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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91209194
Party	Defendant 5 Continent, Inc.
Correspondence Address	FRANK S FARRELL F S FARRELL LLC 7101 YORK AVE S STE 153 EDINA, MN 55435 UNITED STATES frank@fsfarrell.com, alexander@fsfarrell.com
Submission	Other Motions/Papers
Filer's Name	Alexander Farrell
Filer's e-mail	alexander@fsfarrell.com
Signature	/s/ Alexander Farrell
Date	08/30/2013
Attachments	5 Continent Memo re outstanding actions.pdf(169825 bytes) Ex A.pdf(3060183 bytes) Ex B.pdf(455213 bytes) Ex C.pdf(787125 bytes) Ex D.pdf(440732 bytes) Ex E.pdf(330537 bytes) Ex F.pdf(353668 bytes) Ex G.pdf(1701588 bytes) Ex H.pdf(919450 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of:
Application Serial No. 85/690,558
For the mark: PUCKMASTER
Published in the Official Gazette on January 8, 2013

Puckmaster, LLC,

Opposer,

Opposition No. 91209194

v.

5 Continent Inc.,

Applicant

Pursuant to the Trademark Trial and Appeal Board Order of August 23rd, 2013 Applicant 5 Continent Inc. (hereinafter “5 Continent”) presents the following summary of proceedings.

1. The Minnesota Civil Action, State of Minnesota Fourth Judicial District Court *Crown Bank v. Landmark Community Bank N.A., Puckmaster, LLC, Charles Arnold, John Does 1-10 and ABC Entities 1-10, 27-CV-13-2022* is still currently “Open” based on public Minnesota state court records. Counsel for Crown Bank informed counsel or 5 Continent that fact discovery is scheduled to end in mid-September 2013, and that expert reports are due at the end of September. The parties have a mediation scheduled for October 2013. There has not been any motion practice based on information given to 5 Continent by counsel for Crown Bank or publically available court records. Attached as Exhibit A are the Complaint and Amended Complaint of Crown Bank. Attached as Exhibit B is the Answer filed by Landmark Community Bank. Attached as Exhibit C are the Answer and Amended Answer of Puckmaster, LLC.

Attached as Exhibit D is the Answer of Charles Arnold. Attached as Exhibit E is the Answer of Synergy Resource Group.

2. Jonathon Todd Garamella was granted a discharge in his bankruptcy # 12-44067 District of Minnesota on April 15, 2013. The Court approved the Trustee's sale of assets of the bankruptcy estate to Mr. Garamella on June 21, 2013.

3. Landmark Community Bank filed an adversarial complaint against Mr. Garamella in his bankruptcy proceeding on March 29, 2013 Case No. 13-04073. Muhammad Farid a sole proprietor d/b/a Kaafronics filed an adversarial complaint against Mr. Garamella on June 11, 2013 Case No. 13-04174. Landmark Bank's adversarial complaint is attached as Exhibit F, Kaafronics adversarial complaint is attached as Exhibit G. Kaafronics complaint was disposed of in a judgment for the defendant on August 23, 2013 there is not a separate court order for this docket entry. The Landmark Bank adversarial proceeding has not been closed.

4. Mr. Garamella filed a document docketed as an adversarial complaint Case No. 12-04260 on October 5, 2012 against Kevin Johnson, and Johnson Holdings, Inc. This document is labeled as a notice of removal of a civil action. The adversarial complaint was dismissed and closed on November 30, 2012. The complaint is attached as Exhibit H. The State of Minnesota Civil Case case referred to in Exhibit H, *Todd Garamella v. Kevin Johnson and Johnson Holdings, Inc.*, was closed and removed to federal court on October 5, 2012 based on publically available Minnesota state court records.

Dated: August 30, 2013

By: /s/ Frank S. Farrell

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**ATTORNEYS FOR APPLICANT 5
CONTINENT**

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Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the following documents:

1. Summary of requested cases and exhibits;
2. Certificate of service;

Were served upon James T. Nikolai at Nikolai & Mersereau, P.A. 900 Second Avenue South Suite 1550 Minneapolis, MN 55402, jim.nikolai@nm-iplaw.com by email this 30th day of August, 2013.

By: /s/ Frank S. Farrell

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**ATTORNEYS FOR APPLICANT 5
CONTINENT**

Exhibit A

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: CONTRACT; OTHER

Crown Bank,

Plaintiff,

Court File No. _____
Judge _____

v.

COMPLAINT

Landmark Community Bank, N.A.,
Puckmaster, LLC, Charles Arnold, John Does
1-10, and ABC Entities 1-10,

Defendants.

For its Complaint against Defendants Landmark Community Bank, N.A., Puckmaster, LLC, John Does 1-10, and ABC Entities 1-10, Plaintiff Crown Bank states and alleges as follows:

INTRODUCTION

1. This case involves a conspiracy by Defendants to convert assets, including intellectual property pledged as security for Crown Bank's loans to 5 Continent Distributing, LLC ("Five Continent"), and to exploit those assets and intellectual property for Defendants' own benefit by creating a new, competing company operating under the same brand name in violation of Crown Bank's rights to those assets as a secured creditor.

2. Crown Bank and Landmark Community Bank, N.A. ("Landmark Bank") are both lenders to Five Continent, a manufacturer of scrap metal-recycling machines sold under the name "PuckMaster." Crown Bank made three loans, pursuant to which Five Continent now owes approximately \$650,000 plus accrued interest. Five Continent granted Crown Bank a security

interest in tangible assets and general intangibles including trade names, patents, trademarks, goodwill, computer programs, and other assets

3. Because Landmark Bank was also a creditor, the banks entered into an Intercreditor Subordination Agreement (“Intercreditor Agreement”), by which Crown Bank agreed to subordinate its security interest in specified product inventory to Landmark Bank, and Landmark Bank agreed to subordinate its interest in all other property, including intellectual property and trade names, to Crown Bank.

4. Despite Crown Bank’s priority interest in the intellectual property, Landmark Bank, together with Charles Arnold, Puckmaster, LLC, John Does 1–10, and ABC Entities 1–10 conspired to remove and retain a computer containing Five Continent’s intellectual property, to create a new entity named Puckmaster, LLC, and to wrongfully exploit the intellectual property including electronic drawings used to design and manufacture scrap metal-recycling machines and parts and the PuckMaster name for their own benefit.

5. Defendants attempted to destroy the evidence of their conspiracy and destroy the intellectual property necessary to design and manufacture PuckMaster scrap metal-recycling machines by deleting computer files contained on a computer that Defendants removed from Five Continent in violation of Crown Bank’s right, as a secured creditor, to possession of the computer and intellectual property within it. Defendants’ destruction of the electronic drawings needed to build additional PuckMaster machines limits Crown Bank’s ability to sell the intellectual property and dramatically decreases the value of Crown Bank’s collateral.

6. As a result of Defendants unlawful actions, Crown Bank is entitled to damages, and to equitable relief to protect its security interest in the PuckMaster name and intellectual property, including an Order requiring Defendants to cease and desist from all use of the

PuckMaster name and to turn over to Crown Bank all existing copies of the computer files relating to Five Continent and PuckMaster.

PARTIES

7. Plaintiff Crown Bank is a Minnesota banking corporation with a principal place of business located at 6600 France Avenue South, Suite 125, Edina, Minnesota.

8. On information and belief, Defendant Landmark Community Bank, N.A. (“Landmark Bank”) is a national bank with a principal place of business located at 711 6th Avenue Northeast, Isanti, MN.

9. Defendant Puckmaster, LLC is a Minnesota limited liability company with a registered office address of 220 South 6th Street, #1950, Minneapolis, Minnesota.

10. Defendant Charles Arnold is a former employee of Five Continent. On information and belief, he resides at 3212 Independence Road, Maple Plain, Minnesota 55359.

11. Defendants John Doe 1–10 and ABC Entities 1–10 are as yet unnamed joint tortfeasors who have conspired with, assisted, and engaged in the wrongful conduct asserted herein which sought to deprive Crown Bank of its rights to certain tangible and intangible property and to utilize intellectual property, trade names, and other assets in violation of Crown Bank’s rights as a first priority secured creditor.

JURISDICTION AND VENUE

12. This Court has personal jurisdiction over the parties and subject matter jurisdiction over the matters alleged in this Complaint. Venue is proper in this Court because a substantial portion of the events giving rise to Crown Bank’s claim occurred in Hennepin County and Defendant Puckmaster, LLC has its registered office in Hennepin County.

FACTUAL ALLEGATIONS

I. Crown Bank Obtained a Security Interest in Intellectual Property of Five Continent.

13. Five Continent, a Delaware limited liability company with its registered office located at 5041 Green Farms Road, Edina, MN, manufactures and sells machines for recycling scrap metal and machine coolant under the trade name "PuckMaster". Five Continent's Chief Manager is Todd Garamella.

14. The machines made by Five Continent convert scrap metal into briquettes, which physically resemble metal hockey pucks, that are denser, easier to ship, and have higher yields when melted than unprocessed scrap metal. The machines also recover liquids such as machine coolant.

15. By decreasing losses due to waste, and increasing the amount of metal that can be recovered when recycling, the PuckMaster machines can produce substantial value for businesses that generate scrap metal waste.

16. The designs for the PuckMaster machines are stored in three-dimensional electronic drawing files. In order to build new machines and related parts, Five Continent relies on these drawing files and related computer files that were maintained in a Five Continent computer. The electronic drawing and other computer files thus constitute a significant asset of Five Continent.

17. On information and belief, the three-dimensional electronic drawings and related computer files showing how to build the PuckMaster machines were stored on a computer used by Defendant Charles Arnold ("Arnold"), a former Five Continent employee.

18. Crown Bank has made substantial business loans to Five Continent. In connection with these loans, Five Continent entered security agreements granting Crown Bank a security interest in substantially all of the assets of Five Continent.

19. On or about July 1, 2009, Five Continent executed two Security Agreements in favor of Crown Bank (attached hereto as Exhibits A and B) to secure payment on promissory notes in the amounts of \$280,000 and \$400,000.

20. Pursuant to the July 1, 2009 Security Agreements, Five Continent pledged its interest in inventory, equipment, intangible property, and other rights to payment to secure the promissory notes.

21. The intangible property pledged in the July 1, 2009 Security Agreement consisted of:

“All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.”

22. On or about July 7, 2009, Crown Bank filed a U.C.C. financing statement with the Delaware Department of State to perfect its security interest in “[a]ll inventory, chattel paper, accounts, contract rights, equipment, general intangibles, furniture, fixtures, machinery and all other business assets . . .” of Five Continent.

23. On June 1, 2011, Five Continent executed another Security Agreement in favor of Crown Bank (attached hereto as Exhibit C) to secure payment on an additional promissory note in the amount of \$225,000. Five Continent pledged its interest in the “INTELLECTUAL PROPERTY OF 5 CONTINENT DISTRIBUTING, LLC EVIDENCED BY A SECURITY AGREEMENT DATED JULY 1, 2009” as security for the note.

