the recycling of food-contaminated waste into energy. Ron referred to this concept, which Ron claimed was comprised of proprietary processes he had developed, as “Green Box.” Ron asked me to invest in the concept and assist him in seeking additional investors.
3. To my unending regret, I did invest in Ron’s companies and aided him in obtaining soliciting additional investments.
4. Ron and the companies he ran had difficulty with a number of creditors. One such creditor was SHF XII, LLC (“Stonehill”). In 2010, Stonehill and Ron entered into settlement discussions, resulting in a Settlement Agreement and Mutual Release effective as of

December 31, 2010 (the “Settlement Agreement”). As part of that agreement, I executed a guaranty of a payment to be made to Stonehill of \$750,000.

5. Based upon my discussions with Ron and his brothers at the time, I understood Spirit Construction Services, Inc. (“Spirit”) to be a company owned by Ron’s brothers. In 2011, Dave Van Den Heuvel contacted me about his discussions with Spirit’s bank, Baylake Bank, concerning the payments required under the Settlement Agreement. Part of that discussion contemplated Spirit paying \$750,000 to Stonehill. Dave stated, “we will borrow you the monies to pay them or something like that.” A true and correct copy of this e-mail is attached hereto as **Exhibit 1**.

6. On August 25, 2011, I learned information that caused me to believe that Ron was involved in fraud. I confronted Ron about it and announced the fact I was leaving and would no longer do business with him. Ron reacted angrily, and proceeded to punch me in the face as I was leaning over to pick up my briefcase. As a result, I obtained medical treatment that day at a hospital in Sheboygan, Wisconsin, on my drive back to my home in Illinois.

7. As part of the effort to placate Stonehill, on October 21, 2011, I signed the \$350,000 Unsecured Promissory Note at issue in this litigation (the “Note”) in favor of Fortune Avenue, LLC, a company I understood was affiliated with Spirit. At this time I wanted nothing more to do with Ron or any of his companies.

8. Between February and July of 2012 I made five payments on the Note to Fortune Avenue, LLC totaling \$42,365.74.

9. On a few occasions in 2012 prior to December 5th of that year I received e-mails from Dave Van Den Heuvel (“Dave”) reminding me to make payments on the Note.

10. On November 29, 2012, I received an e-mail from Dave stating, “Howard need some more payments.” I responded that day and noted that I would be in Green Bay the following Tuesday and Wednesday (December 4th and 5th), and that I could meet with him. (Id.) A true and correct copy of this e-mail is attached hereto as **Exhibit 2**.

11. I received a telephone call from Dave on my cell phone. My cell phone number at that time was (847) 910-7190. Dave invited me to meet with him at his offices.

12. On December 5, 2012, I went to Dave’s offices in De Pere and met with him. In the course of that meeting, Dave expressed to me that I need not worry about any payments pursuant to the note I made in favor of Fortune Avenue, LLC. I understood Dave to be speaking on behalf of Fortune Avenue, LLC. Dave indicated that because the note was originally related to debts attributable to his brother Ron, this debt held by Fortune Avenue, LLC was a family concern. Dave indicated that because this really the debt of his brother Ron, it was a family problem. Dave expressed that I should never have been brought into the situation and that he would not be looking for any more money from me. He told me not to worry about making any more payments. The plain implication of Dave Van Den Heuvel’s oral comments to me that day was that I was relieved of any obligation to make further payments on the note.

13. Attached hereto as **Exhibit 3** is a true and correct copy of the entries in my calendar for December of 2012. On December 5, 2012, there is an entry reflecting a meeting with Mr. Van Den Heuvel at 9:00 a.m.

14. After my meeting with Dave on December 5, 2012, I did not receive any communications from Fortune Avenue, LLC seeking to enforce the promissory note at issue in this case until counsel for Fortune Avenue, LLC sent me a demand letter dated June 13, 2018.

Dated this 27th day of May, 2019.

s/ Howard Bedford
Howard Bedford

From: Dave VanDenHeuvel <dvdh@vhcinvest.com>
Sent: 6/22/2011 2:39:10 PM -0500
To: "Bedford, Howard" <hbedford@dodigroup.com>
CC: 'Ron Van Den Heuvel' <ron.vdh@tissuetechnology.net>; 'Richard Hearden' <richard.hearden@baylake.com>; Tim Van Den Heuvel <tvdh@voselectric.com>; 'John Hager' <jhager@hdz-law.com>
Subject:

Hi Howard,

We had our meeting with Baylakes today, and the deal is structured a little different than I thought. I may not get this right but will attempted to.

