

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

FORSYTH COUNTY

16 CVS 4393

GREGORY LAU and VENT TECH  
CORPORATION,

Plaintiffs,

vs.

DOUGLAS CONSTABLE, ROBERT  
MARTIN, TIFFANY WILLARD, and  
JENNIFER CONSTABLE,

Defendants.

**AMENDED COMPLAINT**

Plaintiffs Gregory Lau (“Lau”) and Vent Tech Corporation (the “Company” or “Vent Tech Corp.”) (collectively the “Plaintiffs”), complaining of Defendants Douglas Constable (“Constable”), Robert Martin (“Martin”), Tiffany Willard (“Willard”), and Jennifer Constable (“Mrs. Constable”) (collectively the “Defendants”), allege and state as follows:

**NATURE OF THE ACTION**

1. This case involves a far-reaching, long-spanning scheme relative to the misuse and outright theft of millions of dollars from a closely-held business, Vent Tech Corporation, and its majority shareholder, Lau.

2. In an attempt to conceal rampant wrongdoing, Defendant Constable, an officer and former shareholder of the Company, falsified and manipulated Company records and diverted Plaintiffs’ funds through a series of unrelated entities and accounts that Defendant Constable directed and controlled – all without the knowledge or involvement of Plaintiffs.

Defendants used the funds for their personal benefit. Indeed, Defendant Constable alone spent millions of Plaintiffs' dollars on such personal niceties as: sports memorabilia; vacations for himself, his friends, and his family; expensive jewelry and firearms; private jets; and improvements to Defendant Constable and Defendant Mrs. Constable's multi-million dollar Windsor Drive home in Winston-Salem, North Carolina.

3. At the same time Defendant Constable was living large on Plaintiffs' money, Defendant Constable and Defendant Martin were telling Lau, who was managing manufacturing operations in China, that the Company, based in Mocksville, North Carolina, could barely pay its bills. Indeed, Defendant Constable and Defendant Martin – at the same time millions of dollars were being pillaged from Company coffers and from Lau individually – insisted that Lau cut costs in China and forego taking distributions himself from the Company in which he was a majority shareholder. Contrary to Defendant Constable's and Defendant Martin's representations, the Company was not on hard times at all – instead, the Company was a thriving enterprise, which Defendant Constable was abusing his position, experience, and relationship with Lau to turn into Defendant Constable's own personal piggy bank.

4. As a result of the Company's falsely alleged dire financial condition, Lau was led to believe that he had no choice but to sell the Company. That sale, in December 2012, however, was based upon the fraudulent books Defendant Constable created to conceal his misdeeds. Those cooked books led to the Company being sold at a price far below what it would have sold for had proper – and truthful – records been maintained. As such, not only did Defendant Constable and others steal from Lau and the Company during the Company's operations, that conduct, and efforts to conceal it, caused the Company to sell for a greatly diminished price.

5. As if stealing millions of dollars and grossly devaluing the Company in order to cover up his brazen acts was not enough, following the December 31, 2012 sale of the Company, hundreds of thousands of dollars in funds remained in escrow for the benefit of Lau; unsatisfied, but undeterred, Defendant Constable utilized those funds – and the Company credit card – to continue funding his lavish lifestyle, even after he no longer worked for Lau or for the Company.

6. Plaintiffs file this action for the purpose of holding Defendant Constable and the other Defendants accountable for their misappropriation of millions of dollars that rightly belong to the Company and to Lau.

#### **PARTIES, JURISDICTION, AND VENUE**

7. Lau is a United States citizen. During all relevant time periods, Lau spent substantial portions of his time in China performing work related to the Company's operations. Lau is and, at all relevant times, has been the majority shareholder of the Company.

8. The Company is a closely-held entity duly organized and existing under the laws of the State of North Carolina. The Company previously operated under the name Ventlab Corporation.

9. Defendant Constable is a citizen and resident of Forsyth County, North Carolina. Defendant Constable is a long-time corporate executive in the medical devices business and has a background in financial reporting, including, upon information and belief, undergraduate and graduate degrees in accounting. During all relevant time periods, Defendant Constable served as the Company's Vice President and Chief Financial Officer and was a minority shareholder in the Company from 2009 through 2012.

10. Upon information and belief, Defendant Robert Martin is a citizen and resident of Carteret County, North Carolina. Like Defendant Constable, Defendant Martin has an extensive business background, including in the medical devices business. During all relevant time periods, Defendant Martin served as the Company's President and was a minority shareholder in the Company prior to October 2009. Upon information and belief, Defendant Martin regularly interacted with Defendant Constable relative to the Company's management and operations and was regularly in close proximity to Defendant Constable by virtue of the location of their offices.

11. Upon information and belief, Defendant Tiffany Willard is a citizen and resident of Forsyth County, North Carolina. During relevant time periods, Willard was, on information and belief, employed as Defendant Constable's administrative assistant.

12. Defendant Mrs. Constable is a citizen and resident of Forsyth County, North Carolina. Mrs. Constable is Defendant Constable's wife, and has been at all times herein alleged. Mrs. Constable benefited from the conduct of her husband as alleged herein and, upon information and belief, was aware of and complicit in such conduct.

13. Venue and jurisdiction are proper in this court.

14. A tolling agreement was entered into between Lau, Defendant Constable, and Defendant Martin, in their individual capacities and to the extent they were owners, officers, or managers of the Company with the authority to bind the Company, which tolled the running of statutes of limitation on claims between the Parties as of December 28, 2015 until July 21, 2016. This action is filed with the applicable statutes of limitations and repose.

## **FACTUAL ALLEGATIONS**

### **COMPANY BACKGROUND**

15. In or around 1987, Lau founded the Company, which was moved to Mocksville, North Carolina in or around 1998, originally under the name Ventlab Corporation. The Company's purpose was to carry out a business in the design, manufacture and sale of medical devices – many of which were manufactured in China and then shipped to the Company's Mocksville, North Carolina plant for assembly.

16. After its move to North Carolina, the Company operated from a facility located at 155 Boyce Drive in Mocksville, North Carolina (the "Facility Property") until on or around December 31, 2012.

17. Ventlab Holdings, LLC ("Ventlab Holdings") owned the Facility Property during all relevant times and until its sale in May 2013.

18. Ventlab Holdings is a limited liability company duly organized and registered under North Carolina law. Lau, Defendant Constable, and Defendant Martin jointly owned Ventlab Holdings until on or about December 31, 2012. During all relevant times, Defendant Constable and Defendant Martin managed all of the financial and operational affairs of Ventlab Holdings and had access to all of the corporate and financial records of the Company.

19. During all relevant times, Ventlab Holdings leased the Facility Property to the Company. The only legitimate payments the Company should have made to Ventlab Holdings arose out of the Company's lease of the Facility Property.

THE ROLES & RELATIONSHIPS OF LAU, CONSTABLE, AND MARTIN

20. Up until the assets of the Company were sold on or about December 31, 2012, Lau was the majority shareholder of the Company.

21. Defendant Constable, during all relevant time periods prior to December 31, 2012, was a minority shareholder in the Company.

22. Defendant Martin was a minority shareholder in the Company until at least 2009, and remained employed by the Company and on the Company's payroll through 2012.

23. After on or about December 31, 2012, Lau was the 100% owner of the Company.

24. Lau, Defendant Martin, and Defendant Constable were also each officers of the Company at relevant periods alleged herein. Lau served as Chief Executive Officer; Defendant Constable served as Vice President and Chief Financial Officer; and Defendant Martin served as President.

25. In his role as President, Defendant Martin had ultimate responsibility for all aspects of the Company business, including sales, marketing, accounting, and record keeping. In addition, Lau entrusted Defendant Martin, as President, with oversight of the Company's executives and employees, including Defendant Constable, Defendant Willard, and others. In sum, Defendant Martin was fully and finally responsible for the Company's global operations based out of the United States.

26. In his role as Vice President and Chief Financial Officer, Defendant Constable was responsible for management, sales, accounting, and record keeping of the Company. Furthermore, Defendant Constable was in charge of *all* financial affairs of the Company. Defendant Constable was intimately familiar with and directed control over Company purchases,

hiring, firing, investments, sourcing, sales, procurement, check writing, credit card purchases and expenses, external auditing protocols, recordkeeping, regulatory compliance, internal financial controls, tax returns, and the Company's daily – and long term – financial reporting. In addition, Defendant Constable's responsibilities included maintaining, either himself or through his direction of others, the Company's general ledger, journal entries, QuickBooks, banking and credit information, profit and loss statements and various and sundry financial reports. In short, Defendant Constable had absolute reign over the Company's operations and finances. Indeed, though Defendant Martin was the President of the Company, on information and belief, the Company was actually being run – and pillaged – by Defendant Constable with little to no oversight by Defendant Martin.

27. Though given the title as the Company's Chief Executive Officer, Lau had virtually no role in the Company's United States operations. Instead, Lau spent nearly all of his time in China, managing the overseas manufacturing aspects of the Company's operations. That process required all of Lau's professional time and energy. Defendant Constable and Defendant Martin were acutely aware of Lau's geographic distance and the considerable attention the Chinese manufacturing operation required. As a result of Lau's distance from the United States and his role in China, Lau entrusted Defendant Constable and Defendant Martin with competently and honestly managing operations in the United States while Lau managed, coordinated, and directed large scale production in China in order to meet the Company's manufacturing needs in the United States. In fact, on more than one occasion, Defendant Martin specifically told Lau that Defendant Martin would himself be responsible for operations in the United States and for keeping an eye on Defendant Constable so that Lau could focus on the

overseas production. Defendant Constable repeatedly made similar assurances to Lau regarding Defendant Constable's role in the United States. Lau did not know, and could not have known, that at the same time that Defendant Constable and Defendant Martin assured Lau that things were under control in the United States, millions of dollars were being stolen from Lau and the Company.

28. In addition to spending the vast majority of his time in China managing the Company's manufacturing operations, Lau, a respiratory therapist by training, was not knowledgeable or experienced in the financial aspects of the Company's business or the specific record keeping and/or operations of the Company in the United States. Indeed, Defendant Martin and Defendant Constable were hired for this purpose, were entrusted by Lau with responsibility for these matters in the United States, and had complete and unfettered access to the Company's books and records.

29. The reasons Lau put such trust in Defendant Constable and Defendant Martin included Lau's relative lack of experience in the industry, his lack of expertise with respect to financial accounting and operations, Martin's and Constable's extensive business and accounting background, Lau's geographic remoteness, and his focus on attempting to minimize costs in China – at the request of Martin and Constable. Though Lau periodically requested financial information from Constable and Martin – which was at times provided – Lau did not know, and could not have known, that the information being provided was, simply put, a meticulously constructed lie.

30. In combination with their superior backgrounds and experience in business, financing, and accounting, Lau's distance from the United States operations, and Lau's focus on

the Chinese operation, Defendant Constable's and Defendant Martin's control of and responsibility for the operation and management of the Company in the United States provided them with the opportunity and ability to take advantage of Lau and the Company, which opportunity they seized.

31. In addition to managing the Company, Lau even entrusted Defendant Constable with managing Lau's personal interests in the United States while he ran the Company's operations in China. Indeed, at Defendant Constable's request, Lau provided Defendant Constable with access to Lau's personal bank account. Lau later learned that Defendant Constable had abused his access to that account by, *inter alia*, misappropriating Lau's personal funds.