24. Five Continent continues to owe Crown Bank approximately \$650,000 plus accrued interest on the outstanding notes.

25. Landmark Bank is another creditor of Five Continent, and, like Crown Bank, Landmark Bank had received one or more security agreements from Five Continent. In order “to avoid a conflict of security interests,” Crown Bank and Landmark Bank entered into an Intercreditor Subordination Agreement (“Intercreditor Agreement” attached hereto as Exhibit D).

26. Borrowers and guarantors, including GVAG Holdings, LLC, Intrepid Management Group, Inc., Donlyn Manufacturing Minnesota, LLC, Superior Engineering Delaware, LLC, Five Continent Distributing, LLC, and Todd Garamella, also consented to the Intercreditor Agreement.

27. Pursuant to the Intercreditor Agreement, Landmark Bank was granted priority security interests in certain machines in Five Continent’s inventory and Crown Bank was granted priority in all other Five Continent assets.

28. The Intercreditor Agreement defined the “Collateral” in which Landmark Bank was granted a first priority security interest as “[a]ll inventory including PuckMaster Units more fully described in Exhibit A attached hereto and made a part hereof.” Exhibit A to the Intercreditor Agreement listed certain PuckMaster machines in inventory at Five Continent.

29. Pursuant to the Intercreditor Agreement, Crown Bank subordinated its security interest in the Collateral to Landmark Bank’s security interest.

30. Pursuant to the Intercreditor Agreement, Landmark Bank subordinated its security interest in in all of the assets of Five Continent other than the Collateral to the security interest of Crown Bank.

31. As a result of the Intercreditor Agreement, Crown Bank retained the first secured position with respect to Five Continent's intangible property, including intellectual property and trade names such as "PuckMaster", as well as all other assets of Five Continent not specifically included within the definition of Collateral.

32. Until approximately April 2012, when he resigned without giving notice, Arnold was a Five Continent employee. Arnold had responsibilities for sales and business development.

33. Arnold entered an agreement in connection with his employment not to divulge, transmit, or otherwise disclose or cause to be disclosed, any confidential or proprietary information. Arnold also agreed not to solicit business from any customer for twenty-four months following termination of his employment.

34. In addition to his agreement, Arnold had fiduciary duties to his employer that precluded disclosure of confidential information obtained in the course of his employment.

III. Five Continent Defaulted on Its Obligations to Crown Bank and Landmark Bank.

35. Five Continent's Chief Manager Todd Garamella experienced personal financial difficulties in 2012, and his businesses, including Five Continent, were also experiencing financial difficulties. Five Continent reduced its staffing levels, with Arnold as one of the only remaining employees of Five Continent.

36. On or about July 11, 2012, Five Continent's Chief Manager Todd Garamella personally filed for bankruptcy.

37. In or about July 2011, Five Continent defaulted on its obligations to Crown Bank under the promissory notes. As a result of Five Continent's default, Crown Bank obtained a right to possession of the assets that had been pledged as security, including the intellectual property of Five Continent and the computer containing electronic machine drawings.

38. On information and belief, Five Continent also defaulted on its obligations to Landmark Bank. As a result of Five Continent's default, Landmark Bank obtained a right to possession of the inventory identified in the Intercreditor Agreement. Any right that Landmark Bank obtained to possess other Five Continent Assets was subject to Crown Bank's first secured position in those other assets.

IV. Defendants Conspired to Convert the Intellectual Property of Five Continent and to Create a New Company to Exploit the PuckMaster Name and Sell PuckMaster Machines.

39. In approximately April 2012, Arnold abruptly resigned from Five Continent without notice.

40. Five Continent became aware of at least one purchase order for a PuckMaster unit issued to Mr. Charles Arnold of Manufacturing Success at his home address.

41. By letter dated April 15, 2012, Five Continent demanded that Arnold cease and desist from contacting customers of Five Continent and selling or offering to sell PuckMaster machines.

42. Landmark Bank removed the inventory identified in the Intercreditor Agreement, over which it had a security interest in or about July 2012.

43. On information and belief, Arnold and/or Landmark Bank also removed from Five Continent the computer containing the electronic drawings and other files.

44. On information and belief, Landmark Bank, Arnold, and/or others have conspired to deprive Crown Bank of the intellectual property and other intangible assets of Five Continent and to instead make use of the said property for their own financial benefit, to the exclusion of Crown Bank.

45. In mid-2012, Arnold met with Joseph J. Garamella ("J.J. Garamella") for lunch. J.J. Garamella is the son of Five Continent's Chief Manager Todd Garamella. At their lunch

meeting, Arnold told J.J. Garamella that he had purchased Puckmaster from Landmark Bank, and that he was making payments to Landmark Bank for the purchase. However, Landmark Bank had no right to sell and Arnold had no right to purchase those Five Continent assets, including intellectual property and trade names, in which Crown Bank had the first priority security interest.

46. Arnold currently has a recorded voice mail message on his phone that says “Thank you for calling Puckmaster, you have reached the cell phone of Charles Arnold. Please leave a message and we will get back to you.”

47. Although Crown Bank held the first secured interest in Five Continent’s assets including intellectual property, goodwill, trade names, and other assets, and Landmark Bank had a priority interest only in certain inventory, Defendants removed a Five Continent computer containing electronic machine drawings and other computer files and created a new legal entity – Puckmaster, LLC – to take over the business of making and/or selling scrap metal-recycling machines under the Puckmaster name.

48. On July 25, 2012, Articles of Organization creating “Puckmaster, LLC” were filed with the Office of the Minnesota Secretary of State.

49. Puckmaster, LLC lists its registered office address as 220 South 6th Street, #1950, Minneapolis, Minnesota, which is the office address of Bonner and Borhart, LLP, attorneys for Landmark Bank.

50. The Articles of Organization for Puckmaster, LLC list Thomas F. Cross (“Cross”) as the sole organizer of Puckmaster, LLC. On information and belief, Cross is a Senior Vice President and in house attorney for Landmark Bank.

51. By letter dated July 31, 2012, Five Continent notified Arnold that he was not authorized to represent Five Continent, or communicate with any individuals or entities on its behalf.

52. On August 2, 2012, Puckmaster, LLC filed an application to trademark "Puckmaster" with the United States Patent and Trademark Office.

53. The use of the Puckmaster name by Defendants is directly contrary to and an improper interference with Crown Bank's rights in the Puckmaster trade name.

54. By letter dated August 14, 2012, Five Continent demanded that Arnold cease and desist from all use of the PuckMaster name or PUCKMASTER trademark.

55. Crown Bank sought to foreclose its security interest, and sell or otherwise utilize the PuckMaster brand and intellectual property in order to recover on the outstanding amount of the loans to Five Continent. On or about August 3, 2012, Crown Bank issued foreclosure notices to Landmark Bank, Todd Garamella, Five Continent and I.SQ Funding Group, L.C.

56. Crown Bank attempted to recover the Five Continent computer, including the intellectual property files and electronic drawings which would be critical to obtaining funds to pay off its loans. The computer used by Arnold, which contained the electronic machine drawings, could not be located by Five Continent or Todd Garamella.

57. On August 30, 2012, J.J. Garamella contacted Tommy Blais ("Blais"), who had done computer work for Five Continent. He asked Blais where the electronic drawings used to build the PuckMaster machine were located.

58. Blais explained that the PuckMaster machine drawings were not stored on the network or in Five Continent's cloud-based storage. Blais stated that he was unaware of the location of the machine drawings, but thought they might be on an external hard drive.

59. At 11:04 a.m. on September 4, 2012, Arnold contacted J.J. Garamella by email and informed him that “the only electronic drawings are on an old computer *that has been retained by Landmark Bank* with the [Five Continent] inventory that was taken . . .” (emphasis added).

60. By letter dated September 7, 2012, Crown Bank, through its attorneys, demanded that Arnold return the computer containing the electronic machine drawings and demanded that Arnold cease and desist all use of the Puckmaster name.

61. By letter dated September 12, 2012, Crown Bank, through its attorneys, contacted Landmark Bank and notified Landmark Bank of its interest in the Puckmaster name and the demand for return of the computer.

62. By letter dated September 20, 2012, Crown Bank, through its attorneys, again demanded that Arnold return any physical assets of Five Continent and cease and desist all use of the Puckmaster name.

63. On information and belief, Arnold and Puckmaster, LLC continue to operate a business using the Puckmaster name with the assistance of Landmark Bank, John Does 1–10, and ABC Entities 1–10.

64. On information and belief, Arnold and Puckmaster, LLC, with the assistance of Landmark Bank, John Does 1–10, and ABC Entities 1–10, have contacted Five Continent customers to solicit business.

65. On information and belief, the continued operation of an entity under the name Puckmaster is confusing Five Continent’s customers and diluting the value of the PuckMaster brand.

V. Defendants Conspired to Destroy Electronically Stored Information.

66. On October 26, 2012, Landmark Bank finally produced the Five Continent computer that contained the electronic machine drawing files. Thomas Cross, the organizer of Puckmaster, LLC and a Landmark Bank executive arranged to have the computer delivered by Landmark Bank. However, the valuable intellectual property and other files had been first deleted from the computer so that Crown Bank would be deprived of access to them.

67. Without ever turning it on, Crown Bank turned over the computer to a company called Computer Forensic Services to investigate its contents and whether anything had been deleted, and to determine whether any data could be recovered. Computer Forensics Services determined that more than seven thousand computer files, including electronic drawings of the PuckMaster machines, had been deleted.

68. Some 1,394 files were deleted between 11:28 am and 12:17 pm on September 4, 2012, just minutes after Arnold emailed J.J. Garamella indicating that the computer had been retained by Landmark Bank.

69. On information and belief, Arnold and Landmark Bank conspired to delete the electronic computer files to destroy Crown Bank's ability to utilize or sell the valuable intellectual property pledged as security for Crown Bank's loans and to conceal their attempt to utilize the intellectual property for their own benefit through the new company using the PuckMaster name.

70. On information and belief, Defendants transferred the deleted files onto one or more computers within their possession, custody or control for use in the new business.

71. On information and belief, John Does 1-10 and ABC Entities 1-10 actively participated in and/or acted in furtherance of the above-described actions of Landmark Bank, Arnold, and Puckmaster, LLC.

72. On information and belief, Arnold, Landmark Bank, Puckmaster, LLC, John Does 1–10, and ABC Entities 1–10 have electronic communications and other computer files containing intellectual property that Crown Bank has a right to possess.

73. On information and belief, Defendants knowingly destroyed electronically stored information on the Five Continent Computer and transferred the intellectual property and other files to computers within their possession, custody or control, and are likely to continue to destroy and/or transfer electronically stored information without Court intervention.

COUNT I
(Breach of Contract against Landmark Bank)

74. Crown Bank incorporates by reference paragraphs 1 through 73, above.

75. Crown Bank entered an Intercreditor Agreement with Landmark Bank.

76. Crown Bank performed its obligations under the Intercreditor Agreement.

77. By its above-described actions and omissions, Landmark Bank breached its obligations to Crown Bank pursuant to the Intercreditor Agreement.