\$8,473,183- Note Due

\$1,066,945- interest Due on note

\$ 580,000- part of tax's due(was the note we paid off)

\$ 1,460,000- Tax's due

\$ 750,000- Stone hill pay off

\$12,330,120- Total debt to be paid off

What they are looking at doing is borrowing Spirit \$6,000,000 and you(through existing note) \$5,000,000. This leaves a balance Of \$1,330,120 short. If you have any monies to help that would be great! If not they are going to take it out of an escrow account we have there to make up the difference, plus someone will need to throw in another \$46,895. If all that falls on us, we will be looking for a note along with liens from ECO, the after driers and the green box's for the \$6,000,000 to Spirit and \$1,330,000 to VHC. We understand these need to be worded right that when De Pere Green Box goes they get paid off.

The note to Spirit will pay the following;

\$3,256,895- pay down principle on the excising loan

\$ 750,000- for Stone hill(we will borrow you the monies to pay them or something like that)

\$2,040,000- back tax's

The note for you will be borrowing back up the existing note to \$5,000,000.

This is my best attempted at explaining with we talked about this morning with the

EXHIBIT

1

BEDFORD0047

Bank.

At the end of today's meetings we have agree this cannot be done by the end of June, but if the concept is agree to, it could be done by mid July or by the end of July worst case.

Dave

BEDFORD0048

From: dvdh [mailto:dvdh@vhcinvest.com]
Sent: Thursday, November 29, 2012 8:46 AM
To: Howard Bedford <hbedford@dodigroup.com>
Subject: RE: Bedford

My cell phone # 920-371-0182

From: dvdh [mailto:dvdh@vhcinvest.com]
Sent: Thursday, November 29, 2012 8:39 AM
To: 'Howard Bedford'
Subject: RE: Bedford

I will be around. We have a closing on a loan one of them 2 days, so just call when your around, I should be able to make something work. - Dave

From: Howard Bedford [mailto:hbedford@dodigroup.com]
Sent: Thursday, November 29, 2012 7:49 AM
To: <dvdh@vhcinvest.com>
Subject: Re: Bedford

I will be in GB next tue and we'd. We can meet. HB

Sent from my iPad

On Nov 28, 2012, at 12:48 PM, "dvdh" <dvdh@vhcinvest.com> wrote:

Howard need some more payments. - Dave

From: Jim Kellam [mailto:jkellam@vhcinvest.com]
Sent: Wednesday, November 28, 2012 11:20 AM
To: dvdh@vhcinvest.com
Subject: Bedford

Dave,

Howard Bedford hasn't made a payment to SCS since July 2012.

He is suppose to be making a monthly payment of \$10,000.

12:58 PM Tue Apr 16

93%

December 2012

Day Week Month Year

Q +

Sun

Mon

Tue

Wed

Thu

Fri

Sat

• NSCC

7 PM

2

3

4

5

6

7

8

• Burgundy Sale Noon

Straubel
HILTON-20

HOLIDAY INN-4

• Dave Van Den... 9 AM

HAIRCUT

• 299 Check-ride 3 AM

Michael's Birthday

Dad's Birthday

• Dr Bery 9 AM

• Dan Platkowski 1 PM

• Children's... 2:30 PM

• Drive to GB 11 AM

• JP Morgan Ch... 3 PM

• Hoffman/WAC 5 PM

• Conf call 2 PM

• Drive home 4:30 PM

9

10

11

12

13

14

15

• Walt Dosh 10:30 AM

• VITA 9 AM

• Dr. Russo 8 AM

• Dr. Lorber 8:45 AM

• Darren / How... 11 AM

• FHC Golf 9:30 AM

• Jeff Rubenstein 1 PM

• Dr. Velis 2 PM

• Dr. Warga 9:15 AM

• Tim Foley 2:30 PM

• Mia AA #4... 12:30 PM

• Warga Xmas... 6 PM

• Candlelight... 4:30 PM

16

17

18

19

20

21

22

• Bob O Breakfast 5 AM

Straubel

• Bear's Game Noon

HOLIDAY INN-5

Swap '07 Lexus ti...

HILTON-21

• NSCDS out Noon

• Drive to Appl... 6 AM

• Bretting mtg 9 AM

• Infinity Machi... 9 AM

• Dodi Xma... 11:30 AM

• JPMorgan Ch... 9 AM

• Nosh/Hart... 3:30 PM

• Drive home 2 PM

• Debutante Ball 6 PM

2 more...

23

24

25

26

27

28

29

• Family Candle... 5 PM

• DiMatteo's 5 PM

CHRISTMAS DAY

EMBASSY SUITES-22

Christmas Break

Today

Calendars

Inbox

Bedford 0087

EXHIBIT

3