#### THE COMPANY IS SOLD

32. On or around December 31, 2012, certain assets of the Company were sold to a third-party purchaser.

33. After December 31, 2012, Lau was the sole remaining shareholder of the Company, while Defendant Constable remained employed by the purchaser, and maintained access to funds belonging to Lau and to the Company credit card.

34. On or about May 10, 2013, the Facility Property was sold to the same third-party purchaser.

35. In or around late 2013, representatives of the purchaser alerted Lau to financial irregularities in the books of the Company, and advised Lau that the purchaser believed Defendant Constable was responsible for the irregularities in the books and records of the Company. This notice caused Lau serious concern and came as a complete shock to him. Lau

could not in the exercise of reasonable diligence have known or discovered the irregularities in such books, or the real truth relative to the Company's operations, prior to such notice due to the extensive means through which Defendants sought to conceal their misdeeds.

36. After this notice in or around late 2013, Lau conducted an investigation into the books and records of the Company and discovered significant financial irregularities and misuse of Company funds by Defendants over a period of years.

CONSTABLE'S SCHEME TO STEAL MILLIONS FROM THE COMPANY AND LAU

37. Beginning at least as early as 2008 and continuing into 2013, Defendant Constable defrauded and stole millions of dollars from the Company and Lau.

38. Defendant Constable's scheme took various forms, including but not limited to: (1) intentionally creating fake entries in the Company's general ledger purporting to show payments to a company called "Amerasia," when, in fact, Defendant Constable was paying such funds to himself or entities he controls or directs ("Fake Amerasia Entries"); (2) improperly directing payments to Ventlab Holdings which were in turn directed elsewhere for Defendant Constable's benefit ("Improper Ventlab Holdings Payments"); (3) the outright theft of funds from Lau's personal bank account ("Direct Theft from Lau"); (4) improperly directing payments from the Company's accounts to accounts controlled by Defendant Constable or for Defendant Constable's benefit; and (5) the personal use of Company credit cards to fund a lavish lifestyle for Defendant Constable personally and his friends and family members, and then causing the Company to pay those credit card bills ("Misuse of Company Credit Cards").

CONSTABLE'S SCHEME: FAKE AMERASIA ENTRIES

39. The Fake Amerasia Entries began at least as early as 2008 and continued through in or around 2012. By way of example, although this list is not exhaustive, the following transactions were recorded in the Company's general ledger as payments to Amerasia, but were in fact wrongfully directed to an account in the United States controlled by Defendant Constable or others in concert with him:

- a. On or about February 1, 2010, three payments in the total amount of \$50,000.00 were listed as payments to Amerasia but were instead wrongfully directed to an account in the United States controlled by Defendant Constable.
- b. On or about March 3, 2010, a payment in the amount of \$170,000.00 was listed as a payment to Amerasia but was instead wrongfully directed to an account in the United States controlled by Defendant Constable.
- c. On or about March 9, 2010, a payment in the amount of \$120,000.00 was listed as a payment to Amerasia but was instead wrongfully directed to an account in the United States controlled by Defendant Constable.
- d. On or about January 2, 2011, a payment in the amount of \$100,000.00 was listed as a payment to Amerasia but was instead wrongfully directed to an account in the United States controlled by Defendant Constable.

40. Defendant Constable paid these funds to himself in part as shareholder distributions to which he was not entitled.

41. Lau was not aware of these improper distributions, did not consent to these improper distributions, and received no benefit from these improper distributions.

42. Stated another way, Defendant Constable falsified the Company's books by creating "fake" payments to Amerasia, when, in reality, such payments were being made to Defendant Constable directly.

43. Upon information and belief, Defendant Constable falsified or misrepresented additional entries in the Company's books to conceal his misappropriation of the Company's funds.

CONSTABLE'S SCHEME: IMPROPER VENTLAB HOLDINGS PAYMENTS

44. To further his scheme, and in furtherance of his theft from Lau and the Company, Defendant Constable inappropriately exercised control over Ventlab Holdings – a single purpose entity that owned the real estate where the Company operated. To wit, the only appropriate payments by the Company to Ventlab Holdings were monthly lease payments arising out of Company's lease of the Facility Property from Ventlab Holdings.

45. From at least as early as in or around 2008 to in or around 2012 Defendant Constable inappropriately diverted the Company's money into Ventlab Holdings and then took the funds from Ventlab Holdings for himself.

46. During the period from 2008 to 2012, at least approximately \$6.7 million of Company money was transferred to Ventlab Holdings by Defendant Constable.

47. During the period from 2008 to 2012, only approximately \$1.5 million of Company money should have been transferred to Ventlab Holdings for monthly lease payments.

48. During the period from 2008 to 2012, approximately \$5.2 million of Company money was inappropriately transferred to Ventlab Holdings by Defendant Constable, which funds were then taken by or for the benefit of the Defendants.

49. By way of example, although this list is not exhaustive, Defendant Constable inappropriately caused the following funds to be diverted into accounts held in the name of Ventlab Holdings:

- a. On or about January 27, 2009, a check made payable to the Company in the amount of \$40,347.00 was inappropriately diverted to a Ventlab Holdings account.
- b. On or about February 17, 2009, a check made payable to the Company in the amount of \$145,000.00 was inappropriately diverted to a Ventlab Holdings account.
- c. On or about March 3, 2009, a check made payable to the Company in the amount of \$24,834.60 was inappropriately diverted to a Ventlab Holdings account.
- d. On or about April 14, 2009, a check made payable to the Company in the amount of \$39,177.00 was inappropriately diverted to a Ventlab Holdings account.
- e. On or about April 17, 2009, a check made payable to the Company in the amount of \$135,000.00 was inappropriately diverted to a Ventlab Holdings account.

- f. On or about July 7, 2009, a check made payable to the Company in the amount of \$92,730.10 was inappropriately diverted to a Ventlab Holdings account.
- g. On or about July 24, 2009, two checks made payable to the Company in the amounts of \$25,898.60 and \$19,968.00 were inappropriately diverted to a Ventlab Holdings account.
- h. On or about August 21, 2009, a check made payable to the Company in the amount of \$185,000.00 was inappropriately diverted to a Ventlab Holdings account.
- i. On or about October 19, 2009, a check made payable to the Company in the amount of \$205,000.00 was inappropriately diverted to a Ventlab Holdings account.
- j. On or about December 18, 2009, a check made payable to the Company in the amount of \$105,000.00 was inappropriately diverted to a Ventlab Holdings account.
- k. On or about December 27, 2010, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$41,331.67 was inappropriately diverted to a Ventlab Holdings account.
- l. On or about February 10, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the

Company in the amount of \$28,127.92 was inappropriately diverted to a Ventlab Holdings account.

- m. On or about April 4, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$38,399.01 was inappropriately diverted to a Ventlab Holdings account.
- n. On or about May 5, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$21,914.02 was inappropriately diverted to a Ventlab Holdings account.
- o. On or about June 6, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$39,291.99 was inappropriately diverted to a Ventlab Holdings account.
- p. On or about July 11, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$33,940.96 was inappropriately diverted to a Ventlab Holdings account.
- q. On or about July 14, 2011, a North Carolina state corporate income tax refund check issued to the Company in the amount of \$8,004.70 was inappropriately diverted to a Ventlab Holdings account.

- r. On or about August 4, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$27,220.25 was inappropriately diverted to a Ventlab Holdings account.
- s. On or about August 9, 2011, two checks made payable to Momentum Auto Sales, a company controlled by Defendant Constable, in the amounts of \$22,110.00 and \$10,200.00 were inappropriately diverted to a Ventlab Holdings account.
- t. On or about September 6, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$28,494.77 was inappropriately diverted to a Ventlab Holdings account.
- u. On or about September 30, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$17,737.31 was inappropriately diverted to a Ventlab Holdings account.
- v. On or about November 4, 2011, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$30,897.41 was inappropriately diverted to a Ventlab Holdings account.
- w. On or about March 26, 2012, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company

in the amount of \$32,576.12 was inappropriately diverted to a Ventlab Holdings account.

- x. On or about April 30, 2012, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$30,094.13 was inappropriately diverted to a Ventlab Holdings account.
- y. On or about May 21, 2012, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$30,500.38 was inappropriately diverted to a Ventlab Holdings account.
- z. On or about June 25, 2012, two settlement payments by American Express for improper overpayment of credit cards previously paid by the Company in the amounts of \$26,611.68 and \$73,207.35 were inappropriately diverted to a Ventlab Holdings account.
- aa. On or about July 6, 2012, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$20,635.72 was inappropriately diverted to a Ventlab Holdings account.
- bb. On or about July 16, 2012, a settlement payment by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$19,805.24 was inappropriately diverted to a Ventlab Holdings account.

- cc. On or about November 13, 2012, two settlement payments by American Express for improper overpayment of credit cards previously paid by the Company in the amount of \$6,857.70 and \$13,006.61 were inappropriately diverted to a Ventlab Holdings account.

50. Defendant Constable then took the money which had originally been diverted out of the Company and into Ventlab Holdings and further directed the money either to himself or for his own benefit. By way of example, although this list is not exhaustive, the following transfers represent money taken from the Company, moved through Ventlab Holdings, and then paid either to Defendant Constable or for Defendant Constable's benefit:

- a. On or about January 21, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$50,000.00.
- b. On or about March 4, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$30,000.00.
- c. On or about March 30, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$40,000.00.
- d. On or about April 15, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$43,000.00

- e. On or about April 29, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$135,000.00.
- f. On or about June 5, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- g. On or about June 23, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$165,000.00.
- h. On or about June 29, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$135,000.00.
- i. On or about July 12, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$55,000.00.
- j. On or about July 27, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$85,000.00.
- k. On or about August 14, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$20,000.00.

- l. On or about August 27, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$50,000.00.
- m. On or about September 2, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$45,000.00.
- n. On or about October 22, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$11,000.00.
- o. On or about November 20, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$29,000.00.
- p. On or about November 27, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$10,000.00.
- q. On or about December 28, 2009, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$85,000.00.
- r. On or about January 12, 2010, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$14,000.00.

- s. On or about March 10, 2010, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$70,000.00.
- t. On or about May 5, 2010, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- u. On or about July 14, 2010, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$10,000.00.
- v. On or about October 5, 2010, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$10,000.00.
- w. On or about November 10, 2010, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$22,000.00.
- x. On or about December 27, 2010, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$40,000.00.
- y. On or about January 24, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$35,000.00.

- z. On or about January 27, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- aa. On or about February 11, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$37,000.00.
- bb. On or about February 18, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$25,000.00.
- cc. On or about March 7, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$62,250.00.
- dd. On or about April 11, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$49,000.00.
- ee. On or about May 6, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$27,500.00.
- ff. On or about June 8, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$30,000.00.

- gg. On or about June 10, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$52,500.00.
- hh. On or about July 1, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$45,000.00.
- ii. On or about July 14, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$34,000.00.
- jj. On or about August 5, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$43,000.00.
- kk. On or about August 19, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$33,000.00.
- ll. On or about September 6, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$34,000.00.
- mm. On or about October 18, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$75,000.00.

- nn. On or about November 9, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$40,000.00.
- oo. On or about December 20, 2011, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$26,000.00.
- pp. On or about January 3, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$60,000.00.
- qq. On or about February 21, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$52,500.00.
- rr. On or about March 26, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$40,000.00.
- ss. On or about April 30, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$45,000.00.
- tt. On or about May 14, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$110,000.00.