78. Specifically, Landmark Bank breached its obligations to Crown Bank under the Intercreditor Agreement by, among other things, removing collateral that was subject to Crown Bank's security interest, destroying computer files containing valuable intellectual property, and attempting to sell or use the Puckmaster name and Five Continent intellectual property for its own benefit even though Crown Bank held the senior security interest in the Puckmaster name and other intangible assets.

79. As a direct and proximate result of Defendants breaches of contract, Crown Bank has suffered harm, including without limitation financial losses, and is entitled to equitable relief and/or damages in excess of \$50,000.

COUNT II

(Breach of the Implied Covenant of Good Faith and Fair Dealing against Landmark Bank)

80. Crown Bank incorporates by reference paragraphs 1 through 79, above.

81. Crown Bank entered an Intercreditor Agreement with Landmark Bank.

82. A covenant of good faith and fair dealing is implied in that contract by law.

83. By its above-described actions and omissions, Landmark Bank breached the covenant of good faith and fair dealing implied by law into its agreement with Crown Bank.

84. Landmark Bank breached the covenant of good faith and fair dealing implied by law into its agreement with Crown Bank by, among other things, removing collateral that was subject to Crown Bank's senior security interest, destroying computer files containing valuable intellectual property, and attempting to use the Puckmaster name for its own benefit.

85. Landmark Bank's actions interfered with Crown Bank's ability to exercise its rights to tangible and intangible property under the Intercreditor Agreement and the Security Agreements.

86. As a result of said breaches of the implied covenant of good faith and fair dealing, Crown Bank has suffered harm, including without limitation financial losses, and is entitled to equitable relief and/or damages in excess of \$50,000.

COUNT III

(Conversion against All Defendants)

87. Crown Bank incorporates by reference paragraphs 1 through 86, above.

88. Crown Bank has a security interest in the tangible and intangible property of Five Continent including the computer containing electronic machine drawings, the trademarks, trade names, patents, and other intellectual property.

89. After Five Continent defaulted under its loan obligations, Crown Bank had a right to possession of the property pledged as security for the promissory notes.

90. Defendants knowingly deprived Crown Bank of its right to possession of the property subject to Crown Bank's security interest by removing the computer from Five Continent and destroying certain computer files.

91. By their above-described actions and omissions, Defendants converted the tangible and intangible property of Five Continent including the computer containing electronic machine drawings, the trademarks, trade names, patents, and other intellectual property and deprived Crown Bank of its right to possession of the property.

92. Although Defendants were aware of Crown Bank's rights, Defendants deliberately disregarded Crown Bank's rights as a secured creditor. Defendants acted in conscious or intentional disregard of the high probability that their actions would injure Crown Bank's rights as a secured creditor.

93. As a direct and proximate result of Defendants' conversion Crown Bank has suffered harm, including without limitation financial losses, and is entitled equitable relief and/or damages in excess of \$50,000.

COUNT IV
(Tortious Interference with Contract against All Defendants except
Landmark Bank)

94. Crown Bank incorporates by reference paragraphs 1 through 94, above.

95. On information and belief, Defendants were aware of the Intercreditor Agreement.

96. On information and belief, Defendants encouraged Landmark Bank to breach the Intercreditor Agreement by taking possession of property in which Crown Bank had the senior security interest.

97. On information and belief, Defendants hoped to set up a new legal entity to continue the Five Continent business under the name Puckmaster.

98. By its above-described actions and omissions, Landmark Bank breached the Intercreditor Agreement.

99. By their above-described actions and omissions, the remaining Defendants tortiously interfered with the Intercreditor Agreement.

100. Although the remaining Defendants were aware of Crown Bank's rights under the Intercreditor Agreement, Defendants deliberately disregarded Crown Bank's rights under the Intercreditor Agreement. Defendants acted in conscious or intentional disregard of the high probability that their actions would injure Crown Bank's rights under the Intercreditor Agreement.

101. As a result of Defendants' tortious interference with the Intercreditor Agreement, Crown Bank has suffered harm, including without limitation financial losses, and is entitled equitable relief and/or damages in excess of \$50,000.

COUNT V
(Unjust Enrichment)

102. Crown Bank incorporates by reference paragraphs 1 through 102, above.

103. Defendants were aware that Crown Bank had the senior security interest in the tangible and intangible property of Five Continent including the computer containing electronic machine drawings, the trademarks, trade names, patents, and other intellectual property.

112. As direct and proximate result of Defendants' conspiracy to harm Crown Bank, Crown Bank has suffered harm, including without limitation financial losses, and is entitled equitable relief and/or damages in excess of \$50,000.

**COUNT VII
(Injunctive Relief)**

113. Crown Bank hereby incorporates the allegations of Paragraphs 1 through 112 as though fully set forth herein.

114. As a result of defendants' wrongful conduct, as more fully alleged herein, Crown Bank will suffer irreparable harm if Defendants are not preliminarily and permanently enjoined from using the PuckMaster name, or any variation thereof, or the PuckMaster intellectual property for any purpose.

115. Thousands of computer files were deleted while in the possession, custody, or control of Defendants.

116. As a result of defendants' wrongful conduct, as more fully alleged herein, Crown Bank will suffer irreparable harm if Defendants are not preliminarily and permanently ordered to turn over any and all computer files that relate to Puckmaster, Five Continent, or any of the facts alleged in this Complaint.

PRAYER FOR RELIEF

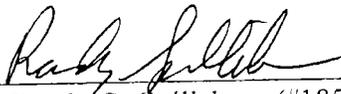
WHEREFORE, Crown Bank prays for the following relief:

1. Entry of judgment in favor of Crown Bank under Counts I, II, III, IV, V and VI in an amount in excess of \$50,000;
2. Entry of an Order directing Defendants to cease and desist from all use of any Five Continent intellectual property including the PuckMaster name, Puckmaster trademark, or any design showing how to construct PuckMaster machines;

3. Entry of an Order directing Defendants to turn over any and all computer files that relate to Puckmaster, Five Continent, or any of the facts alleged in this Complaint
4. Costs, disbursements and attorneys' fees as allowed by law; and
5. Entry of such other relief as the Court deems just and appropriate.

Dated: December 26, 2012

**ANTHONY OSTLUND BAER
& LOUWAGIE P.A.**

By: 
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Daniel R. Hall (#392757)
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ATTORNEYS FOR PLAINTIFFS

ACKNOWLEDGEMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, to the parties against whom the allegations in the Summons and Complaint are asserted.



STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
CASE TYPE: CONTRACT; OTHER

Crown Bank,

Court File No. _____

Judge _____

Plaintiff,

v.

**CERTIFICATE OF REPRESENTATION
AND PARTIES**Landmark Community Bank, N.A.,
Puckmaster, L.L.C., Charles Arnold, John Does
1-10, and ABC Entities 1-10,

Defendants.

Pursuant to Rule 104 of the General Rules of Practice for District Courts, this form must be completed and filed with the Court Administrator's Office at the time the case is filed. The Court Administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers of the date of filing the action and the file number assigned.

LIST ALL LAWYERS/PRO SE PARTIES INVOLVED IN THIS CASE.

LAWYER FOR PLAINTIFF(S)**LAWYER FOR DEFENDANT(S)**
(If not known, name party and address)Crown BankRandy G. Gullickson (#185607)
Daniel R. Hall (#392757)
Anthony Ostlund Baer & Louwagie P.A.
90 South 7th Street, Suite 3600
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Puckmaster, L.L.CJohn F. Bonner, III (#09726)
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600 South Highway 169, Suite 1900
St. Louis Park, MN 55426
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3212 Independence Road
Maple Plain, MN 55359/s/ Randy G. Gullickson

Randy G. Gullickson/Plaintiff Crown Bank

Dated: January 31, 2013

EXHIBIT A TO COMPLAINT

SECURITY AGREEMENT

DATE AND PARTIES. The date of this Security Agreement (Agreement) is July 1, 2009. The parties and their addresses are:

SECURED PARTY:
CROWN BANK
6800 Franco Avenue South Ste 125
Edina, MN 55436

DEBTOR:
5 CONTINENT DISTRIBUTING, LLC
a Minnesota Limited Liability Company
5041 GREEN FARMS ROAD
EDINA, MN 55436

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Debtor and agreeing to give the Property described in this Agreement as security for the Secured Debts.

1. SECURED DEBTS. The term "Secured Debts" includes and this Agreement will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 4090918, dated July 1, 2009, from me to you, in the amount of \$280,000.00.

B. All Debts. All present and future debts from me to you, even if this Agreement is not specifically referenced, the future debts are also secured by other collateral, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Agreement, each agrees that it will secure debts incurred either individually or with others who may not sign this Agreement. Nothing in this Agreement constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing.

This Agreement will not secure any debt for which you fail to give any required notice of the right of rescission. This Agreement will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. In addition, this Agreement will not secure any other debt if, as a result, the other debt would become subject to Section 870 of the John Warner National Defense Authorization Act for Fiscal Year 2007.

C. Sums Advanced. All sums advanced and expenses incurred by you under the terms of this Agreement.

Loan Documents refer to all the documents executed in connection with the Secured Debts.

2. SECURITY INTEREST. To secure the payment and performance of the Secured Debts, I give you a security interest in all of the Property described in this Agreement that I own or have sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products from the Property (including, but not limited to, all parts, accessories, repairs, replacements, improvements, and accessories to the Property). Property is all the collateral given as security for the Secured Debts and described in this Agreement, and includes all obligations that support the payment or performance of the Property. "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property.

This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and you are no longer obligated to advance funds to me under any loan or credit agreement.

3. PROPERTY DESCRIPTION. The Property is described as follows:

A. Inventory. All inventory which I hold for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.

B. Accounts and Other Rights to Payment. All rights I have now or in the future to payments including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned, whether or not I have earned such payment by performance. This includes any rights and interests including all liens and security interests which I may have by law or agreement against any Account Debtor or obligor of mine.

C. General Intangibles. All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.

D. Equipment. All equipment including, but not limited to, all machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. All equipment described in a list or schedule which I give to you will also be included in the Property, but such a list is not necessary for a valid security interest in my equipment.

4. WARRANTIES AND REPRESENTATIONS. I make to you the following warranties and representations which will continue as long as this Agreement is in effect:

A. Power. I am duly organized, and validly existing and in good standing in all jurisdictions in which I operate. I have the power and authority to enter into this transaction and to carry on my business or activity as it is now being conducted and, as applicable, am qualified to do so in each jurisdiction in which I operate.

B. Authority. The execution, delivery and performance of this Agreement and the obligation evidenced by this Agreement are within my powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which I am a party or to which I am or any of my property is subject.

C. Name and Location. My name indicated in the DATE AND PARTIES section is my exact legal name. I am an entity organized and registered under the laws of Minnesota. I will provide verification of registration and location upon your request. I will provide you with at least 90 days notice prior to any change in my name, address, or state of organization or registration.

