

FILED
08-21-2023
Clerk of Circuit Court
Brown County, WI
2023CV000652

STATE OF WISCONSIN CIRCUIT COURT BROWN COUNTY

GREAT LAKES TISSUE GROUP, LLC
Plaintiff,
v.

Case No.: 23-CV-652
Case Codes: 30303, 30304

PATRIOT ADVANCED ENVIRONMENTAL
TECHNOLOGIES, LLC and 4 R PLANET, LLC
Defendants.

PLAINTIFF'S REPLY TO DEFENDANTS' COUNTERCLAIMS

Great Lakes Tissue Group, LLC ("GLTG"), by and through its attorneys, von Briesen & Roper, s.c., for its Reply to Defendants' Counterclaims, states as follows:

COUNTERCLAIM

1. PAET Re-alleges [sic] its responses to the Plaintiffs' complaint as set forth herein.

ANSWER: Plaintiff realleges the allegations in its complaint.

2. GLTC operated in a paper mill (the "Mill") located in Cheboygan, Michigan.

ANSWER: Plaintiff admits the allegations in paragraph 2.

3. The Mill currently employs over three dozen workers with plans to expand and hire up to 400 workers within the next few years.

ANSWER: Plaintiff lacks knowledge or sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 3, and therefore, denies.

4. In March of 2022, GLTC was sold to GLTG.

ANSWER: Plaintiff admits the allegations in paragraph 4 and states that the terms of such sale are subject to a written agreement, the terms of which speak for themselves, and the effect and interpretation of which is a matter for the court or finder of fact.

5. Kip Boie was and remains the majority member of GLTG.

ANSWER: Plaintiff denies the allegations in paragraph 5.

6. In January of 2023, GLTG sold the stock of GLTC to PAET.

ANSWER: Plaintiff admits the allegations in paragraph 6.

7. Since taking over GLTC, the new ownership group has discovered an elaborate scheme of self-dealing and embezzlement perpetrated against GLTC by Boie and GLTG.

ANSWER: Plaintiff denies the allegations in paragraph 7.

8. After buying GLTC but before selling it to PAET, Boie and GLTG attempted to secretly sell off all of GLTC's assets (including the subject equipment as well as future receivables).

ANSWER: Plaintiff denies the allegations in paragraph 8.

9. To accomplish this, Boie set up two undisclosed bank accounts in the name of GLTC in an apparent effort to keep his fraudulent sales "off the books."

ANSWER: Plaintiff denies the allegations in paragraph 9.

10. Defendants realized several million dollars off the "sales" of GTLC's [sic] equipment and future receivables.

ANSWER: Plaintiff admits the Defendants realized several million dollars from sales of GLTC's equipment and future receivables.

11. Boie, through GLTG, then unlawfully transferred, at least hundreds of thousands of dollars to himself individually or to entities own [sic] or controlled by Boie or his conspiring business partners.

ANSWER: Plaintiff denies the allegations in paragraph 11.

12. Boie oversaw the transfer of over \$140,000 an entity called “Trout Lake Enterprises, LLC.” [sic]

ANSWER: Plaintiff denies the allegations in paragraph 12.

13. Upon information and belief, Boie is the sole member of Trout Lake Enterprises, LLC.

ANSWER: Plaintiff admits the allegations in paragraph 13.

14. Trout Lake Enterprises, LLC gave no value to GTLC [sic] in return.

ANSWER: Plaintiff lacks knowledge or sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 14, and therefore, denies.

15. Boie also transferred at least \$380,000 to an entity named the Rose Star Group, LLC.

ANSWER: Plaintiff denies the allegations in paragraph 15.

16. The Rose Star Group, LLC is an entity own [sic] or controlled by the romantic a [sic] partner of one of Boie’s business partners.

ANSWER: Plaintiff denies the allegations in paragraph 16.

17. Boie and GLTG sold the stock of GLTC to the PAET without disclosing GLTG had “sold” GLTC’s equipment and future receivables.

ANSWER: Plaintiff denies the allegations in paragraph 17.

18. Boie then emptied the bank account at Citizen's National Bank on January 13th, 2023, the day all the agreement/closing documents were signed by both Boie and the new ownership group.

ANSWER: Plaintiff denies the allegations in paragraph 18.

19. The check, that depleted the bank account's balance, was writing [sic] out to his own company, Trout Lake Enterprises, LLC.

ANSWER: Plaintiff denies the allegations in paragraph 19.

20. Boie would not let the new ownership group take possession, let alone step foot in the mill, until the funds from the purchase of GLTC were fully available the following week.

ANSWER: Plaintiff denies the allegations in paragraph 20.

21. Boie did not disclose the self-dealing transactions described above to the disinterested shareholders of GLTC to obtain authority for his purported sales.

ANSWER: Plaintiff denies the existence of any alleged "self-dealing transactions" and further denies that Boie had any obligation to obtain authority for an alleged "self-dealing transaction" that did not occur.

22. As a result of Counterclaim Defendants' wrongful and deceitful acts, PAET has been denied the value of its bargain.

ANSWER: Plaintiff denies the allegations in paragraph 22.

23. As a result of Counterclaim Defendants' wrongful and deceitful acts, PAET has lost significant revenue.

ANSWER: Plaintiff denies the allegations in paragraph 23.

24. Counterclaim Defendants' wrongful and deceitful acts have also damaged PAET relationships with customers, financiers, municipalities, and suppliers.

ANSWER: Plaintiff denies the allegations in paragraph 24.

COUNT I: BREACH OF CONTRACT (GLTG)

25. PAET realleges Paragraphs 1-24 as if full [sic] set forth herein.

ANSWER: Plaintiff incorporates by reference its answers to the proceeding paragraphs as if fully set forth herein.