- uu. On or about May 29, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$25,000.00.
- vv. On or about June 25, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$105,000.00.
- ww. On or about July 3, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$36,000.00.
- xx. On or about July 18, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$22,000.00.
- yy. On or about September 6, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$10,000.00.
- zz. On or about October 1, 2012, a payment was made from a Ventlab Holdings account to an account controlled, upon information and belief, by Defendant Constable in the amount of \$59,000.00.

47. Lau was not aware of these improper payments, did not consent to these improper payments, and received no benefit from these improper payments.

48. Upon information and belief, Defendant Constable falsified or misrepresented additional entries in the Company's books, or took other improper actions to conceal his misappropriation of the Company's funds.

CONSTABLE'S SCHEME: PERSONAL USE OF COMPANY CREDIT CARD

49. Defendant Constable also inappropriately used an American Express credit card issued to the Company for personal expenses for himself, his family, other business entities in which he held a membership interest or with which he was otherwise affiliated, and others.

50. By way of example, although this list is not exhaustive, the following personal transactions were made by Defendant Constable using an American Express credit card issued to the Company:

- a. On or about June 19, 2010, Defendant Constable caused a payment to be made to Neiman Marcus in Tampa, Florida in the amount of \$6,198.00.
- b. On or about July 1, 2010, Defendant Constable caused a payment to be made to the Albergo Grand Hotel in Capri, Italy in the amount of \$6,584.25.
- c. On or about September 2, 2010, Defendant Constable caused a payment to be made to Kitchen Center of Winston-Salem in Winston-Salem, North Carolina in the amount of \$9,200.00.
- d. On or about April 5, 2011, Defendant Constable caused payments to be made for airfare to Nassau, Bahamas for Constable, Mrs. Constable, and others in the amount of \$1,317.60 per ticket.

- e. On or about April 5, 2011, Defendant Constable caused a payment to be made for a vacation rental in the Bahamas in the amount of \$6,908.00.
- f. On or about May 8, 2011, Defendant Constable caused a payment to be made to Billy Howell Ford in Cumming, Georgia in the amount of \$1,500.00.
- g. On or about June 21, 2011, Defendant Constable caused a payment to be made to the University of South Carolina in the amount of \$6,563.07.
- h. On or about July 6, 2011, Defendant Constable caused a payment to be made for sports tickets in Columbia, South Carolina in the amount of \$2,395.00.
- i. On or about July 22, 2011, Defendant Constable caused a payment to be made for sports tickets in Columbia, South Carolina in the amount of \$1,695.00.
- j. On or about October 25, 2011, Defendant Constable caused a payment to be made for a vacation to the Bahamas in the amount of \$13,189.00.
- k. On or about November 15, 2011, Defendant Constable caused a payment to be made to Windsor Jewelers in Winston-Salem, North Carolina in the amount of \$18,781.69.
- l. On or about December 20, 2011, Defendant Constable caused a payment to be made to Windsor Jewelers in Winston-Salem, North Carolina in the amount of \$3,677.54.

- m. On or about January 1, 2012, Defendant Constable caused a payment to be made to the Reef Atlantis hotel in Nassau, Bahamas, in the amount of \$5,645.50.
- n. On or about January 4, 2012, Defendant Constable caused a payment to be made to the University of South Carolina in the amount of \$13,672.47.
- o. On or about February 16, 2012, Defendant Constable caused a payment to be made to Steiner Sports Memorabilia in New Rochelle, New York in the amount of \$4,114.99.
- p. On or about March 3, 2012, Defendant Constable caused a payment to be made for a vacation to the Bahamas in the amount of \$9,882.24.
- q. From on or about March 13, 2012 to on or about March 21, 2012, Defendant Constable caused payments to be made for a trip to Nashville, Tennessee by Defendant Constable and Mrs. Constable, including for plane tickets, hotel, car rental, and shopping.
- r. On or about April 2, 2012, Defendant Constable caused a payment to be made for sports tickets in Columbia, South Carolina in the amount of \$3,177.00.
- s. From on or about September 22, 2012 to on or about September 25, 2012, Defendant Constable caused payments to be made for a variety of luxury goods in Las Vegas, Nevada, including payments to Chanel, Fendi, and Prada retailers, in addition to payments to the Bellagio Hotel and Casino.

- t. On or about October 13, 2012, Defendant Constable caused a payment to be made to Steiner Sports Memorabilia in New Rochelle, New York in the amount of \$3,159.95.
- u. On or about October 15, 2012, Defendant Constable caused a payment to be made to Windsor Jewelers in Winston-Salem, North Carolina in the amount of \$12,959.45.
- v. On or about December 21, 2012, Defendant Constable caused a payment to be made to Windsor Jewelers in Winston-Salem in the amount of \$7,440.47.
- w. On or about December 22, 2012, Defendant Constable caused a payment to be made to Best Firearms in Mocksville, North Carolina in the amount of \$4,273.21.
- x. On or about December 22, 2012, Defendant Constable caused a payment to be made to Hermes of Paris in Charlotte, North Carolina in the amount of \$7,410.99.

51. Lau was not aware of these improper payments, did not consent to these improper payments, and received no benefit from these improper payments.

52. Upon information and belief, Defendant Constable falsified or misrepresented additional entries in the Company's books, or took other improper actions to conceal his misappropriation of the Company's funds.

CONSTABLE'S SCHEME: DIRECT THEFT FROM THE COMPANY

53. Defendant Constable had access to and control over the Company's bank accounts.

54. From at least as early as in or around 2008 to in or around 2012 Defendant Constable inappropriately diverted funds out of the Company's bank accounts for his own benefit, his family's benefit, the benefit of other businesses in which he owned an interest or with which he was otherwise affiliated, and the benefit of others.

55. By way of example, although this list is not exhaustive, the following transactions represent funds diverted from the Company's bank accounts to Defendant Constable or for the benefit of Defendant Constable, his family, other businesses in which he owned an interest or with which he was otherwise affiliated, and/or others:

- a. On or about November 25, 2009, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$21,865.00.
- b. On or about December 30, 2009, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$45,000.00.
- c. On or about January 7, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$30,000.00.

- d. On or about February 4, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$20,000.00.
- e. On or about February 11, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$20,000.00.
- f. On or about February 12, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$10,000.00.
- g. On or about February 12, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$16,000.00.
- h. On or about March 18, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$50,000.00.
- i. On or about March 19, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$15,000.00.
- j. On or about April 27, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$23,908.86.

- k. On or about May 13, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$8,975.00.
- l. On or about May 25, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$20,000.00.
- m. On or about June 4, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$15,000.00.
- n. On or about June 4, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- o. On or about June 23, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- p. On or about June 30, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$15,000.00.
- q. On or about August 3, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$12,500.00.

- r. On or about August 12, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$15,000.00.
- s. On or about August 27, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$35,000.00.
- t. On or about August 30, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$10,180.00.
- u. On or about September 13, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$30,000.00.
- v. On or about September 17, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$60,000.00.
- w. On or about September 20, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$10,164.58.
- x. On or about October 7, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.

- y. On or about October 13, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$75,000.00.
- z. On or about October 18, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$17,500.00.
- aa. On or about October 19, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$6,750.00.
- bb. On or about October 29, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$20,000.00.
- cc. On or about November 12, 2010, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$5,886.00.
- dd. On or about January 12, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$14,869.50.
- ee. On or about January 31, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$15,943.00.

- ff. On or about February 25, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- gg. On or about March 2, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$75,000.00.
- hh. On or about March 9, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$35,000.00.
- ii. On or about March 16, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- jj. On or about April 6, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- kk. On or about April 13, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$65,000.00.
- ll. On or about June 10, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$30,000.00.

- mm. On or about June 13, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$27,000.00.
- nn. On or about June 22, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- oo. On or about June 29, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$50,000.00.
- pp. On or about July 28, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$30,000.00.
- qq. On or about August 15, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$45,000.00.
- rr. On or about August 23, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$40,000.00.
- ss. On or about August 24, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$40,000.00.

- tt. On or about August 25, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$32,751.00.
- uu. On or about September 6, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$20,500.00.
- vv. On or about September 13, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$50,000.00.
- ww. On or about September 29, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$50,000.00.
- xx. On or about October 6, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$50,000.00.
- yy. On or about October 19, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$50,000.00.
- zz. On or about October 31, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$30,000.00.

- aaa. On or about November 10, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- bbb. On or about December 20, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$10,000.00.
- ccc. On or about December 21, 2011, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$35,000.00.
- ddd. On or about February 24, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- eee. On or about March 2, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$25,000.00.
- fff. On or about March 30, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$54,000.00.
- ggg. On or about April 4, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$65,000.00.

- hhh. On or about April 5, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- iii. On or about April 13, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$45,000.00.
- jjj. On or about May 22, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$25,000.00.
- kkk. On or about June 20, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$40,000.00.
- lll. On or about July 18, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$25,000.00.
- mmm. On or about July 30, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$30,000.00.
- nnn. On or about July 30, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$15,000.00.

- ooo. On or about August 2, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$20,000.00.
- ppp. On or about October 10, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$35,000.00.
- qqq. On or about October 29, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$55,000.00.
- rrr. On or about November 1, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$10,000.00.
- sss. On or about November 27, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$25,000.00.
- ttt. On or about December 26, 2012, a payment was made from an account owned by the Company to an account controlled, upon information and belief, by Defendant Constable in the amount of \$25,000.00.

56. Lau was not aware of these improper payments, did not consent to these improper payments, and received no benefit from these improper payments.

57. Upon information and belief, Defendant Constable falsified or misrepresented additional entries in the Company's books, or took other improper actions to conceal his misappropriation of the Company's funds.

CONSTABLE'S SCHEME: DIRECT THEFT FROM LAU

58. Defendant Constable had access to Lau's personal bank accounts in the United States.

59. From at least as early as in or around 2010 through in or around 2011 Defendant Constable inappropriately diverted funds out of Lau's personal bank accounts in the United States for his own benefit, his family's benefit, the benefit of other businesses in which he owned an interest or with which he was otherwise affiliated and/or others.

60. By way of example, although this list is not exhaustive, the following transactions represent funds diverted from Lau's personal bank accounts to Defendant Constable or for the benefit of Defendant Constable, his family's benefit, the benefit of other businesses in which he owned an interest or with which he was otherwise affiliated, and/or others:

- a. On or about January 14, 2010, a payment was made from an account owned by Lau to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$26,000.00.
- b. On or about January 19, 2011, a payment was made from an account owned by Lau to an account controlled, upon information and belief, by Momentum Auto Sales in the amount of \$110,975.67.

- c. On or about September 26, 2011, a payment was made from an account owned by Lau to an account controlled, upon information and belief, by Defendant Constable in the amount of \$50,000.00.

61. Upon information and belief, the stolen and/or misappropriated funds described herein were used for the personal benefit of Defendant Constable, Defendant Mrs. Constable, and their family, including but not limited to by paying for landscaping at their residence, paying college tuition for their son, paying for family vacations, and paying for personal luxury items such as jewelry, sports memorabilia, and firearms.

62. Upon information and belief, Defendant Mrs. Constable was aware that Defendant Constable was wrongfully diverting funds from Lau and the Company to the benefit of Defendant Constable and Defendant Mrs. Constable.

63. Defendant Mrs. Constable received funds and/or the benefit of funds wrongfully taken from Lau and the Company including by receiving funds, jewelry, clothing, trips, and improvements to her personal residence.