D. Business Name. Other than previously disclosed in writing to you I have not changed my name or principal place of business within the last 10 years and have not used any other trade or fictitious name. Without your prior written consent, I do not and will not use any other name and will preserve my existing name, trade names and franchises.

E. Ownership of Property. I represent that I own all of the Property. Your claim to the Property is ahead of the claims of any other creditor, except as disclosed in writing to you prior to any advance on the Secured Debts. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

5. DUTIES TOWARD PROPERTY.

A. Protection of Secured Party's Interest. I will defend the Property against any other claim. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these and make copies at any reasonable time. I will prepare any report or accounting you request which deals with the Property.

B. Use, Location, and Protection of the Property. I will keep the Property in my possession and in good repair. I will use it only for commercial purposes. I will not change this specified use without your prior written consent. You have the right of reasonable access to inspect the Property and I will immediately inform you of any loss or damage to the Property. I will not cause or permit waste to the Property.

I will keep the Property at my address listed in the DATE AND PARTIES section unless we agree I may keep it at another location. If the Property is to be used in other states, I will give you a list of those states. The location of the Property is given to aid in the identification of the Property. It does not in any way limit the scope of the security interest granted to you. I will notify you in writing and obtain your prior written consent to any change in location of any of the Property. I will not use the Property in violation of any law. I will notify you in writing prior to any change in my address, name or, if an organization, any change in my identity or structure.

Until the Secured Debts are fully paid and this Agreement is terminated, I will not grant a security interest in any of the Property without your prior written consent. I will pay all taxes and assessments levied or assessed against me or the Property and provide timely proof of payment of these taxes and assessments upon request.

C. Selling, Lending or Encumbering the Property. I will not sell, offer to sell, lease, or otherwise transfer or encumber the Property without your prior written permission, except for inventory sold in the ordinary course of business at fair market value, or at a minimum price established between you and me. If I am in default under this Agreement, I may not sell the inventory portion of the Property even in the ordinary course of business. Any disposition of the Property contrary to this Agreement will violate your rights. Your permission to sell the Property may be reasonably withheld without regard to the creditworthiness of any buyer or transferee. I will not permit the Property to be the subject of any court order affecting my rights to the Property in any action by anyone other than you. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, I will note your security interest on the face of the chattel paper or instruments.

D. Additional Duties Specific to Accounts. I will not settle any Account for less than its full value without your written permission. Until you tell me otherwise, I will collect all Accounts in the ordinary course of business. I will not dispose of the Accounts by assignment without your prior written consent. I will keep the proceeds from all the Accounts and any goods which are returned to me or which I take back. I will not commingle them with any of my other property. I will deliver the Accounts to you at your request. If you ask me to pay you the full price on any returned items or items retained by me, I will do so. I will make

5 CONTINENT DISTRIBUTING, LLC
Minnesota Security Agreement
MN/4Xpburton009840006352010070109Y

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Initials

EXHIBIT A

no material change in the terms of any Account, and I will give you any statements, reports, certificates, lists of Account Debtors (showing names, addresses and amounts owing), invoices applicable to each Account, and other data in any way pertaining to the Accounts as you may request.

6. **INSURANCE.** I agree to keep the Property insured against the risks reasonably associated with the Property. I will maintain this insurance in the amounts you require. This insurance will last until the Property is released from this Agreement. I may choose the insurance company, subject to your approval, which will not be unreasonably withheld.

I will have the insurance company name you as loss payee on any insurance policy. I will give you and the insurance company immediate notice of any loss. You may apply the insurance proceeds toward what is owed on the Secured Debts. You may require added security as a condition of permitting any insurance proceeds to be used to repair or replace the Property.

If you acquire the Property in damaged condition, my right to any insurance policies and proceeds will pass to you to the extent of the Secured Debts.

I will immediately notify you of cancellation or termination of insurance. If I fail to keep the Property insured, you may obtain insurance to protect your interest in the Property and I will pay for the insurance on your demand. You may demand that I pay for the insurance all at once, or you may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include coverage not originally required of me, may be written by a company other than one I would choose, and may be written at a higher rate than I could obtain if I purchased the insurance. I acknowledge and agree that you or one of your affiliates may receive commissions on the purchase of this insurance.

7. **COLLECTION RIGHTS OF THE SECURED PARTY.** Account Debtor means the person who is obligated on an account, chattel paper, or general intangible. I authorize you to notify my Account Debtors of your security interest and to deal with the Account Debtors' obligations at your discretion. You may enforce the obligations of an Account Debtor, exercising any of my rights with respect to the Account Debtors' obligations to make payment or otherwise (minor performance to me, including the enforcement of any security interest that secures such obligations). You may apply proceeds received from the Account Debtors to the Secured Debts or you may release such proceeds to me.

I specifically and irrevocably authorize you to exercise any of the following powers at my expense, without limitation, until the Secured Debts are paid in full:

- demand payment and enforce collection from any Account Debtor or Obligor by suit or otherwise.
- enforce any security interest, lien or encumbrance given to secure the payment or performance of any Account Debtor or any obligation constituting Property.
- file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated as an Account Debtor.
- compromise, release, extend, or exchange any indebtedness of an Account Debtor.
- take control of any proceeds of the Account Debtors' obligations and any returned or repossessed goods.
- endorse all payments by any Account Debtor which may come into your possession as payable to me.
- deal in all respects as the holder and owner of the Account Debtors' obligations.

8. **AUTHORITY TO PERFORM.** I authorize you to do anything you deem reasonably necessary to protect the Property, and perfect and continue your security interest in the Property. If I fail to perform any of my duties under this Agreement or any other Loan Document, you are authorized, without notice to me, to perform the duties or cause them to be performed.

These authorizations include, but are not limited to, permission to:

- pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Property.
- pay any rents or other charges under any lease affecting the Property.
- order and pay for the repair, maintenance and preservation of the Property.
- file any financing statements on my behalf and pay for filing and recording fees pertaining to the Property.
- place a note on any chattel paper indicating your interest in the Property.
- take any action you feel necessary to realize on the Property, including performing any part of a contract or endorsing it in my name.
- handle any suits or other proceedings involving the Property in my name.
- prepare, file, and sign my name to any necessary reports or accountings.
- make an entry on my books and records showing the existence of this Agreement.

I, notify any Account Debtor of your interest in the Property and tell the Account Debtor to make payments to you or someone else you name.

If you perform for me, you will use reasonable care. If you exercise the care and follow the procedures that you generally apply to the collection of obligations owed to you, you will be deemed to be using reasonable care. Reasonable care will not include: any steps necessary to preserve rights against prior parties; the duty to send notices, perform services or take any other action in connection with the management of the Property; or the duty to protect, preserve or maintain any security interest given to others by me or other parties. Your authorization to perform for me will not create an obligation to perform and your failure to perform will not preclude you from exercising any other rights under the law or this Agreement. All cash and non-cash proceeds of the Property may be applied by you only upon your actual receipt of cash proceeds against such of the Secured Debts, matured or unmatured, as you determine in your sole discretion.

If you come into actual or constructive possession of the Property, you will preserve and protect the Property. For purposes of this paragraph, you will be in actual possession of the Property only when you have physical, immediate and exclusive control over the Property and you have affirmatively accepted that control. You will be in constructive possession of the Property only when you have both the power and the intent to exercise control over the Property.

9. **DEFAULT.** I will be in default if any of the following occur:

- Payments. I fail to make a payment in full when due.
- Insolvency or Bankruptcy. The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Obligor, or any co-signer, endorser, surety or guarantor of this Agreement or any other obligations Obligor has with you.
- Business Termination. I merge, dissolve, reorganize, and my business or existence, or a partner or majority owner dies or is declared legally incompetent.
- Failure to Perform. I fail to perform any condition or to keep any promise or covenant of this Agreement.
- Other Documents. A default occurs under the terms of any other Loan Document.
- Other Agreements. I am in default on any other debt or agreement I have with you.
- Misrepresentation. I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- Judgment. I fail to satisfy or appeal any judgment against me.
- Forfeiture. The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- Name Change. I change my name or assume an additional name without notifying you before making such a change.
- Property Transfer. I transfer all or a substantial part of my money or property.
- Property Value. You determine in good faith that the value of the Property has declined or is impaired.
- Material Change. Without first notifying you, there is a material change in my business, including ownership, management, and financial conditions.
- Insolvency. You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Agreement or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

10. **DUE ON SALE OR ENCUMBRANCE.** You may, at your option, declare the entire balance of this Agreement to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. However, if I am in default under this Agreement, I may not sell the inventory portion of the Property even in the ordinary course of business.

11. **REMEDIES.** After I default, you may at your option do any one or more of the following.

- Acceleration. You may make all or any part of the amount owing by the terms of the Secured Debts immediately due.
- Sources. You may use any and all remedies you have under state or federal law or in any Loan Document.
- Insurance Benefits. You may make a claim for any and all insurance benefits or refunds that may be available on my default.
- Payments Made On My Behalf. Amounts advanced on my behalf will be immediately due and may be added to the Secured Debts.
- Assembly of Property. You may require me to gather the Property and make it available to you in a reasonable fashion.
- Repossession. You may repossess the Property so long as the repossession does not involve a breach of the peace. You may sell, lease or otherwise dispose of the Property as provided by law. You may apply what you receive from the disposition of the Property to your expenses, your attorney's fees and legal expenses (where not prohibited by law), and any debt I owe you. If what you receive from the disposition of the Property does not satisfy the debt, I will be liable for the deficiency (where permitted by law). In some cases, you may keep the Property to satisfy the debt.

Where a notice is required, I agree that ten days prior written notice sent by first class mail to my address listed in this Agreement will be reasonable notice to me under the Minnesota Uniform Commercial Code. If the Property is perishable or threatens to decline speedily in value, you may, without notice to me, dispose of any or all of the Property in a commercially reasonable manner at my expense following any commercially reasonable preparation or processing.

if any items not otherwise subject to this Agreement are contained in the Property when you take possession, you may hold those items for me at my risk and you will not be liable for taking possession of them.

G. Use and Operation. You may enter upon my premises and take possession of all or any part of my property for the purpose of preserving the Property or its value, so long as you do not breach the peace. You may use and operate my property for the length of time you feel is necessary to protect your interest, all without payment or compensation to me.

H. Waiver. By choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

12. WAIVER OF CLAIMS. I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

13. PERFECTION OF SECURITY INTEREST AND COSTS. I authorize you to file a financing statement covering the Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining perfection or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code. I agree to pay all taxes, fees and costs you pay or incur in connection with preparing, filing or recording any financing statements or other security interest filings on the Property. I agree to pay all actual costs of terminating your security interest.

14. APPLICABLE LAW. This Agreement is governed by the laws of Minnesota, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Minnesota, unless otherwise required by law.

15. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. You may sue each Debtor individually or together with any other Debtor. You may release any part of the Property and I will still be obligated under this Agreement for the remaining Property. Debtor agrees that you and any party to this Agreement may extend, modify or make any change in the terms of this Agreement or any evidence of debt without Debtor's consent. Such a change will not release Debtor from the terms of this Agreement. If you assign any of the Secured Debts, you may assign all or any part of this Agreement without notice to me or my consent, and this Agreement will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Agreement as to any of the Secured Debts that are not assigned. This Agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Secured Debts and shall be binding upon and enforceable against me and my personal representatives, successors, heirs and assigns.