26. GLTG agreed to deliver to PAET GLTC's stock which the parties understood to be a viable paper manufacturing company.

ANSWER: Plaintiff admits the parties agreed to a delivery of stock subject to a written agreement, the terms of which speak for themselves, and the effect and interpretation of which is a matter for the court or finder of fact and lacks knowledge or sufficient information to form a belief as to the truth or falsity of the remaining allegations in paragraph 26, and therefore, denies.

27. The GLTC stock that PAET actually delivered was not as agreed upon.

ANSWER: Plaintiff lacks knowledge or sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 27 as it has no knowledge of the GLTC stock allegedly delivered by PAET or to whom PAET allegedly delivered the GLTC stock, and therefore, denies.

28. GLTG did not deliver the stock of a viable paper manufacturing company.

ANSWER: Plaintiff denies the allegations in paragraph 28.

29. The company that GLTG delivered to PAET was worth significantly less than the company offered for sale.

ANSWER: Plaintiff denies the allegations in paragraph 29.

30. PAET paid consideration.

ANSWER: Plaintiff lacks knowledge or sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 30, and therefore, denies.

31. As a consequence of GLTC's breach, PAET has been damaged in an amount to be determined at trial.

ANSWER: Plaintiff denies the allegations in paragraph 31.

COUNT II: CONVERSION (GLTG)

32. PAET realleges Paragraphs 1-31 as if full [sic] set forth herein.

ANSWER: Plaintiff incorporates by reference its answers to the proceeding paragraphs as if fully set forth herein.

33. GLTG exercises control and dominion over GLTC's assets without permission or lawful justification.

ANSWER: Plaintiff denies the allegations in paragraph 33.

34. GLTG wrongfully exercised control or dominion over another GLTC's property, thereby interfering with PAET's possessory rights.

ANSWER: Plaintiff denies the allegations in paragraph 34.

35. GLTG Defendants has [sic] refused to return PAET's property.

ANSWER: Plaintiff denies the allegations in paragraph 35.

36. By wrongfully taking possession and control of PAET's property and refusing to return it, the GLTG has deprived PAET of its use, enjoyment, and rightful ownership.

ANSWER: Plaintiff denies the allegations in paragraph 36.

37. Such actions by the GLTC constitute conversion.

ANSWER: Plaintiff denies the allegations in paragraph 37.

38. As a consequence of GLTG conversions, PAET has been damaged in [???} an amount to be determined at trial.

ANSWER: Plaintiff denies the allegations in paragraph 38.

COUNT III: UNJUST ENRICHMENT

39. PAET repeats and realleges each and every allegation contained in paragraphs 1 through 38.

ANSWER: Plaintiff incorporates by reference its answers to the proceeding paragraphs as if fully set forth herein.

40. GLTG has been unjustly enriched in that they each received the proceeds of the unauthorized transactions described herein.

ANSWER: Plaintiff denies the allegations in paragraph 40.

41. GLTG acknowledged and appreciated the benefits of the unauthorized transactions.

ANSWER: Plaintiff denies the allegations in paragraph 41.

42. There is no valid legal basis for GLTG to retain the benefits of their unauthorized transactions.

ANSWER: Plaintiff states that the allegations in paragraph 42 call for legal conclusions, and that no response is required. To the extent a response is required, Plaintiff denies.

AFFIRMATIVE DEFENSES

AS FOR ITS AFFIRMATIVE DEFENSES, Plaintiff alleges and states as follows:

1. The Counterclaim fails to allege facts sufficient to state a claim upon which relief can be granted against Plaintiff.

2. The Counterclaim is barred, in whole or in part, by the Defendant's prior material breach of contract.

3. The relief requested in the Counterclaim is barred, in whole or in part, by the doctrine of estoppel.

4. The relief requested in the Counterclaim is barred, in whole or in part, by the doctrine of waiver.

5. The relief requested in the Counterclaim is barred, in whole or in part, by the doctrine of laches.

6. The relief requested in the Counterclaim is barred, in whole or in part, by the doctrine of unclean hands.

7. The relief requested in the Counterclaim is barred, in whole or in part, by the failure to mitigate damages.

8. The relief requested in the Counterclaim is barred, in whole or in part, because the alleged damages sought are too speculative and remote, and because of the impossibility of the ascertainment and allocation of such alleged damages.

9. The Counterclaim is barred, in whole or in part, because Plaintiff acted in good faith.

10. The Counterclaim is barred, in whole or in part, because Defendants would be unjustly enriched if they were allowed to recover any part of the damages alleged in the Counterclaim.

11. The Counterclaim is barred, in whole or in part, based on election of remedies because the Counterclaim seeks inconsistent forms of relief.

12. For purposes of preservation, those affirmative defenses set forth in Wis. Stats. §§802.03(3) and 802.06(2) are incorporated herein by reference.

13. Plaintiff expressly reserves the right to assert additional affirmative defenses as said defenses become known through discovery or otherwise.

WHEREFORE, having fully answered all of the allegations of the Counterclaim to which any answer is required, Plaintiff demands judgment as follows:

- A. That the Counterclaim be dismissed with prejudice;
- B. That judgment be entered in favor of Plaintiff and against Defendants;
- C. For such other and further relief as this Court deems just and proper.

Dated August 21, 2023

VON BRIESEN & ROPER, S.C.

By: Electronically Signed by Christopher T. Koehnke

Christopher T. Koehnke, SBN 1076031

Mark E. Schmidt, SBN 1052450

von BRIESEN & ROPER, s.c.

411 East Wisconsin Avenue, Suite 1000

Milwaukee, Wisconsin 53202

Telephone: (414) 287-1534

Facsimile: (414) 238-6665

E-mail:

christopher.koehnke@vonbriesen.com

mark.schmidt@vonbriesen.com

Attorneys for Plaintiff