64. Upon information and belief, Defendant Mrs. Constable was complicit in Defendant Constable's actions in wrongfully diverting funds from Lau and the Company to the benefit of Defendant Constable and Defendant Mrs. Constable.

65. Upon information and belief, Defendant Mrs. Constable wrongfully used the Company's credit cards without authorization.

66. As a result of the above described fraud, theft, and misappropriation of funds by Defendant Constable, millions of dollars were stolen from the Company and Lau, who was the majority owner of the Company.

67. Upon information and belief, Defendant Martin – the Company’s President, who interacted with Defendant Constable daily, who had an office next door to Defendant Constable, and who was specifically entrusted with overseeing Defendant Constable and the Company’s United States operations – was aware, or should have been aware, of the fact that Defendant Constable was stealing millions of dollars from the Company and Lau. Upon information and belief, Defendant Martin was either aware of or complicit in the scheme, turned a blind eye toward the scheme, or, through his own complete lack of oversight, failed to detect the scheme.

CONSTABLE DECREASES LAU’S SALARY WHILE INCREASING HIS OWN SALARY

68. In or around 2011, Defendant Constable told Lau that the Company was struggling to make ends meet.

69. In or around 2011, Defendant Constable requested that Lau contribute his own personal funds to finance the manufacturing aspects of the Company’s business.

70. In or around 2011, Defendant Constable convinced Lau that it was necessary to reduce his salary because of the dire financial condition of the Company.

71. In fact, in 2011, the Company was in excellent financial health.

72. In every year since at least 2008, Defendant Constable’s salary increased.

73. In every year since at least 2008, Defendant Martin’s salary increased.

74. In 2011, Lau’s salary was significantly decreased based on the aforementioned misrepresentations made to Lau by Constable.

75. In 2011, when Lau’s salary was significantly decreased, Defendant Constable and Defendant Martin increased their own salaries.

76. In 2011 and 2012, Lau, who was the 95% shareholder and CEO of the Company, was only the sixth highest paid employee of the Company.

77. In 2011 and 2012, Defendant Constable was the highest paid employee of the Company and Defendant Martin was the second highest paid employee of the Company.

CONSTABLE MANIPULATES BOOKS AND RECORDS OF THE COMPANY, DE-VALUING COMPANY

78. Defendant Constable maintained at least two separate sets of books for the Company's financial records for at least the years 2008 through 2012.

79. Defendant Constable used false and manipulated Company books and records to conceal the Company's profits, including by overstating expenses including but not limited to costs of goods sold and freight, and by understating the Company's revenue.

80. Defendant Constable's manipulation of the books and records of the Company was done to conceal Defendant Constable's fraud and theft from the Company.

81. As a result of Defendant Constable's manipulation of the books and records of the Company, the Company appeared less profitable than it really was.

82. As a result of Defendant Constable's manipulation of the books and records of the Company, the Company was actually devalued.

83. As a result of Defendant Constable's manipulation of the books and records of the Company, the Company ultimately sold at a significantly lower price than it would have but for the manipulated records.

84. The Company sold for a significantly smaller multiple of its earnings than is typical for profitable companies in the medical device industry.

85. As a result of Defendant Constable's manipulation of the books and records of the Company and the Company's reduced sale price, Lau's earning and profits from the sale of the Company, of which he was the majority owner, were reduced.

DEFENDANTS' CONTINUED THEFT AND MISAPPROPRIATION OF FUNDS AFTER SALE OF ASSETS

86. After the sale of certain of the Company's assets in or around December of 2012, the Company was no longer conducting business operations and Defendant Constable had no legitimate reason to use the Company credit card.

87. After the sale of certain of the Company's assets in or around December of 2012 and continuing through 2013, Defendant Constable continued to use an American Express credit card issued in the Company's name for his own personal benefit, his family's benefit, the benefit of other businesses in which he owned an interest or with which he was otherwise affiliated, and/or others, including by purchasing goods and services for himself and members of his family.

88. By way of example, although this list is not exhaustive, the following transactions were made to an American Express card issued by the Company and held by Defendant Constable:

- a. On or about January 13, 2013, Defendant Constable caused a payment to be made to Gander Mountain in Winston-Salem, North Carolina in the amount of \$4,519.56.
- b. On or about January 14, 2013, Defendant Constable caused a payment to be made for a trip to the Bahamas in the amount of \$8,969.50.

- c. On or about January 17, 2013, Defendant Constable caused a payment to be made to the University of South Carolina in the amount of \$14,316.17.
- d. On or about January 20, 2013, Defendant Constable caused payments to be made to Gander Mountain in Winston-Salem, North Carolina, including payments of \$1,197.85 and \$1,577.88.
- e. On or about February 3, 2013, Defendant Constable caused a payment to be made to Hyatt Gun Shop in Charlotte, North Carolina in the amount of \$5,284.09.
- f. On or about February 5, 2013, Defendant Constable caused a payment to be made to California Closets in Raleigh, North Carolina in the amount of \$6,463.00.
- g. On or about February 12, 2013, Defendant Constable caused a payment to be made to Landmark Aviation in Winston-Salem, North Carolina in the amount of \$10,460.40.
- h. On or about February 12, 2013, Defendant Constable caused a payment to be made for a trip to the Bahamas in the amount of \$5,817.65.
- i. On or about February 15, 2013, Defendant Constable caused a payment to be made to Gander Mountain in Winston-Salem, North Carolina in the amount of \$1,056.64.
- j. On or about March 27, 2013, Defendant Constable caused a payment to be made to a Ferrari and Maserati dealer in Fort Lauderdale, Florida in the amount of \$5,000.00.

- k. On or about April 12, 2013, Defendant Constable caused a payment to be made to Windsor Jewelers in Winston-Salem, North Carolina in the amount of \$7,936.50.
- l. On or about April 19, 2013, Defendant Constable caused a payment to be made to Wake Forest University for athletic tickets in the amount of \$3,830.00.
- m. On or about April 21, 2013, Defendant Constable caused a payment to be made to Gander Mountain in Winston-Salem, North Carolina in the amount of \$1,261.43.
- n. On or about June 5, 2012, Defendant Constable caused payments to be made to Mattress Firm and Select Comfort for home furniture in the amounts of \$6,557.65 and \$5,860.46.
- o. On or about June 27, 2013, Defendant Constable caused a payment to be made to Steiner Sports Memorabilia in New Rochelle, New York in the amount of \$2,083.40.
- p. On or about June 27, 2013, Defendant Constable caused a payment to be made to Windsor Jewelers in Winston-Salem, North Carolina in the amount of \$4,910.50.
- q. On or about July 3, 2013, Defendant Constable caused a payment to be made to an antique shop in Las Vegas, Nevada in the amount of \$2,000.00.

- r. On or about July 22, 2013, Defendant Constable caused a payment to be made to Windsor Jewelers in Winston-Salem, North Carolina in the amount of \$1,574.56.
- s. On or about July 24, 2013, Defendant Constable caused a payment to be made to Steiner Sports Memorabilia in New Rochelle, New York in the amount of \$2,444.99.
- t. On or about August 3, 2013, Defendant Constable caused a payment to be made to an art gallery in South Carolina in the amount of \$3,700.00.
- u. On or about August 8, 2013, Defendant Constable caused a payment to be made to Gwynn's of Mount Pleasant, South Carolina in the amount of \$5,821.55.
- v. On or about August 8, 2013, Defendant Constable caused a payment to be made to the Audubon Gallery in Charleston, South Carolina in the amount of \$4,120.00.
- w. On or about August 28, 2013, Defendant Constable caused a payment to be made to Sunlighten Saunas in the amount of \$4,698.00.
- x. On or about September 15, 2013, Defendant Constable caused a payment to be made to M. Christophers in Winston-Salem, North Carolina in the amount of \$7,097.27.
- y. On or about September 20, 2013, Defendant Constable used 900,000 credit card points and redeemed them for \$7,500.00 worth of Four Seasons Gift Cards.

- z. On or about November 4, 2013 Defendant Constable caused a payment to be made to Barney's New York in Boston, Massachusetts in the amount of \$4,732.00.
- aa. From on or about November 28, 2013 to on or about December 2, 2013, Defendant Constable caused payments to be made in relation to a trip to Vail, Colorado, including payments of \$6,295.00 and \$2,135.48 to Loro Piana, a payment of \$6,200.00 to Dennis Basso, and a payment of \$8,492.37 to the Four Seasons Resort.
- bb. On or about December 12, 2013, Defendant Constable caused a payment to be made for airline tickets for Constable's son to fly to Montego Bay, Jamaica in the amount of \$1,099.79.

89. Defendant Constable did not have authorization from Lau or the Company to use the above mentioned credit card for personal expenses.

90. Upon information and belief, the unauthorized use of the Company's credit cards described herein was used for the personal benefit of Defendant Constable, Defendant Mrs. Constable, and their family, including but not limited to paying college tuition for their son, paying for family vacations, and paying for personal luxury items such as jewelry, sports memorabilia, and firearms.

91. Upon information and belief, Defendant Mrs. Constable was aware that Defendant Constable was wrongfully using the Company's credit cards without authorization to the benefit of Defendant Constable and Defendant Mrs. Constable.

92. Defendant Mrs. Constable received the benefit of Defendant Constable's unauthorized use of the Company's credit cards, including but not limited to receiving jewelry, clothing, and trips.

93. Upon information and belief, Defendant Mrs. Constable was complicit in Defendant Constable's actions in wrongfully using the Company's credit cards without authorization to the benefit of Defendant Constable and Defendant Mrs. Constable.

94. Upon information and belief, Defendant Mrs. Constable wrongfully used the Company's credit cards without authorization.

95. After the sale of certain of the Company's assets in December of 2012, the Company was no longer conducting business operations and Martin had no legitimate reason to use the Company credit card.

96. After the sale of certain of the Company's assets in December of 2012 and continuing through 2013, Defendant Martin continued to use an American Express credit card issued in the Company's name for his own personal benefit.

97. By way of example, Defendant Martin regularly used an American Express card issued to the Company from January through November of 2013 for expenses including dining, entertainment, gas, groceries, and other personal uses.

98. Defendant Martin did not have authorization from Lau or the Company to use the above mentioned credit card for personal expenses.

99. Defendant Willard was employed by the Company and served as Defendant Constable's assistant.

100. After the sale of certain of the Company's assets in December of 2012, Defendant Willard was no longer an employee of the Company and had no legitimate reason to use the Company credit card.

101. After the sale of certain of the Company's assets in December of 2012 and continuing through 2013, Defendant Willard continued to use an American Express credit card issued in the Company's name for her own personal benefit.

102. By way of example, Defendant Willard regularly used an American Express card issued to the Company throughout 2013 for expenses related to sportswear, sporting goods, and home improvement.

103. Defendant Willard did not have authorization from Lau or the Company to use the above mentioned credit card for personal expenses.

104. As a result of the inappropriate and unauthorized use of Company credit cards, hundreds of thousands of dollars were stolen and/or misappropriated from Lau and the Company.

### **AMENDED PLEADING**

#### **ADDITIONAL WRONGDOING BY DEFENDANTS DISCOVERED AFTER FILING OF COMPLAINT**

105. Subsequent to the filing of the Complaint in this action, Plaintiffs issued certain subpoenas to third parties, seeking, among other items, bank account records and records of payments, transactions, and sales.