16. AMENDMENT, INTEGRATION AND SEVERABILITY. This Agreement may not be amended or modified by oral agreement. No amendment or modification of this Agreement is effective unless made in writing and executed by you and me. This Agreement and the other Loan Documents are the complete and final expression of the understanding between you and me. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

17. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

18. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Debtor will be deemed to be notice to all Debtors. I will inform you in writing of any change in my name, address or other application information. I will provide you any financial statement or information you request. All financial statements and information I give you will be correct and complete. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Agreement and to confirm your lien status on any Property. Time is of the essence.

SIGNATURES. By signing, I agree to the terms contained in this Agreement. I also acknowledge receipt of a copy of this Agreement.

DEBTOR:

5 CONTINENT DISTRIBUTING, LLC

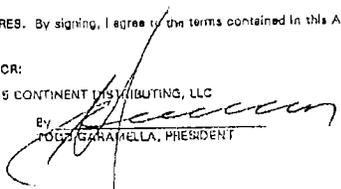
By: 
TODD GARAMELLA, PRESIDENT

EXHIBIT B TO COMPLAINT

SECURITY AGREEMENT

DATE AND PARTIES. The date of this Security Agreement (Agreement) is July 1, 2009. The parties and their addresses are:

SECURED PARTY:
CROWN BANK
6600 France Avenue South Ste 125
Edina, MN 55435

DEBTOR:
5 CONTINENT DISTRIBUTING, LLC
a Minnesota Limited Liability Company
5041 GREEN FARMS ROAD
EDINA, MN 55436

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Debtor and agreeing to give the Property described in this Agreement as security for the Secured Debts.

1. SECURED DEBTS. The term "Secured Debts" includes and this Agreement will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 4090908, dated July 1, 2009, from me to you, in the amount of \$400,000.00.

B. All Debts. All present and future debts from me to you, even if this Agreement is not specifically referenced, the future debts are also secured by other collateral, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Agreement, each agrees that it will secure debts incurred either individually or with others who may not sign this Agreement. Nothing in this Agreement constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing.

This Agreement will not secure any debt for which you fail to give any required notice of the right of rescission. This Agreement will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. In addition, this Agreement will not secure any other debt if, as a result, the other debt would become subject to Section 67D of the John Warner National Defense Authorization Act for Fiscal Year 2007.

C. Sums Advanced. All sums advanced and expenses incurred by you under the terms of this Agreement.

Loan Documents refer to all the documents executed in connection with the Secured Debts.

2. SECURITY INTEREST. To secure the payment and performance of the Secured Debts, I give you a security interest in all of the Property described in this Agreement that I own or have sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products from the Property (including, but not limited to, all parts, accessories, repairs, replacements, improvements, and accessories to the Property). Property is all the collateral given as security for the Secured Debts and described in this Agreement, and includes all obligations that support the payment or performance of the Property. "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property, and any collections and distributions on account of the Property.

This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and you are no longer obligated to advance funds to me under any loan or credit agreement.

3. PROPERTY DESCRIPTION. The Property is described as follows:

A. Inventory. All inventory which I hold for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.

B. Accounts and Other Rights to Payment. All rights I have now or in the future to payments including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned, whether or not I have earned such payment by performance. This includes any rights and interests (including all liens and security interests) which I may have by law or agreement against any Account Debtor or obligor of mine.

C. General Intangibles. All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, goodwill, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.

D. Equipment. All equipment including, but not limited to, all machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. All equipment described in a list or schedule which I give to you will also be included in the Property, but such a list is not necessary for a valid security interest in my equipment.

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A. Power. I am duly organized, and validly existing and in good standing in all jurisdictions in which I operate. I have the power and authority to enter into this transaction and to carry on my business or activity as it is now being conducted and, as applicable, am qualified to do so in each jurisdiction in which I operate.

B. Authority. The execution, delivery and performance of this Agreement and the obligation evidenced by this Agreement are within my powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which I am a party or to which I am or any of my property is subject.

C. Name and Location. My name indicated in the DATE AND PARTIES section is my exact legal name. I am an entity organized and registered under the laws of Minnesota. I will provide verification of registration and location upon your request. I will provide you with at least 30 days notice prior to any change in my name, address, or state of organization or registration.

D. Business Name. Other than previously disclosed in writing to you I have not changed my name or principal place of business within the last 10 years and have not used any other trade or fictitious name. Without your prior written consent, I do not and will not use any other name and will preserve my existing name, trade names and franchises.

E. Ownership of Property. I represent that I own all of the Property. Your claim to the Property is ahead of the claims of any other creditor, except as disclosed in writing to you prior to any advance on the Secured Debts. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

5. DUTIES TOWARD PROPERTY.

A. Protection of Secured Party's Interest. I will defend the Property against any other claim. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position. I will keep books, records and accounts about the Property and my business in general. I will let you examine these and make copies at any reasonable time. I will prepare any report or accounting you request which deals with the Property.

B. Use, Location, and Protection of the Property. I will keep the Property in my possession and in good repair. I will use it only for commercial purposes. I will not change this specified use without your prior written consent. You have the right of reasonable access to inspect the Property and I will immediately inform you of any loss or damage to the Property. I will not cause or permit waste to the Property.

I will keep the Property at my address listed in the DATE AND PARTIES section unless you agree I may keep it at another location. If the Property is to be used in other states, I will give you a list of those states. The location of the Property is given to aid in the identification of the Property. It does not in any way limit the scope of the security interest granted to you. I will notify you in writing and obtain your prior written consent to any change in location of any of the Property. I will not use the Property in violation of any law. I will notify you in writing prior to any change in my address, name or, if an organization, any change in my identity or structure.

Until the Secured Debts are fully paid and this Agreement is terminated, I will not grant a security interest in any of the Property without your prior written consent. I will pay all taxes and assessments levied or assessed against me or the Property and provide timely proof of payment of those taxes and assessments upon request.

C. Selling, Leasing or Encumbering the Property. I will not sell, offer to sell, lease, or otherwise transfer or encumber the Property without your prior written permission, except for inventory sold in the ordinary course of business at fair market value, or at a minimum price established between you and me. If I am in default under this Agreement, I may not sell the inventory portion of the Property even in the ordinary course of business. Any disposition of the Property contrary to this Agreement will violate your rights. Your permission to sell the Property may be reasonably withheld without regard to the creditworthiness of any buyer or transferee. I will not permit the Property to be the subject of any court order affecting my rights to the Property in any action by anyone other than you. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, I will note your security interest on the face of the chattel paper or instruments.

D. Additional Duties Specific to Accounts. I will not settle any Account for less than its full value without your written permission. Until you tell me otherwise, I will collect all Accounts in the ordinary course of business. I will not dispose of the Accounts by assignment without your prior written consent. I will keep the proceeds from all the Accounts and any goods which are returned to me or which I take back. I will not commingle them with any of my other property. I will deliver the Accounts to you at your request. If you ask me to pay you the full price on any returned items or items retaken by me, I will do so. I will make

no material change in the terms of any Account, and I will give you any statements, reports, certificates, lists of Account Debtors (showing names, addresses and amounts owing), invoices applicable to each Account, and other data in any way pertaining to the Accounts as you may request.

6. **INSURANCE.** I agree to keep the Property insured against the risks reasonably associated with the Property. I will maintain this insurance in the amounts you require. This insurance will last until the Property is released from this Agreement. I may choose the insurance company, subject to your approval, which will not be unreasonably withheld.

I will have the insurance company name you as loss payee on any insurance policy. I will give you and the insurance company immediate notice of any loss. You may apply the insurance proceeds toward what is owed on the Secured Debts. You may require added security as a condition of permitting any insurance proceeds to be used to repair or replace the Property.

If you acquire the Property in damaged condition, my right to any insurance policies and proceeds will pass to you to the extent of the Secured Debts.

I will immediately notify you of cancellation or termination of insurance. If I fail to keep the Property insured, you may obtain insurance to protect your interest in the Property and I will pay for the insurance on your demand. You may demand that I pay for the insurance all at once, or you may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include coverages not originally required of me, may be written by a company other than one I would choose, and may be written at a higher rate than I could obtain if I purchased the insurance. I acknowledge and agree that you or one of your affiliates may receive commissions on the purchase of this insurance.

7. **COLLECTION RIGHTS OF THE SECURED PARTY.** Account Debtor means the person who is obligated on an account, chattel paper, or general intangible. I authorize you to notify my Account Debtors of your security interest and to deal with the Account Debtors' obligations at your discretion. You may enforce the obligations of an Account Debtor, exercising any of my rights with respect to the Account Debtors' obligations to make payment or otherwise render performance to me, including the enforcement of any security interest that secures such obligations. You may apply proceeds received from the Account Debtors to the Secured Debts or you may release such proceeds to me.

I specifically and irrevocably authorize you to exercise any of the following powers at my expense, without limitation, until the Secured Debts are paid in full:

- A. demand payment and enforce collection from any Account Debtor or Obligor by suit or otherwise.
- B. enforce any security interest, lien or encumbrance given to secure the payment or performance of any Account Debtor or any obligation constituting Property.
- C. file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated as an Account Debtor.
- D. compromise, release, extend, or exchange any indebtedness of an Account Debtor.
- E. take control of any proceeds of the Account Debtors' obligations and any returned or repossessed goods.
- F. endorse all payments by any Account Debtor which may come into your possession as payable to me.
- G. deal in all respects as the holder and owner of the Account Debtors' obligations.

8. **AUTHORITY TO PERFORM.** I authorize you to do anything you deem reasonably necessary to protect the Property, and perfect and continue your security interest in the Property. If I fail to perform any of my duties under this Agreement or any other Loan Document, you are authorized to perform the duties or cause them to be performed.

These authorizations include, but are not limited to, permission to:

- A. pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Property.
- B. pay any rents or other charges under any lease affecting the Property.
- C. order and pay for the repair, maintenance and preservation of the Property.
- D. file any financing statements on my behalf and pay for filing and recording fees pertaining to the Property.
- E. place a note on any chattel paper indicating your interest in the Property.
- F. take any action you feel necessary to realize on the Property, including performing any part of a contract or endorsing it in my name.
- G. handle any suits or other proceedings involving the Property in my name.
- H. prepare, file, and sign my name to any necessary reports or accountings.
- I. make an entry on my books and records showing the existence of this Agreement.
- J. notify any Account Debtor of your interest in the Property and tell the Account Debtor to make payments to you or someone else you name.

If you perform for me, you will use reasonable care. If you exercise the care and follow the procedures that you generally apply to the collection of obligations owed to you, you will be deemed to be using reasonable care. Reasonable care will not include: any steps necessary to preserve rights against prior parties; the duty to send notices, perform services or take any other action in connection with the management of the Property; or the duty to protect, preserve or maintain any security and notices, perform services or take any other action in connection with the management of the Property. Your authorization to perform for me will not create an obligation to perform and your failure to perform will not preclude you from exercising any other rights under the law or this Agreement. All cash and non-cash proceeds of the Property may be applied by you only upon your actual receipt of cash proceeds against such of the Secured Debts, matured or unmatured, as you determine in your sole discretion.