106. The documents obtained by way of subpoena have exposed substantial additional wrongful conduct on the part of Defendants, which Plaintiffs learned by way of the subpoenas issued in the course of this pending litigation, including: (1) Defendant Mrs. Constable's use of an American Express credit card in the approximate amount of at least \$1,319,969, which bills

were paid using Company funds; (2) the tracing of Company funds to improvements to and expenses of real and personal property owned by Defendants; (3) the misdirection of funds from a Company American Express merchant account to bank accounts held in the name of Ventlab Holdings, which funds were ultimately taken by one or more Defendants and/or for their benefit; (4) the diversion and taking of funds due and owing to the Company through transactions involving third parties; (5) Defendants' receipt and acceptance of additional items of value to which they were not entitled, which items are subject to Plaintiffs' claims contained herein; and (6) Defendants' wrongful direction of Company funds to or for the benefit of other entities owned or controlled by Defendants.

DEFENDANT MRS. CONSTABLE'S AMERICAN EXPRESS CARD

107. From at least 2008 through 2013, Defendant Mrs. Constable held an American Express card, account number ending in 41006.

108. From at least 2009 through 2013, Defendant Mrs. Constable used the American Express card to include more than \$1,300,000.00 in charges, including but not limited to purchases made by Defendant Mrs. Constable for clothing, airfare, hotels, vacations, home renovations, and other luxury goods. This amount does not include transactions in 2008, in which year significant additional amounts were spent.

109. From at least 2008 through 2013, Defendant Mrs. Constable's American Express card was paid by the Company.

110. On more than one occasion from 2008 to 2013, Defendant Constable communicated her billing address as being that of the Company's physical location.

111. Upon information and belief, Defendant Mrs. Constable was aware that her American Express card was being paid for by the Company.

112. Upon information and belief, Defendant Mrs. Constable was aware that Company funds were being misappropriated to pay her American Express credit card bills.

113. Upon information and belief, Defendant Mrs. Constable acted in concert with Defendant Constable in the theft of Company funds by way of payment of her American Express credit card bills.

114. Upon information and belief, Defendant Mrs. Constable used her American Express credit card for her benefit with the understanding, expectation, and intention that the bill would be paid with Company funds.

115. From 2009 through 2013, no less than \$1,319,969 in funds belonging to the Company were wrongfully diverted and applied to Defendant Mrs. Constable's American Express credit card bills. This amount does not include transaction in 2008, in which year significant additional amounts were spent.

116. Defendant Constable concealed these payments of Company funds by falsely listing the transactions in the Company's books and records including but not limited to by listing the transactions as rebates, expenses, and/or listing the transactions as payments to a false payee.

117. Lau was not aware of the use of Company funds to pay for Defendant Mrs. Constable's personal American Express credit card bills, did not consent to the use of Company funds for this purpose, and received no benefit from the use of Company funds for this purpose.

IMPROVEMENTS TO AND EXPENSES OF REAL ESTATE WITH COMPANY FUNDS

118. The Defendants wrongfully used funds belonging to the Company, including but not limited to funds inappropriately diverted into Ventlab Holdings accounts, to pay for improvements to and expenses of real property unrelated to any legitimate operation of the Company, including but not limited to the following real property:

- a. owned by Defendant Constable and Defendant Mrs. Constable at 2935 Windsor Road, Winston-Salem, North Carolina;
- b. owned by Defendant Constable and Defendant Mrs. Constable at 193 Old North State Club Lane, New London, North Carolina;
- c. owned by Defendant Constable at Ben Anderson Road, Davie County, North Carolina;
- d. owned in part by Defendant Constable at Off Bear Creek Church Road, Davie County, North Carolina;
- e. then owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina.

**2935 Windsor Road, Winston-Salem, North Carolina**

119. Defendant Constable, wrongfully and without authorization, used Company funds to pay for improvements to and expenses of real property owned by Defendant Constable and Defendant Mrs. Constable located at 2935 Windsor Road, Winston-Salem, North Carolina, including payments for construction, renovations and landscaping.

120. By way of example, though this list is not exhaustive, the following transactions were wrongfully paid from Company funds for improvements to and expenses of real property

owned by Defendant Constable and Defendant Mrs. Constable located at 2935 Windsor Road, Winston-Salem, North Carolina:

- a. On or about May 1, 2012, a payment was made to Magnolia Construction, LLC (“Magnolia”) from a Company account in the amount of \$54,604.20 for services at Defendant Constable and Defendant Mrs. Constable’s personal residence at 2935 Windsor Road, Winston-Salem, North Carolina for “House Demo + Permits & Related Work.”
- b. On or about May 13, 2012, a payment was made to TaylorBuilt Homes from Defendant Constable’s account in the amount of \$180,000.00 for construction services related to Defendant Constable and Defendant Mrs. Constable’s personal residence at 2935 Windsor Road, Winston-Salem, North Carolina. The \$180,000.00 of funds transferred via this payment includes funds that can be traced to Company funds wrongfully taken by Defendant Constable.

121. Upon information and belief, substantial further improvements to and expenses of the real property located at 2935 Windsor Road, Winston-Salem, North Carolina were paid for with funds wrongfully taken from Plaintiffs.

122. Defendant Constable concealed these payments of Company funds by falsely listing the transactions in the Company’s books and records including but not limited to by listing the transactions as rebates, expenses, and/or listing the transactions as payments to a false payee.

123. Upon information and belief, the improvements to and expenses of the real property located at 2935 Windsor Road, Winston-Salem, North Carolina paid for with Company funds increased the value of the property.

124. Upon information and belief, mortgage payments regarding the real property located at 2935 Windsor Road, Winston-Salem, North Carolina, were paid by Defendant Constable and Defendant Mrs. Constable using Company funds.

**193 Old North State Club Lane, New London, North Carolina**

125. Defendant Constable, wrongfully and without authorization, used Company funds to pay for certain expenses related to real property owned by Defendant Constable and Defendant Mrs. Constable located at 193 Old North State Club Lane, New London, North Carolina, including payments for property taxes.

126. Defendant Constable concealed these payments of Company funds by falsely listing the transactions in the Company's books and records including but not limited to by listing the transactions as rebates, expenses, and/or listing the transactions as payments to a false payee.

**Ben Anderson Road, Davie County, North Carolina**

127. Defendant Constable, wrongfully and without authorization, used Company funds to pay for no less than \$35,000.00 in improvements to and expenses of real property owned by Defendant Constable located at Ben Anderson Road, Davie County, North Carolina, including payments for construction, renovations, landscaping, and property taxes.

128. By way of example, though this list is not exhaustive, the following transactions were wrongfully paid from Company funds for improvements to and expenses of real property owned Defendant Constable located at Ben Anderson Road, Davie County, North Carolina:

- a. On or about November 17, 2009, a payment was made to Magnolia by check from a Company account in the amount of \$35,000.00 for services at Ben Anderson Road, Davie County, North Carolina for “Partial Billing.”

129. Defendant Constable concealed these payments of Company funds by falsely listing the transactions in the Company’s books and records including but not limited to by listing the transactions as rebates, expenses, and/or listing the transactions as payments to a false payee.

130. Upon information and belief, substantial further improvements to and expenses of the real property located at Ben Anderson Road, Davie County, North Carolina were paid for with funds wrongfully taken from Plaintiffs.

131. Upon information and belief, the improvements to and expenses of the real property located at Ben Anderson Road, Davie County, North Carolina paid for with Company funds increased the value of the property.

**Off Bear Creek Church Road, Davie County, North Carolina**

132. Defendant Constable, wrongfully and without authorization, used Company funds to pay for certain improvements to and expenses of real property owned in part by Defendant Constable located at Off Bear Creek Church Road, Davie County, North Carolina, including payments for property taxes.

133. Defendant Constable concealed these payments of Company funds by falsely listing the transactions in the Company's books and records including but not limited to by listing the transactions as rebates, expenses, and/or listing the transactions as payments to a false payee.

**158 James Way, Bermuda Run, North Carolina**

134. Defendant Martin, wrongfully and without authorization, used Company funds to pay for no less than \$11,633.98 in improvements to and expenses of real property then owned by Defendant Martin located at 158 James Way, Bermuda Run, North Carolina, including payments for construction, renovations, and landscaping.

135. By way of example, though this list is not exhaustive, the following transaction were wrongfully paid from Company funds for improvements to and expenses of real property owned by Defendant Martin located at 158 James Way, Bermuda Run, North Carolina:

- a. On or about January 5, 2011, a payment was made to Magnolia from a Company account in the amount of \$3,497.00 for services at property owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina for "Repairs/Painting."
- b. On or about February 10, 2011, a payment was made to Magnolia from a Company account, \$91.23 of which was for services at property owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina for "Toilet Repairs."
- c. On or about July 5, 2011, a payment was made to Magnolia from a Company account, \$75.00 of which was for services at property owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina for "Plumbing Repairs."

- d. On or about July 7, 2011, a payment was made to Magnolia from a Company account in the amount of \$500.00 for services at property owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina for “Plumbing Repairs.”
- e. On or about September 1, 2011, a payment was made to Magnolia from a Company account in the amount of \$5,978.50 for services at property owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina for “Replace HVAC System.”
- f. On or about September 26, 2011, a payment was made to Magnolia from a Company account, \$487.50 of which was for services at property owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina for “Plumbing Repairs.”
- g. On or about November 18, 2011, a payment was made to Magnolia from a Company account in the amount of \$317.25 for services at property owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina for “Relocate Light Fixture for Bob Martin.”
- h. On or about November 28, 2011, a payment was made to Magnolia from a Company account in the amount of \$687.50 for services at property owned by Defendant Martin at 158 James Way, Bermuda Run, North Carolina for “Clean Gutters, Repair Pipe.”

136. Upon information and belief, substantial further improvements to and expenses of the real property located at 158 James Way, Bermuda Run, North Carolina were paid for with funds wrongfully taken from Plaintiffs.

137. Defendant Martin concealed these payments of Company funds by falsely listing the transactions in the Company's books and records including but not limited to by listing the transactions as rebates, expenses, and/or listing the transactions as payments to a false payee.

138. Upon information and belief, the improvements to and expenses of the real property located at 158 James Way, Bermuda Run, North Carolina paid for with Company funds increased the value of the property.

139. In addition to the above-referenced real estate, Company funds were wrongfully diverted to pay for improvements to and expenses of other real estate, including but not limited to construction, renovations, and landscaping, at various properties, including but not limited to: real estate then owned by Defendants Douglas and Jennifer Constable (including 220 Nanzetta Way, Lewisville, North Carolina and on Shallowford Road, Lewisville, North Carolina); real estate occupied by Hitting Zone Sports, LLC located at 1612 Stratford Road, Winston-Salem, North Carolina; real estate then occupied by Momentum Auto Sales, LLC, located at 621 Coliseum Drive, Winston-Salem, North Carolina; real estate owned by Cornatzer Properties, LLC located at 2016 Cornatzer Road, Mocksville, North Carolina; real estate owned by Forsyth Country Day School, Inc.; real estate owned by Davie Ventures, LLC located at 129 Depot Street, Mocksville, NC; real estate owned by Emmanuel Pentecostal Church, located at 101 E. 52 Bypass, Pilot Mountain, North Carolina; and real estate located at 432 Lynn Avenue, Winston-Salem, North Carolina.

140. Defendants concealed these payments of Company funds by falsely listing the transactions in the Company's books and records as rebates, expenses, and/or listing the transactions as payments to a false payee.

MISDIRECTION OF COMPANY FUNDS THROUGH AMERICAN EXPRESS MERCHANT ACCOUNT

141. At least as early as 2010, an American Express merchant account was opened for the Company in order to receive payments from customers.

142. Upon information and belief, the American Express merchant account was opened at the direction of Defendant Constable.

143. Payments made to the American Express merchant account from the Company's customers should have been subsequently deposited into the Company's bank accounts; however, numerous payments made to the Company's American Express merchant account were instead inappropriately deposited elsewhere at the direction of Defendant Constable, including but not limited to into bank accounts held in the name of Ventlab Holdings.

144. The payments made to the Company's American Express merchant account were inappropriately diverted at the direction of Defendant Constable, including but not limited to into a Ventlab Holdings account.

145. Upon information and belief, Defendant Constable inappropriately diverted payments made to the Company's American Express merchant account to a Ventlab Holdings account in order to conceal the Company's true revenue and profits, and to facilitate Defendant Constable's use of Company funds for his personal benefit.

146. Defendant Constable subsequently misappropriated the improperly diverted payments from the Ventlab Holdings account by transferring the funds to other accounts owned and/or controlled by him or otherwise for his use and/or benefit.

147. Lau was not aware of these improper transactions, did not consent to these improper transactions, and received no benefit from these improper transactions.

THEFT OF COMPANY FUNDS DUE TO THE COMPANY BY OTHERS

148. In addition to the other means described by Defendant Constable to take funds from the Company to which he was not entitled, Defendant Constable also misappropriated Company funds by improperly directing the payment of funds due by third persons and/or entities to him, rather than to the Company.

149. By way of example, on or about February 12, 2013, Defendant Constable issued a check from a Company account to Blakley Landscaping in the amount of \$100,000.00, which check was signed by Defendant Constable.

150. This check was not payment for any goods or services provided by Blakley Landscaping to the Company.

151. On or about February 12, 2013, Defendant Constable issued a check from a Company account to James Blakley, the owner of Blakley Landscaping, in the amount of \$5,600.00, which check was signed by Defendant Constable.

152. On or about September 17, 2013, Blakley Landscaping issued a check to Defendant Constable in the amount of \$102,742.50.

153. The net result of these transactions was that Company funds were transferred to an outside contractor, held by that outside contractor for approximately seven months, and then transferred to Defendant Constable.

154. These transactions were improper and constituted theft of Company funds by Defendant Constable.

155. Upon information and belief, these transactions were intended to conceal Defendant Constable's theft of Company funds by funneling such Company funds through a third party.

156. Upon information and belief, Defendant Constable misdirected other funds owed to the Company to himself and entities controlled by him.

157. The net result of these transactions was to deprive the Company of monies to which it was entitled, for the benefit of Defendants, and to manipulate the Company books and records in efforts to conceal the same from Plaintiffs.

158. Lau was not aware of these improper transactions, did not consent to these improper transactions, and received no benefit from these improper transactions.

159. From at least 2006 through at least 2012, substantial Company funds were wrongfully misappropriated from the Company and transferred to other business entities without consideration to the Company.

160. The net result of these transactions was to deprive the Company of monies to which it was entitled, for the benefit of Defendants, and to manipulate the Company books and records in efforts to conceal the same from Plaintiffs.

WRONGFUL DIRECTION OF FUNDS TO OTHER ENTITIES OWNED OR CONTROLLED BY DEFENDANTS

161. Defendant Constable and Defendant Martin wrongfully directed Company funds to other entities owned or controlled by Defendants, including but not limited to Hitting Zone Sports, LLC; Momentum Auto Sales, LLC; Davie Ventures, LLC; Resuscitation Ace, Inc.; GBG Financial Services; and Outcome Solutions, Inc., which companies received Company funds to which they were not entitled and had expenses improperly paid for by the Company.

162. Upon information and belief, by way of example, Outcome Solutions, Inc., an entity in which Defendant Constable and Defendant Martin both owned an interest or otherwise had control, was in the medical device business and Defendants used Company funds to pay for certain overhead expenses of Outcome Solutions, Inc., including but not limited to the costs of production of molds.

163. Upon information and belief, by way of further example, Hitting Zone Sports, LLC is a business entity in which Defendant Constable owns an interest, and at least \$195,000.00 of Company funds were transferred to Hitting Zone Sports, LLC by Defendant Constable in 2009 without consideration.

**FIRST CLAIM FOR RELIEF**

(Constructive Fraud)

By Company against Constable

164. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

165. Defendant Constable, as an officer of the Company, owed fiduciary duties, including those of confidence and trust to the Company.

166. Defendant Constable exercised *de facto* control over the Company, *inter alia*, as the personal representative of Lau's interests in the United States and as an officer of the Company.

167. Defendant Constable, including but not limited to through his ability to act on Lau's behalf, exercised control and domination over the Company.

168. Defendant Constable, through, *inter alia*, his control and domination of the Company, and as an officer of the Company, had a fiduciary relationship of confidence and trust with the Company.

169. Defendant Constable had an obligation of good faith and fairness in his dealings with the Company.

170. Defendant Constable took advantage of his relationship with the Company and abused his position of trust and confidence including but not limited to by misappropriating and misdirecting Company funds, improperly manipulating Company records, and devaluing the Company.

171. Defendant Constable's conduct was to the detriment of the Company and for the benefit of Defendant Constable.

172. Defendant Constable's actions constitute constructive fraud against the Company.

173. Defendant Constable's conduct was willful, wanton, and intentional.

174. Defendant Constable's conduct was undertaken in bad faith, without justification, with malice, and was improper.

175. As a direct and proximate result of Defendant Constable's conduct, the Company has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**SECOND CLAIM FOR RELIEF**  
(Breach of Fiduciary Duty)  
By Company against Constable

176. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

177. Based on the facts described herein and as an officer of the Company, Defendant Constable owed fiduciary duties to the Company, including the duties of good faith, loyalty, and care.

178. Defendant Constable exercised dominion and control over the Company, including but not limited to by exercising control of Lau's majority ownership interest of the Company.

179. Defendant Constable owed a fiduciary duty to the Company, including but not limited to through his *de facto* control over the Company.

180. Defendant Constable abused his position of trust and breached his fiduciary duties to the Company by, including but not limited to, failing to act in good faith, with due care, and in a matter reasonably calculated to be in the best interests of the Company, including through his conduct described herein.

181. Defendant Constable abused his position of trust and breached his fiduciary duties by, *inter alia*, misappropriating and misdirecting Company funds, improperly manipulating Company records, and devaluing the Company.

182. Defendant Constable's actions were improper, undertaken in bad faith, without justification, with malice, and were intentional.

183. As a direct and proximate result of Defendant Constable's conduct, the Company has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages from Defendant Constable in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**THIRD CLAIM FOR RELIEF**

(Fraud)

By Company against Constable

184. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

185. Defendant Constable made false representations of material fact by, *inter alia*: manipulating the Company's books and records to falsely reflect funds which were diverted to shareholder distributions as money spent on cost of goods sold, freight, and/or for other purposes; manipulating the Company's books and records to conceal its payment of unauthorized expenses; manipulating the Company's books and records to falsely represent the Company's revenue; by purporting to have the authority to compel certain distributions to which he was not entitled; and by using a credit card issued on behalf of the Company for his personal benefit.

186. Defendant Constable concealed material facts by, *inter alia*, manipulating the Company's books and records and failing to properly disclose the misappropriation of funds and improper personal use of the Company's money and resources.

187. Defendant Constable's false representations and concealment of material facts as described above were reasonably calculated to deceive the Company.

188. Defendant Constable's false representations and concealment of material facts as described above were intended to deceive the Company.

189. Defendant Constable's false representations and concealment of material facts as described above did in fact deceive the Company.

190. The Company reasonably relied on Defendant Constable's misrepresentations and omissions of material fact, because, *inter alia*, Lau and the Company could not have known or discovered by reasonable investigation that the Company's books, as manipulated by Defendant Constable, concealed the Company's true finances.

191. Defendant Constable's false representations and concealment of material facts as described above constitute fraud.

192. Defendant Constable's conduct was willful, wanton, and intentional.

193. Defendant Constable's conduct was undertaken in bad faith, without justification, with malice, and was improper.

194. As a direct and proximate result of Defendant Constable's conduct, the Company has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages from Defendant Constable in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**FOURTH CLAIM FOR RELIEF**  
(Unfair and Deceptive Trade Practices)  
By Company against Constable

195. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

196. Defendant Constable's actions constituted unfair or deceptive acts or practices.

197. Defendant Constable committed unfair and deceptive acts or practices by, *inter alia*, misappropriating and misdirecting Company funds by funneling said funds through various accounts and other business entities and improperly manipulating company records to conceal said misappropriation and misdirection of company funds.

198. Defendant Constable's actions were in or affecting commerce.

199. Defendant Constable's actions, in fact, concerned the transfer of millions of dollars in commerce, through numerous bank accounts, to separate entities and various merchants.

200. Defendant Constable's actions, further, had the effect of devaluing the Company in the marketplace, which led to and resulted in the sale of its assets to another entity.

201. Defendant Constable's conduct was willful, wanton, and intentional.

202. Defendant Constable's conduct was undertaken in bad faith, without justification, with malice, and was improper.

203. As a direct and proximate result of Defendant Constable's conduct, the Company was injured and has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. The Company is also entitled to treble damages pursuant to N.C. Gen. Stat. § 75-16 and attorney fees pursuant to N.C. Gen. Stat. § 75-16.1.

**FIFTH CLAIM FOR RELIEF**

(Conversion)

By Company against Constable

204. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

205. The Company is the lawful owner of the funds, assets, and other things of value which were misappropriated, misdirected, or otherwise diverted out of the Company's control as described herein.

206. Defendant Constable wrongfully converted to his own use, or to a use other than that for which they were authorized, the Company's funds, assets, and other things of value.

207. As described herein, Defendant Constable has misappropriated assets that rightfully belong to the Company for himself and/or his personal benefit including but not limited to by taking Company funds to which he is not entitled and by improperly using a Company credit card.

208. The Company has made numerous demands on Defendant Constable for the return of the Company's funds, assets, and other things of value, but Defendant Constable has failed and refused to return those funds.

209. By refusing to return the Company's funds, assets, and other things of value, Defendant Constable has assumed and exercised the right of ownership over money and other assets belonging to the Company and to the exclusion of the Company's rights.

210. Upon information and belief, the converted funds, assets, and other things of value can be identified through the various bank records of Defendant Constable.

211. Defendant Constable intentionally undertook the wrongful acts of conversion as set forth herein.

212. By taking the actions described herein, Defendant Constable has willfully, maliciously, and wrongfully converted the Company's assets.

213. Defendant Constable's actions in wrongfully converting the Company's assets are a denial and violation of the Company's rights.

214. As a direct and proximate result of this conduct, the Company has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential and incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**SIXTH CLAIM FOR RELIEF**

(Constructive Fraud)

By Company against Martin

215. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

216. Defendant Martin, as an officer of the Company, had a fiduciary relationship of confidence and trust with the Company.

217. Defendant Martin was responsible for, *inter alia*, overseeing Defendant Constable's actions as an officer of the Company.

218. Defendant Martin had an obligation of good faith and fairness in his dealings with the Company.

219. Upon information and belief, Defendant Martin was or should have been aware of the improper conduct of Defendant Constable, and undertook no effort to stop Defendant Constable's improper conduct.

220. Defendant Martin took advantage of his relationship with the Company and abused his position of trust and confidence including but not limited to by misappropriating and misdirecting Company funds, and allowing and/or failing to prevent Defendant Constable from engaging in the actions described herein.