If you come into actual or constructive possession of the Property, you will preserve and protect the Property. For purposes of this paragraph, you will be in actual possession of the Property only when you have physical, immediate and exclusive control over the Property and you have affirmatively accepted that control. You will be in constructive possession of the Property only when you have both the power and the intent to exercise control over the Property.

9. **DEFAULT.** I will be in default if any of the following occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the reorganization for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Obligor, or any co-signer, endorser, surety or guarantor of this Agreement or any other obligations Obligor has with you.
- C. **Business Termination.** I merge, dissolve, reorganize, and my business or existence, or a partner or majority owner dies or is declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Agreement.
- E. **Other Documents.** A default occurs under the terms of any other Loan Document.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.
- G. **Misrepresentation.** I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- H. **Judgment.** I fail to satisfy or appeal any judgment against me.
- I. **Confiscation.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- J. **Name Change.** I change my name or assume an additional name without notifying you before making such a change.
- K. **Property Transfer.** I transfer all or a substantial part of my money or property.
- L. **Property Value.** You determine in good faith that the value of the Property has declined or is impaired.
- M. **Material Change.** Without first notifying you, there is a material change in my business, including ownership, management, and financial conditions.
- N. **Insecurity.** You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Agreement or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

10. **DUE ON SALE OR ENCUMBRANCE.** You may, at your option, declare the entire balance of this Agreement to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. However, if I am in default under this Agreement, I may not sell the inventory portion of the Property even in the ordinary course of business.

11. **REMEDIES.** After I default, you may at your option do any one or more of the following.

- A. **Acceleration.** You may make all or any part of the amount owing by the terms of the Secured Debts immediately due.
- B. **Sources.** You may use any and all remedies you have under state or federal law or in any Loan Document.
- C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on my default.
- D. **Payments Made On My Behalf.** Amounts advanced on my behalf will be immediately due and may be added to the Secured Debts.
- E. **Assignment of Property.** You may require me to gather the Property and make it available to you in a reasonable fashion.
- F. **Repossession.** You may repossess the Property so long as the repossession does not involve a breach of the peace. You may sell, lease or otherwise dispose of the Property as provided by law. You may apply what you receive from the disposition of the Property to your expenses, your attorneys' fees and legal expenses (where not prohibited by law), and any debt I owe you. If what you receive from the disposition of the Property does not satisfy the debt, I will be liable for the deficiency (where permitted by law). In some cases, you may keep the Property to satisfy the debt.

Where a notice is required, I agree that ten days prior written notice sent by first class mail to my address listed in this Agreement will be reasonable notice to me under the Minnesota Uniform Commercial Code. If the Property is perishable or threatens to decline speedily in value, you may, without notice to me, dispose of any or all of the Property in a commercially reasonable manner at my expense following any commercially reasonable preparation or processing.

If any items not otherwise subject to this Agreement are contained in the Property when you take possession, you may hold those items for me at my risk and you will not be liable for taking possession of them.

G. **Use and Operation.** You may enter upon my premises and take possession of all or any part of my property for the purpose of preserving the Property or its value, so long as you do not breach the peace. You may use and operate my property for the length of time you feel is necessary to protect your interest, all without payment or compensation to me.

H. **Waiver.** By choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

12. **WAIVER OF CLAIMS.** I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

13. **PERFECTION OF SECURITY INTEREST AND COSTS.** I authorize you to file a financing statement covering the Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining perfection or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code. I agree to pay all taxes, fees and costs you pay or incur in connection with preparing, filing or recording any financing statements or other security interest filings on the Property. I agree to pay all actual costs of terminating your security interest.

14. **APPLICABLE LAW.** This Agreement is governed by the laws of Minnesota, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Minnesota, unless otherwise required by law.

15. **JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS.** Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. You may sue each Debtor individually or together with any other Debtor. You may release any part of the Property and I will still be obligated under this Agreement for the remaining Property. Debtor agrees that you and any party to this Agreement may extend, modify or make any change in the terms of this Agreement or any evidence of debt without Debtor's consent. Such a change will not release Debtor from the terms of this Agreement. If you assign any of the Secured Debts, you may assign all or any part of this Agreement without notice to me or my consent, and this Agreement will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Agreement as to any of the Secured Debts that are not assigned. This Agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Secured Debts and shall be binding upon and enforceable against me and my personal representatives, successors, heirs and assigns.

16. **AMENDMENT, INTEGRATION AND SEVERABILITY.** This Agreement may not be amended or modified by oral agreement. No amendment or modification of this Agreement is effective unless made in writing and executed by you and me. This Agreement and the other Loan Documents are the complete and final expression of the understanding between you and me. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

17. **INTERPRETATION.** Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

18. **NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Debtor will be deemed to be notice to all Debtors. I will inform you in writing of any change in my name, address or other application information. I will provide you any financial statement or information you request. All financial statements and information I give you will be correct and complete. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Agreement and to confirm your lien status on any Property. Time is of the essence.

SIGNATURES: By signing, I agree to the terms contained in this Agreement. I also acknowledge receipt of a copy of this Agreement.

DEBTOR:

5 CONTINENT DISTRIBUTING, LLC

By
TODD SARANILLA, PRESIDENT

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)
 LYSA STALDERGER 6514890109

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

CAPITOL GROUP OF COMPANIES
 1010 N DALE STREET
 ST. PAUL MN 55117

DELAWARE DEPARTMENT OF STATE
 U.C.C. FILING SECTION
 FILED 05:49 PM 07/07/2009
 INITIAL FILING # 2009 2183355
 SRV: 090680006

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME
 5 CONTINANT DISTRIBUTING, LLC

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
 5041 GREEN FARMS ROAD EDINA MN 55436 US

1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION
 LTD LIABILITY COMPANY DE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME
 CROWN BANK

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
 6600 FRANCE AVENUE SOUTH SUITE 125 EDINA MN 55435 US

4. This FINANCING STATEMENT covers the following collateral:

All inventory, chattel paper, accounts, contract rights, equipment, general intangibles, furniture, fixtures, machinery and all other business assets; whether any of the foregoing is owned now or acquired later; all accessions and additions.

6. This FINANCING STATEMENT is to be filed (or record) (or recorded) in the REAL ESTATE RECORDS. Attach Acknowledgment (if applicable)

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE) (optional)

All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA

EXHIBIT C TO COMPLAINT

SCANNED BY JT

SECURITY AGREEMENT

DATE AND PARTIES. The date of this Security Agreement (Agreement) is JUNE 1, 2011. The parties and their addresses are:

SECURED PARTY:
CROWN BANK
8800 France Avenue South Ste 126
Edina, MN 55435

DEBTOR:
5 CONTINENT DISTRIBUTING, LLC
a Delaware Limited Liability Company
5041 GREEN FARMS ROAD
EDINA, MN 55438

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Debtor and agreeing to give the Property described in this Agreement as security for the Secured Debts.

1. **SECURED DEBTS.** The term "Secured Debts" includes and this Agreement will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 4090918, dated June 1, 2011, from me to you, in the amount of \$225,000.00.

B. All Debts. All present and future debts from me to you, even if this Agreement is not specifically referenced, the future debts are also secured by other collateral, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Agreement, each agrees that it will secure debts incurred either individually or with others who may not sign this Agreement. Nothing in this Agreement constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing.

This Agreement will not secure any debt for which you fail to give any required notice of the right of realization. This Agreement will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. In addition, this Agreement will not secure any other debt if, with respect to such other debt, you fail to fulfill any necessary requirements or limitations of Sections 19(a), 32 or 35 of Regulation Z or if, as a result, the other debt would become subject to Section 870 of the John Warner National Defense Authorization Act for Fiscal Year 2007.

C. Sums Advanced. All sums advanced and expenses incurred by you under the terms of this Agreement.

Loan Documents refer to all the documents executed in connection with the Secured Debts.

2. **SECURITY INTEREST.** To secure the payment and performance of the Secured Debts, I give you a security interest in all of the Property described in this Agreement that I own or have sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products from the Property (including, but not limited to, all parts, accessories, repairs, replacements, improvements, and accessions to the Property). Property is all the collateral given as security for the Secured Debts and described in this Agreement, and includes all obligations that support the payment or performance of the Property. "Proceeds" includes cash proceeds, non-cash proceeds and anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property.

This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and you are no longer obligated to advance funds to me under any loan or credit agreement.

3. **PROPERTY DESCRIPTION.** The Property is described as follows:

A. Specific Property. 2 PUCKMASTER MACHINES

PUCKMASTER MODEL 225H (DEMO UNIT)

PUCKMASTER WITH ALLEN BRADLEY PC-550 CONTROL MODEL 175

INTELLECTUAL PROPERTY OF 5 CONTINENT DISTRIBUTING, LLC EVIDENCED BY A SECURITY AGREEMENT DATED JULY 1, 2009

4. **WARRANTIES AND REPRESENTATIONS.** I make to you the following warranties and representations which will continue as long as this Agreement is in effect:

A. Power. I am duly organized, and validly existing and in good standing in all jurisdictions in which I operate. I have the power and authority to enter into this Agreement and to carry on my business or activity as it is now being conducted and, as applicable, am qualified to do so in each jurisdiction in which I operate.

B. Authority. The execution, delivery and performance of this Agreement and the obligation evidenced by this Agreement are within my powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which I am a party or to which I am or any of my property is subject.

C. Name and Location. My name indicated in the DATE AND PARTIES section is my exact legal name. I am an entity organized and registered under the laws of Delaware. I will provide verification of registration and location upon your request. I will provide you with at least 30 days notice prior to any change in my name, address, or state of organization or registration.

D. Business Name. Other than previously disclosed in writing to you I have not changed my name or principal place of business within the last 10 years and have not used any other trade or fictitious name. Without your prior written consent, I do not and will not use any other name and will preserve my existing name, trade names and franchises.

E. Ownership of Property. I represent that I own all of the Property. Your claim to the Property is ahead of the claims of any other creditor, except as disclosed in writing to you prior to any advance on the Secured Debts. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

5. **DUTIES TOWARD PROPERTY.**

A. Protection of Secured Party's Interest. I will defend the Property against any other claim. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these and make copies at any reasonable time. I will prepare any report or accounting you request which deals with the Property.

B. Use, Location, and Protection of the Property. I will keep the Property in my possession and in good repair. I will use it only for commercial purposes. I will not change this specified use without your prior written consent. You have the right of reasonable access to inspect the Property and I will immediately inform you of any loss or damage to the Property. I will not cause or permit waste to the Property.