221. Defendant Martin sought to benefit himself through his conduct as described herein and did, in fact, obtain such benefits. These benefits included but are not limited to his increase of his salary, along with his improper takings of monies, assets and other things of value from the Company to which he was not entitled and would not have received but for engaging in the wrongful conduct described herein.

222. Defendant Martin also improperly benefitted, to the detriment of the Company, through improvements, construction, and/or renovation paid for with Company funds to real estate then owned by him, including but not limited at 128 James Way, Bermuda Run, North Carolina for work performed in January 2011, February 2011, July 2011, on or around September 2011, and November 2011.

223. Defendant Martin further benefitted by way of his ownership interests in various entities, including but not limited to Outcome Solutions, Inc.; Cornatzer Properties, LLC; GBG Financial Services; Momentum Auto Sales, LLC; and Resuscitation, Ace, Inc.; which companies received Company funds to which they were not entitled and had expenses improperly paid for by the Company.

224. Defendant Martin further benefitted by way of receipt of funds from the sale of the Company's assets to which he was not entitled.

225. Defendant Martin's conduct was to the detriment of the Company and for the benefit of Defendant Martin.

226. Defendant Martin's actions constitute constructive fraud against the Company.

227. Defendant Martin's conduct was willful, wanton, and intentional.

228. Defendant Martin's conduct was undertaken in bad faith, without justification, with malice, and was improper.

229. As a direct and proximate result of Defendant Martin's conduct, the Company has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**SEVENTH CLAIM FOR RELIEF**

(Breach of Fiduciary Duty)  
By Company against Martin

230. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

231. Based on the facts described herein and as an officer of the Company, Defendant Martin owed fiduciaries duties to the Company, including the duties of good faith, loyalty, and due care.

232. Based on the facts described herein and as an officer of the Company, Defendant Martin was aware, or should have been aware, of the improper conduct of Defendant Constable.

233. Defendant Martin abused his position of trust and breached his fiduciary duties to the Company by, *inter alia*, failing to act in good faith, with due care, and in a matter reasonably calculated to be in the best interests of the Company, including but not limited to through his conduct described herein.

234. Defendant Martin breached his fiduciary duties to the Company by, *inter alia*, misappropriating and misdirecting Company funds, and allowing and/or failing to prevent Defendant Constable from engaging in the actions described herein.

235. Defendant Martin's actions were improper, undertaken in bad faith, without justification, with malice, and were intentional.

236. As a direct and proximate result of Defendant Martin's conduct, the Company has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages from Defendant Martin in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**EIGHTH CLAIM FOR RELIEF**

(Conversion)

By Company against Martin

237. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

238. The Company is the lawful owner of the funds, assets, and other things of value which were misappropriated, misdirected, or otherwise diverted out of the Company's control as described herein.

239. Defendant Martin wrongfully converted to his own use, or to a use other than that for which they were authorized, the Company's funds, assets, and other things of value.

240. As described herein, Defendant Martin has misappropriated assets that rightfully belong to the Company for himself/and or his personal benefit including but not limited to: payments for improvements, construction, and/or renovation to real estate then owned by him, including but not limited to at 158 James Way, Bermuda Run, North Carolina; his ownership interests in various entities, including but not limited to Outcome Solutions, Inc.; Cornatzer Properties, LLC; GBG Financial Services; Momentum Auto Sales, LLC; and Resuscitation, Ace, Inc.; improperly using a Company credit card; receipt of funds from the sale of the Company to which he was not entitled; and use of Company funds to which he is not entitled.

241. The Company has made numerous demands on Defendant Martin for the return of the Company's funds, assets, and other things of value, but Defendant Martin has failed and refused to return those funds.

242. By refusing to return the Company's funds, assets, and other things of value, Defendant Martin has assumed and exercised the right of ownership over money and other assets belonging to the Company and to the exclusion of the Company's rights.

243. Upon information and belief, the converted funds, assets, and other things of value can be identified through the various bank records of Defendant Martin.

244. Defendant Martin intentionally undertook the wrongful acts of conversion as set forth herein.

245. By taking the actions described herein, Defendant Martin has willfully, maliciously, and wrongfully converted the Company's assets.

246. Defendant Martin's actions in wrongfully converting the Company's assets are a denial and violation of the Company's rights.

247. As a direct and proximate result of this conduct, the Company has been damaged in an amount to be proven at trial, including but not limited to direct, consequential and incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages from Defendant Martin in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**NINTH CLAIM FOR RELIEF**

(Conversion)

By Company against Willard

248. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

249. The Company is the lawful owner of the funds, assets, and other things of value which were misappropriated, misdirected, or otherwise diverted out of the Company's control as described herein.

250. Defendant Willard wrongfully converted to her own use, or to a use other than that for which they were authorized, the Company's funds, assets, and other things of value.

251. As described herein, Defendant Willard has misappropriated assets that rightfully belong to the Company for herself and/or her personal benefit including but not limited to: by taking Company funds to which she is not entitled; by improperly using a Company credit card; and by accepting checks for Company funds to which she was not entitled.

252. By refusing to return the Company's funds, assets, and other things of value, Defendant Willard has assumed and exercised the right of ownership over money and other assets belonging to the Company and to the exclusion of the Company's rights.

253. Upon information and belief, the converted funds, assets, and other things of value can be identified through the various bank records of Defendant Willard.

254. Defendant Willard intentionally undertook the wrongful acts of conversion as set forth herein.

255. By taking the actions described herein, Defendant Willard has willfully, maliciously, and wrongfully converted the Company's assets.

256. Defendant Willard's actions in wrongfully converting the Company's assets are a denial and violation of the Company's rights.

257. As a direct and proximate result of this conduct, the Company has been damaged in an amount to be proven at trial, including but not limited to direct, consequential and incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages from Defendant Willard in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15

**TENTH CLAIM FOR RELIEF**

(Conversion)

By Company against Mrs. Constable

258. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

259. The Company is the lawful owner of the funds, assets, and other things of value which were misappropriated, misdirected, or otherwise diverted out of the Company's control as described herein.

260. Defendant Mrs. Constable wrongfully converted to her own use, or to a use other than that for which they were authorized, the Company's funds, assets, and other things of value.

261. As described herein, Defendant Mrs. Constable has misappropriated assets that rightfully belong to the Company for herself and/or her personal benefit including but not limited to: by taking Company funds to which she is not entitled; by improperly using a Company credit card; and by using an American Express card which was paid for with Company funds.

262. By refusing to return the Company's funds, assets, and other things of value, Defendant Mrs. Constable has assumed and exercised the right of ownership over money and other assets belonging to the Company and to the exclusion of the Company's rights.

263. Upon information and belief, the converted funds, assets, and other things of value can be identified through the various bank records of Defendant Mrs. Constable.

264. Defendant Mrs. Constable intentionally undertook the wrongful acts of conversion as set forth herein.

265. By taking the actions described herein, Defendant Mrs. Constable has willfully, maliciously, and wrongfully converted the Company's assets.

266. Defendant Mrs. Constable's actions in wrongfully converting the Company's assets are a denial and violation of the Company's rights.

267. As a direct and proximate result of this conduct, the Company has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential and

incidental damages, plus interest as allowed by law. The Company is also entitled to punitive damages from Defendant Mrs. Constable in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**ELEVENTH CLAIM FOR RELIEF**

(Constructive Fraud)

By Lau against Constable

268. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

269. Defendant Constable, as an officer of the Company, had a fiduciary relationship of confidence and trust with the Company.

270. Defendant Constable exercised *de facto* control over the Company as the personal representative of Lau's interests in the United States.

271. Defendant Constable, through his ability to act on Lau's behalf, exercised control and domination over the Company.

272. Defendant Constable, through his control and domination of the Company, had a fiduciary relationship of confidence and trust with the Company.

273. Defendant Constable and Lau had a special relationship as a result of, *inter alia*, the trust and confidence Lau placed in Constable to manage Lau's controlling interest in the Company.

274. As a result of this special relationship, Defendant Constable owed Lau a special duty directly as a shareholder.

275. Defendant Constable had an obligation of good faith in his dealings with the Company.

276. Defendant Constable had an obligation of good faith in his management, control, and domination of the Company through Lau's controlling interest in the Company.

277. Defendant Constable took advantage of his relationship with Lau and abused his position of trust and confidence through the conduct described herein, including but not limited to by misappropriating and misdirecting Company funds, improperly manipulating Company records, and devaluing the Company.

278. Defendant Constable's conduct was to the detriment of the Lau and for the benefit of Constable.

279. Defendant Constable's actions constitute constructive fraud against Lau.

280. Defendant Constable's conduct was willful, wanton, and intentional.

281. Defendant Constable's conduct was undertaken in bad faith, without justification, with malice, and was improper.

282. As a direct and proximate result of Defendant Constable's conduct, Lau has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. Lau is also entitled to punitive damages in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**TWELFTH CLAIM FOR RELIEF**

(Breach of Fiduciary Duty)

By Lau against Constable

283. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

284. Based on the facts described herein and as an officer of the Company, Defendant Constable owed fiduciary duties to the Company, including the duties of good faith, loyalty, and care.

285. Defendant Constable exercised dominion and control over the Company, including but not limited to by exercising control of Lau's majority ownership interest of the Company.

286. Defendant Constable owed a fiduciary duty to the Company, including but not limited to through his *de facto* control over the Company.

287. Defendant Constable and Lau had a special relationship based on the facts as alleged herein and as a result of the trust and confidence Lau placed in Constable to manage Lau's controlling interest in the Company.

288. As a result of this special relationship, Defendant Constable owed Lau a special duty directly as a shareholder.

289. As a result of this special relationship, Defendant Constable owed Lau fiduciary duties directly as a shareholder.

290. Defendant Constable additionally owed Lau a fiduciary duty based on the facts as alleged herein and due to the personal relationship of trust and confidence that existed between them and by virtue of the fact that Lau granted Defendant Constable access to Lau's personal bank accounts.

291. Defendant Constable abused his position of trust and breached his fiduciary duties to Lau by, *inter alia*, failing to act in good faith, with due care, and in a matter reasonably

calculated to be in the best interests of the Company and Lau, including but not limited to through his conduct described herein.

292. Defendant Constable's actions were improper, undertaken in bad faith, without justification, with malice, and were intentional.

293. As a direct and proximate result of Defendant Constable's conduct, Lau has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. Lau is also entitled to punitive damages from Defendant Constable in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**THIRTEENTH CLAIM FOR RELIEF**

(Fraud)

By Lau against Constable

294. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

295. Defendant Constable made false representations of material fact by, *inter alia*: manipulating the Company's books and records to falsely reflect funds which were diverted to shareholder distributions as money spent on cost of goods sold, freight, and/or for other purposes; manipulating the Company's books and records to conceal its payment of unauthorized expenses; manipulating the Company's books and records to falsely represent the Company's revenue and profits; by purporting to have the authority to compel certain distributions to which he was not entitled; and by using a credit card issued on behalf of the Company for his personal benefit.

296. Defendant Constable concealed material facts by, *inter alia*, manipulating the Company's books and records and failing to properly disclose the misappropriation of funds and improper personal use of the Company's money and resources.

297. Defendant Constable made false representations of material fact by, *inter alia*, purporting to have the authority to direct Lau's personal funds for Defendant Constable's benefit and by purporting to have the authority to direct certain distributions from the Company using Lau's controlling interest, in addition to by purporting to have the authority to use credit cards issued in to the Company for his personal benefit.