I will keep the Property at my address listed in the DATE AND PARTIES section unless we agree I may keep it at another location. If the Property is to be used in other states, I will give you a list of those states. The location of the Property is given to aid in the identification of the Property. It does not in any way limit the scope of the security interest granted to you. I will notify you in writing and obtain your prior written consent to any change in location of any of the Property. I will not use the Property in violation of any law. I will notify you in writing prior to any change in my address, name or, if an organization, any change in my identity or structure.

Until the Secured Debts are fully paid and this Agreement is terminated, I will not grant a security interest in any of the Property without your prior written consent. I will pay all taxes and assessments levied or assessed against me or the Property and provide timely proof of payment of these taxes and assessments upon request.

C. Selling, Leasing or Encumbering the Property. I will not sell, offer to sell, lease, or otherwise transfer or encumber the Property without your prior written permission. Any disposition of the Property contrary to this Agreement will violate your rights. Your permission to sell the Property may be reasonably withheld without regard to the creditworthiness of any buyer or transferee. I will not permit the Property to be the subject of any court order affecting my rights to the Property in any action by anyone other than you. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, I will note your security interest on the face of the chattel paper or instruments.

6. **INSURANCE.** I agree to keep the Property insured against the risks reasonably associated with the Property. I will maintain this insurance in the amounts you require. This insurance will last until the Property is released from this Agreement. I may choose the insurance company, subject to your approval, which will not be unreasonably withheld.

I will have the insurance company name you as loss payee on any insurance policy. I will give you and the insurance company immediate notice of any loss. You may apply the insurance proceeds toward what is owed on the Secured Debts. You may require added security as a condition of permitting any insurance proceeds to be used to repair or replace the Property.

If you acquire the Property in damaged condition, my right to any insurance policies and proceeds will pass to you to the extent of the Secured Debts.

I will immediately notify you of cancellation or termination of insurance. If I fail to keep the Property insured, you may obtain insurance to protect your interest in the Property and I will pay for the insurance on your demand. You may demand that I pay for the insurance all at once, or you may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include coverages not originally

5 CONTINENT DISTRIBUTING, LLC
Minnesota Security Agreement
MN/4Xpburton00184400007454010062311Y

Wolters Kluwer Financial Services ©1998, 2011 Bankers Systems™

Initials
7/01

EXHIBIT C

required of me, may be written by a company other than one I would choose, and may be written at a higher rate than I could obtain if I purchased the insurance. I acknowledge and agree that you or one of your affiliates may receive commissions on the purchase of this insurance.

7. COLLECTION RIGHTS OF THE SECURED PARTY. Account Debtor means the person who is obligated on an account, chattel paper, or general intangible. I authorize you to notify my Account Debtors of your security interest and to deal with the Account Debtors' obligations at your discretion. You may enforce the obligations of an Account Debtor, exercising any of my rights with respect to the Account Debtors' obligations to make payments or otherwise render performance to me, including the enforcement of any security interest that secures such obligations. You may apply proceeds received from the Account Debtors to the Secured Debts or you may release such proceeds to me.

I specifically and irrevocably authorize you to exercise any of the following powers at my expense, without limitation, until the Secured Debts are paid in full:

- A. demand payment and enforce collection from any Account Debtor or Obligor by suit or otherwise.
- B. enforce any security interest, lien or encumbrance given to secure the payment or performance of any Account Debtor or any obligation constituting Property.
- C. file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated as an Account Debtor.
- D. compromise, release, extend, or exchange any indebtedness of an Account Debtor.
- E. take control of any proceeds of the Account Debtors' obligations and any returned or repossessed goods.
- F. endorse all payments by any Account Debtor which may come into your possession as payable to me.
- G. deal in all respects as the holder and owner of the Account Debtors' obligations.

8. AUTHORITY TO PERFORM. I authorize you to do anything you deem reasonably necessary to protect the Property, and perfect and continue your security interest in the Property. If I fail to perform any of my duties under this Agreement or any other Loan Document, you are authorized, without notice to me, to perform the duties or cause them to be performed.

These authorizations include, but are not limited to, permission to:

- A. pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Property.
- B. pay any rents or other charges under any lease affecting the Property.
- C. order and pay for the repair, maintenance and preservation of the Property.
- D. file any financing statements on my behalf and pay for filing and recording fees pertaining to the Property.
- E. place a note on any chattel paper indicating your interest in the Property.
- F. take any action you feel necessary to realize on the Property, including performing any part of a contract or endorsing it in my name.
- G. handle any suits or other proceedings involving the Property in my name.
- H. prepare, file, and sign my name to any necessary reports or accountings.
- I. make an entry on my books and records showing the existence of this Agreement.
- J. notify any Account Debtor of your interest in the Property and tell the Account Debtor to make payments to you or someone else you name.

If you perform for me, you will use reasonable care. If you exercise the care and follow the procedures that you generally apply to the collection of obligations owed to you, you will be deemed to be using reasonable care. Reasonable care will not include: any steps necessary to preserve rights against prior parties; the duty to send notices, perform services or take any other action in connection with the management of the Property; or the duty to protect, preserve or maintain any security interest given to others by me or other parties. Your authorization to perform for me will not create an obligation to perform and your failure to perform will not preclude you from exercising any other rights under the law or this Agreement. All cash and non-cash proceeds of the Property may be applied by you only upon your actual receipt of cash proceeds against such of the Secured Debts, matured or unmatured, as you determine in your sole discretion.

If you come into actual or constructive possession of the Property, you will preserve and protect the Property. For purposes of this paragraph, you will be in actual possession of the Property only when you have physical, immediate and exclusive control over the Property and you have affirmatively accepted that control. You will be in constructive possession of the Property only when you have both the power and the intent to exercise control over the Property.

9. DEFAULT. I will be in default if any of the following events (known separately and collectively as an Event of Default) occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Obligor, or any co-signer, endorser, surety or guarantor of this Agreement or any other obligations Obligor has with you.
- C. **Business Termination.** I merge, dissolve, reorganize, end my business or existence, or a partner or majority owner dies or is declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Agreement.
- E. **Other Documents.** A default occurs under the terms of any other Loan Document.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.
- G. **Misrepresentation.** I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- H. **Judgment.** I fail to satisfy or appeal any judgment against me.
- I. **Forfeiture.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- J. **Name Change.** I change my name or assume an additional name without notifying you before making such a change.
- K. **Property Transfer.** I transfer all or a substantial part of my money or property.
- L. **Property Value.** You determine in good faith that the value of the Property has declined or is impaired.
- M. **Material Change.** Without first notifying you, there is a material change in my business, including ownership, management, and financial conditions.
- N. **Insecurity.** You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Agreement or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

10. DUE ON SALE OR ENCUMBRANCE. You may, at your option, declare the entire balance of this Agreement to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 691), as applicable.

11. REMEDIES. After I default, you may at your option do any one or more of the following:

- A. **Acceleration.** You may make all or any part of the amount owing by the terms of the Secured Debts immediately due.
 - B. **Source.** You may use any and all remedies you have under state or federal law or in any Loan Document.
 - C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on my default.
 - D. **Payments Made On My Behalf.** Amounts advanced on my behalf will be immediately due and may be added to the Secured Debts.
 - E. **Assembly of Property.** You may require me to gather the Property and make it available to you in a reasonable fashion.
 - F. **Repossession.** You may repossess the Property so long as the repossession does not involve a breach of the peace. You may sell, lease or otherwise dispose of the Property as provided by law. You may apply what you receive from the disposition of the Property to your expenses, your attorneys' fees and legal expenses (where not prohibited by law), and any debt I owe you. If what you receive from the disposition of the Property does not satisfy the debt, I will be liable for the deficiency (where permitted by law). In some cases, you may keep the Property to satisfy the debt.
- Where a notice is required, I agree that ten days prior written notice sent by first class mail to my address listed in this Agreement will be reasonable notice to me under the Minnesota Uniform Commercial Code. If the Property is perishable or threatens to decline speedily in value, you may, without notice to me, dispose of any or all of the Property in a commercially reasonable manner at my expense following any commercially reasonable preparation or processing. If any items not otherwise subject to this Agreement are contained in the Property when you take possession, you may hold these items for me at my risk and you will not be liable for taking possession of them.
- G. **Use and Operation.** You may enter upon my premises and take possession of all or any part of my property for the purpose of preserving the Property or its value, so long as you do not breach the peace. You may use and operate my property for the length of time you feel is necessary to protect your interest, all without payment or compensation to me.
 - H. **Waiver.** By choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

12. WAIVER OF CLAIMS. I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

13. PERFECTION OF SECURITY INTEREST AND COSTS. I authorize you to file a financing statement and/or security agreement, as appropriate, covering the Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining perfection or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code. I agree to pay all taxes, fees and costs you pay or incur in connection with preparing, filing or recording any financing statements or other security interest filings on the Property. I agree to pay all actual costs of terminating your security interest.

14. APPLICABLE LAW. This Agreement is governed by the laws of Minnesota, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Minnesota, unless otherwise required by law.

15. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. You may sue each Debtor individually or together with any other Debtor. You may release any part of the Property and I will still be obligated under this Agreement for the remaining Property. Debtor agrees that you and any party to this Agreement may extend, modify or make any change in the terms of this Agreement or any evidence of debt without Debtor's consent. Such a change will not release Debtor from the terms of this Agreement. If you assign any of the Secured Debts, you may assign all or any part of this Agreement without notice to me or my consent, and this Agreement will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Agreement as to any of the Secured Debts that are not assigned. This Agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Secured Debts and shall be binding upon and enforceable against me and my personal representatives, successors, heirs and assigns.

16. AMENDMENT, INTEGRATION AND SEVERABILITY. This Agreement may not be amended or modified by oral agreement. No amendment or modification of this Agreement is effective unless made in writing and executed by you and me. This Agreement and the other Loan Documents are the complete and final expression of the understanding between you and me. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

17. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

18. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Debtor will be deemed to be notice to all Debtors. I will inform you in writing of any change in my name, address or other application information. I will provide you any financial statement or information you request. All financial statements and information I give you will be correct and complete. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Agreement and to confirm your lien status on any Property. Time is of the essence.

SIGNATURES. By signing, I agree to the terms contained in this Agreement. I also acknowledge receipt of a copy of this Agreement.

DEBTOR:

6 CONTINENT DISTRIBUTING, LLC

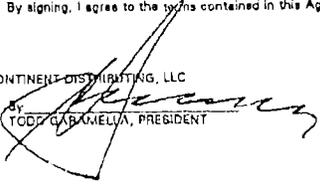
By 
TODD GARBANELLA, PRESIDENT

EXHIBIT D TO COMPLAINT

INTERCREDITOR SUBORDINATION AGREEMENT

LCB Loan No: 736934
Debtor Name: 5 Continent Distributing, LLC
Debtor Address: 160 Green Tree Drive, Suite 101, Dover, DE 19904

WHEREAS, Landmark Community Bank, N.A. ("Lender") and Crown Bank ("Crown") have obtained (or are about to obtain) certain Security Agreements from 5 Continent Distributing, LLC ("Debtor"), and Lender and Crown have filed (or intend to file) a Financing Statement(s) pursuant to the Uniform Commercial Code perfecting security interests in:

- (a) All inventory including all PuckMaster Units more fully described in Exhibit A attached hereto and made a part hereof.