298. Defendant Constable's false representations and concealment of material facts as described above were reasonably calculated to deceive Lau.

299. Defendant Constable's false representations and concealment of material facts as described above were intended to deceive Lau.

300. Defendant Constable's false representations and concealment of material facts as described above did in fact deceive Lau.

301. Defendant Lau reasonably relied on Defendant Constable's misrepresentations and omissions of material fact, because, *inter alia*, Lau could not have known or discovered by reasonable investigation that Defendant Constable misappropriated and/or misdirected the Company's funds and Lau's personal funds, concealed such misappropriation and misdirection of funds by manipulating financial records, and engaged in other conduct described herein.

302. Defendant Constable's false representations and concealment of material facts as described above constitute fraud.

303. Defendant Constable's conduct was willful, wanton, and intentional.

304. Defendant Constable's conduct was undertaken in bad faith, without justification, with malice, and was improper.

305. As a direct and proximate result of Defendant Constable's conduct, Lau has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. Lau is also entitled to punitive damages from Defendant Constable in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**FOURTEENTH CLAIM FOR RELIEF**

(Unfair and Deceptive Trade Practices)

By Lau against Constable

306. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

307. Defendant Constable's actions constituted unfair or deceptive acts or practices.

308. Defendant Constable committed unfair and deceptive acts or practices by, *inter alia*, misappropriating and misdirecting Company funds by funneling said funds through various accounts and other business entities, misdirecting and misappropriating Lau's personal funds, and improperly manipulating company records to conceal said misappropriation and misdirection of funds from Lau.

309. Defendant Constable's actions were in or affecting commerce.

310. Defendant Constable's actions, in fact, concerned the transfer of millions of dollars in commerce, through numerous bank accounts, to separate entities and various merchants.

311. Defendant Constable's actions, further, had the effect of devaluing the Company in the marketplace, which led to and resulted in the sale of its assets to another entity,

312. Defendant Constable's conduct was willful, wanton, and intentional.

313. Defendant Constable's conduct was undertaken in bad faith, without justification, with malice, and was improper.

314. As a direct and proximate result of Defendant Constable's conduct Lau was injured and has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law. Lau is also entitled to treble damages pursuant to N.C. Gen. Stat. § 75-16 and attorney fees pursuant to N.C. Gen. Stat. § 75-16.1.

**FIFTEENTH CLAIM FOR RELIEF**

(Conversion)

By Lau against Constable

315. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

316. Lau is the lawful owner of the funds, assets, and other things of value which were misappropriated, misdirected, or otherwise diverted out of Lau's control as described herein.

317. Defendant Constable wrongfully converted to his own use, or to a use other than that for which they were authorized, Lau's funds, assets, and other things of value.

318. As described herein, Defendant Constable has misappropriated assets that rightfully belong to Lau for himself/and or his personal benefit including but not limited to by taking Company funds to which he is not entitled and by improperly using a Company credit card.

319. Lau has made numerous demands on Defendant Constable for the return of Lau's funds, assets, and other things of value, but Defendant Constable has failed and refused to return those funds.

320. By refusing to return Lau's funds, assets, and other things of value, Defendant Constable has assumed and exercised the right of ownership over money and other assets belonging to Lau and to the exclusion of Lau's rights.

321. Upon information and belief, the converted funds, assets, and other things of value can be identified through the various bank records of Defendant Constable.

322. Defendant Constable intentionally undertook the wrongful acts of conversion as set forth herein.

323. By taking the actions described herein, Defendant Constable has willfully, maliciously, and wrongfully converted Lau's assets.

324. Defendant Constable's actions in wrongfully converting Lau's assets are a denial and violation of Lau's rights.

325. As a direct and proximate result of this conduct, Lau has been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential and incidental damages, plus interest as allowed by law. Lau is also entitled to punitive damages from Defendant Constable in an amount to be determined at trial pursuant to N.C. Gen. Stat. § 1D-15.

**SIXTEENTH CLAIM FOR RELIEF**

(Unjust Enrichment)

By Plaintiffs against Defendants

326. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

327. Lau, as sole owner of the Company after December 31, 2012, provided certain things of value to Defendants, including the use of American Express credit cards issued to the Company.

328. The use of the above mentioned credit cards and other things of value benefitted Defendants.

329. Plaintiffs did not gratuitously provide these things of value to Defendants.

330. Defendants have failed and/or refused to recognize that Lau and/or the Company are entitled to repayment and/or reimbursement for the value of these things of value.

331. Permitting Defendants to retain the value of the use of the credit cards and other things of value, which use was not given gratuitously, would unjustly enrich Defendants.

332. As a direct and proximate result of Defendants' conduct, Plaintiffs have been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law.

**SEVENTEENTH CLAIM FOR RELIEF**

(Constructive Trust)

By Plaintiffs against All Defendants

333. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

334. Funds belonging to the Company and Lau were used and/or transferred from the Company to and/or for the benefit of Defendants.

335. These transfers from the Company and Lau to the Defendants were conducted without the permission, knowledge, or consent of the Company or Lau.

336. These transfers from the Company and Lau to the Defendants were conducted contrary to the intended use of these funds by the Company and Lau.

337. A constructive trust may be imposed to prevent the unjust enrichment of the holder of title to, or of an interest in, property which such holder acquired through circumstances that make it inequitable for him to retain the interest against the claim of the beneficiary of the constructive trust.

338. Under the foregoing circumstances, it would be against equity and good conscience if the Defendants were allowed to retain any of the Company's or Lau's funds or the benefits thereof.

339. Under the foregoing circumstances, the Defendants would be unjustly enriched if allowed to retain any portion of the Company's or Lau's funds or the benefits thereof.

340. Because it would be inequitable for the Defendants to retain an interest in the Company's or Lau's funds, a constructive trust should be imposed as to the Defendants in the amount of the Company's and Lau's funds transferred from the Company and Lau to or for the benefit of the Defendants with the Company and Lau as the beneficiaries of such constructive trust.

341. The Company and Lau are entitled to have a constructive trust imposed for the benefit of the Company and Lau upon the Defendants, in an amount equal to any amount of the Company's and Lau's funds held or used for the benefit of the Defendants.

342. The Company and Lau are entitled to have a constructive trust imposed for the benefit of the Company and Lau upon the real property identified in this Complaint owned by the Defendants for which the property and/or improvements and/or expenses have been paid for with

the Company and/or Lau's funds, in an amount equal to any amount of the Company's and Lau's funds held or used for such purposes.

343. The Company and Lau are entitled to have a constructive trust imposed for the benefit of the Company and Lau upon the personal property in the possession of Defendants, paid for with the Company and/or Lau's funds, including but not limited to the following:

- a. The items of personal property more particularly identified by Windsor Jewelers, which were wrongfully paid for with Company funds, in response to the subpoena issued to it on December 20, 2016, to the extent those items are held, owned, or otherwise in the possessions, custody, or control of any Defendants;
- b. The items of personal property more particularly identified in Jennifer Constable's American Express records, which were wrongfully paid for which Company funds, including but not limited to as detailed in the response by American Express to the subpoena issued to it on December 21, 2016, to the extent those items are held, owned, or otherwise in the possession, custody, or control of any Defendants;
- c. The items of personal property more particularly identified in the American Express records of the Company, including for which Defendants Constable, Martin, and Willard were accountholders, as well as other employees whose cards were used by Defendants Constable, Martin, and Willard for personal expenditures, including but not limited to as detailed in the response by American Express to the subpoena issued to it on December 21, 2016 to the extent those

items are held, owned, or otherwise in the possession, custody, or control of any Defendants;

- d. The items of personal property more particularly identified in the records of Neiman Marcus Group, which were paid for with Company funds, including but not limited to as detailed in the response by Neiman Marcus to the subpoena issued to it on June 5, 2017 to the extent those items are held, owned, or otherwise in the possession, custody, or control of any Defendants;
- e. The items of personal property more particularly identified in the records of June DeLugas Interiors, which were paid for with Company funds, including but not limited to as detailed in the response by June DeLugas Interiors to the subpoena issued to it on June 13, 2017 to the extent those items are held, owned, or otherwise in the possession, custody, or control of any Defendants;
- f. The items of personal property purchased in the transactions identified in this Amended Complaint which were paid for with Company funds, to the extent those items are held, owned, or otherwise in the possession, custody, or control of any Defendants;
- g. The items of personal property purchased with Company funds as reflected by the bank account records of the Company, Ventlab Holdings, the Defendants, and other business entities produced in this case, to the extent those items are held, owned, or otherwise in the possession, custody, or control of any Defendants;
- h. The items of personal property purchased with Company funds or otherwise traceable to the unauthorized use of Company funds as reflected by the expert

reports and forensic analysis of financial records to be produced during expert discovery in this case, to the extent those items are held, owned, or otherwise in the possession, custody, or control of any Defendants.

**EIGHTEENTH CLAIM FOR RELIEF**

(Civil Conspiracy)

By Plaintiffs against Defendant Constable, Defendant Mrs. Constable, and Defendant Martin

344. Plaintiffs incorporate the allegations in the preceding paragraphs as if the same were fully set forth herein.

345. Upon information and belief, Defendant Constable, Defendant Mrs. Constable, and Defendant Martin conspired and agreed amongst themselves and acted in concert to defraud and otherwise harm Lau and the Company as alleged herein.

346. Defendant Constable, Defendant Mrs. Constable, and Defendant Martin intentionally committed wrongful and unlawful acts in furtherance of that conspiracy as alleged herein.

347. Defendant Constable, Defendant Mrs. Constable, and Defendant Martin conspired to conceal and deliberately withhold information from Lau regarding acts as alleged herein, including *inter alia*, misappropriation and misdirection of Lau's and the Company's funds, assets, and other things of value, concealment of said misappropriation and misdirection through fraudulent record keeping, and unauthorized personal use of credit cards belonging to or paid for by the Company.

348. These activities were carried out without Lau's knowledge or consent.

349. As a direct and proximate result of the acts committed in furtherance of the agreement between and among Defendant Constable, Defendant Mrs. Constable, and Defendant

Martin, Lau and the Company have been damaged in an amount in excess of \$25,000.00, including but not limited to direct, consequential, and incidental damages, plus interest as allowed by law.

WHEREFORE, Plaintiffs request that:

1. The Court award damages from Defendants in an amount to be determined at trial, including but not limited to direct, consequential, and incidental damages, which amount is in excess of \$25,000.00, plus pre- and post-judgment interest as allowed by law;
2. Plaintiffs have a trial by jury on all issues so triable;
3. The Court award Plaintiffs the costs of this action and reasonable attorneys' fees;
4. Plaintiffs be awarded against Defendants punitive damages as allowed by law;
5. Plaintiffs be awarded against Defendants treble damages as allowed by law;
6. The Court establish a constructive trust as alleged herein; and
7. The Court award Plaintiffs such other relief as the Court deems proper.

This the 25<sup>th</sup> day of January, 2018.

*/s/ Jeffrey S. Southerland*

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**CERTIFICATE OF SERVICE**

I certify that a true copy of the foregoing **Amended Complaint** was filed electronically and served on the following counsel of record in accordance with Business Court Rule 3.9(a):

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This the 25<sup>th</sup> day of January, 2018.

/s/ Jeffrey S. Southerland  
Jeffrey S. Southerland  
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*Attorney for Plaintiffs*