("Collateral") of Debtor; and

WHEREAS, Lender and Crown desire to avoid a conflict of security interests arising from their respective Security Agreements and Financing Statements.

NOW, THEREFORE, it is agreed by and between Lender and Crown as follows:

1. To induce Lender to extend financial accommodations to Debtor, Crown hereby subordinates its security interest in the Collateral to the security interest of Lender.
2. To induce Crown to subordinate its security interest in the Collateral to the security interest of Lender, Lender hereby subordinates its security interest in all of the assets of Debtor other than the Collateral to the security interest of Lender.
3. This Agreement shall remain in effect until it is terminated by written notice by either Lender or Crown. However, termination shall not impair the rights or priorities created by this Agreement and arising prior to the receipt of such notice of termination. This Agreement is solely for the benefit of Lender and Crown and their respective successors and assigns and shall be binding after due execution by Lender and Crown. Neither Debtor or any other persons or entities are intended to be third party beneficiaries hereunder or to have any right, benefit or interest under, or to have any right to enforce, this Agreement.
4. This Agreement is the sole and entire agreement of Lender and Crown with respect to the collateral and any and all prior agreements, discussion, commitment or understanding between Lender and Crown concerning the collateral is superseded by this Agreement. The parties hereto acknowledge that they have read this Agreement and execute it without relying upon any

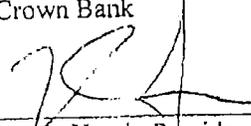
statements not expressly set forth herein and have obtained such independent legal or other advice as they have decided is necessary.

5. Lender and Crown warrant that the individuals signing below have the requisite legal authority to execute this Agreement on their behalf. This Agreement is only effective with the express consent of Debtor and all borrowers and guarantors of the referenced Lender Loan.

LENDER
Landmark Community Bank, N.A.

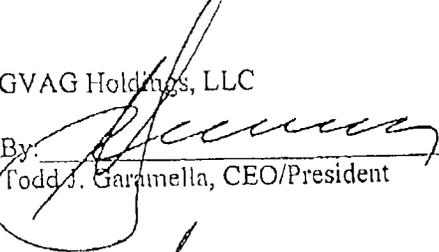
By: 
Kevin Johnson, President

Crown
Crown Bank

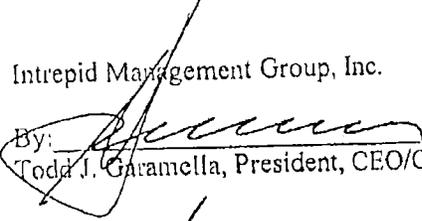
By: 
Kevin Howk, President

CONSENT OF BORROWERS AND GUARANTORS

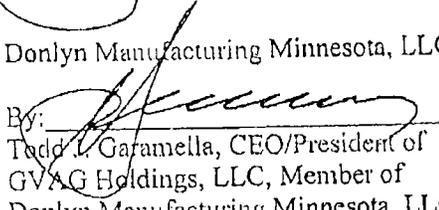
GVAG Holdings, LLC

By: 
Todd J. Garamella, CEO/President

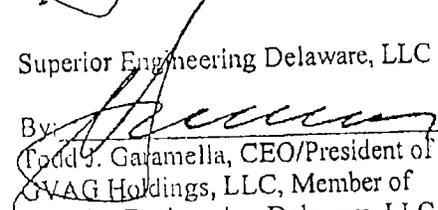
Intrepid Management Group, Inc.

By: 
Todd J. Garamella, President, CEO/CFO

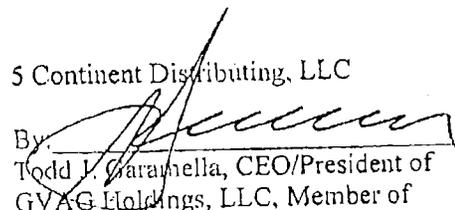
Donlyn Manufacturing Minnesota, LLC

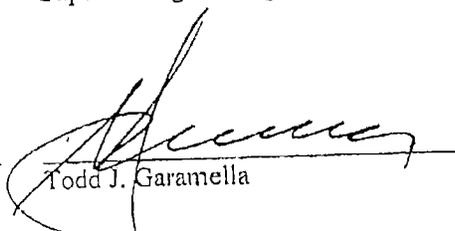
By: 
Todd J. Garamella, CEO/President of
GVAG Holdings, LLC, Member of
Donlyn Manufacturing Minnesota, LLC

Superior Engineering Delaware, LLC

By: 
Todd J. Garamella, CEO/President of
GVAG Holdings, LLC, Member of
Superior Engineering Delaware, LLC

5 Continent Distributing, LLC

By: 
Todd J. Garamella, CEO/President of
GVAG Holdings, LLC, Member of
5 Continent Distributing, LLC

By: 
Todd J. Garamella

5 Continent Distributing, LLC
PuckMaster Machines

Model #	Serial #	Quantity	Description
- 225H		1	PuckMaster <i>Have</i>
300		1	PuckMaster
1622		1	PuckMaster Shreader
275		1	PuckMaster
175		1	PuckMaster
- 175		1	PuckMaster with Allen Bradley PC-550 Control <i>Have</i>
225		1	PuckMaster
LT-250		1	PuckMaster
1616		1	PuckMaster Shreader
1622		1	PuckMaster SESA Shreader
1622		1	PuckMaster SESA Shreader

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: CONTRACT; OTHER

Crown Bank,

Court File No. 27-CV-13-2022
Judge Thomas M. Sipkins

Plaintiff,

v.

Landmark Community Bank, N.A.,
Puckmaster, LLC, Charles Arnold, Synergy
Resource Group, Inc., John Does 1–10, and
ABC Entities 1–10,

AMENDED COMPLAINT

Defendants.

For its Complaint against Defendants Landmark Community Bank, N.A., Puckmaster, LLC, John Does 1–10, and ABC Entities 1–10, Plaintiff Crown Bank states and alleges as follows:

INTRODUCTION

1. This case involves a conspiracy by Defendants to convert assets, including intellectual property pledged as security for Crown Bank’s loans to 5 Continent Distributing, LLC (“Five Continent”), and to exploit those assets and intellectual property for Defendants’ own benefit by creating a new, competing company operating under the same brand name in violation of Crown Bank’s rights to those assets as a secured creditor.

2. Crown Bank and Landmark Community Bank, N.A. (“Landmark Bank”) are both lenders to Five Continent, a manufacturer of scrap metal-recycling machines sold under the name “PuckMaster.” Crown Bank made three loans, pursuant to which Five Continent now owes approximately \$650,000 plus accrued interest. Five Continent granted Crown Bank a security

interest in tangible assets and general intangibles including trade names, patents, trademarks, goodwill, computer programs, and other assets

3. Because Landmark Bank was also a creditor, the banks entered into an Intercreditor Subordination Agreement (“Intercreditor Agreement”), by which Crown Bank agreed to subordinate its security interest in specified product inventory to Landmark Bank, and Landmark Bank agreed to subordinate its interest in all other property, including intellectual property and trade names, to Crown Bank.

4. Despite Crown Bank’s priority interest in the intellectual property, Landmark Bank, together with Charles Arnold, Puckmaster, LLC, John Does 1–10, and ABC Entities 1–10 conspired to remove and retain a computer containing Five Continent’s intellectual property, to create a new entity named Puckmaster, LLC, and to wrongfully exploit the intellectual property including electronic drawings used to design and manufacture scrap metal-recycling machines and parts and the PuckMaster name for their own benefit.

5. Defendants attempted to destroy the evidence of their conspiracy and destroy the intellectual property necessary to design and manufacture PuckMaster scrap metal-recycling machines by deleting computer files contained on a computer that Defendants removed from Five Continent in violation of Crown Bank’s right, as a secured creditor, to possession of the computer and intellectual property within it. Defendants’ destruction of the electronic drawings needed to build additional PuckMaster machines limits Crown Bank’s ability to sell the intellectual property and dramatically decreases the value of Crown Bank’s collateral.

6. As a result of Defendants unlawful actions, Crown Bank is entitled to damages, and to equitable relief to protect its security interest in the PuckMaster name and intellectual property, including an Order requiring Defendants to cease and desist from all use of the

PuckMaster name and to turn over to Crown Bank all existing copies of the computer files relating to Five Continent and PuckMaster.

PARTIES

7. Plaintiff Crown Bank is a Minnesota banking corporation with a principal place of business located at 6600 France Avenue South, Suite 125, Edina, Minnesota.

8. On information and belief, Defendant Landmark Community Bank, N.A. (“Landmark Bank”) is a national bank with a principal place of business located at 711 6th Avenue Northeast, Isanti, MN.

9. Defendant Puckmaster, LLC is a Minnesota limited liability company with a registered office address of 220 South 6th Street, #1950, Minneapolis, Minnesota.

10. Defendant Charles Arnold is a former employee of Five Continent. On information and belief, he resides at 3212 Independence Road, Maple Plain, Minnesota 55359.

11. According to information available from the Office of the Minnesota Secretary of State, Charles Arnold filed a certificate to use the assumed business name Synergy Resource Group (“Synergy”) on April 9, 2012.

12. According to information available from the Office of the Minnesota Secretary of State, Defendant Synergy Resource Group, Inc. was a Minnesota business corporation owned by Charles Arnold that was administratively dissolved on January 7, 2009.

13. Defendants John Doe 1–10 and ABC Entities 1–10 are as yet unnamed joint tortfeasors who have conspired with, assisted, and engaged in the wrongful conduct asserted herein which sought to deprive Crown Bank of its rights to certain tangible and intangible property and to utilize intellectual property, trade names, and other assets in violation of Crown Bank’s rights as a first priority secured creditor.

JURISDICTION AND VENUE

14. This Court has personal jurisdiction over the parties and subject matter jurisdiction over the matters alleged in this Complaint. Venue is proper in this Court because a substantial portion of the events giving rise to Crown Bank's claim occurred in Hennepin County and Defendant Puckmaster, LLC has its registered office in Hennepin County.

FACTUAL ALLEGATIONS

I. Crown Bank Obtained a Security Interest in Intellectual Property of Five Continent.

15. Five Continent, a Delaware limited liability company with its registered office located at 5041 Green Farms Road, Edina, MN, manufactures and sells machines for recycling scrap metal and machine coolant under the trade name "PuckMaster". Five Continent's Chief Manager is Todd Garamella.

16. The machines made by Five Continent convert scrap metal into briquettes, which physically resemble metal hockey pucks, that are denser, easier to ship, and have higher yields when melted than unprocessed scrap metal. The machines also recover liquids such as machine coolant.

17. By decreasing losses due to waste, and increasing the amount of metal that can be recovered when recycling, the PuckMaster machines can produce substantial value for businesses that generate scrap metal waste.

18. The designs for the PuckMaster machines are stored in three-dimensional electronic drawing files. In order to build new machines and related parts, Five Continent relies on these drawing files and related computer files that were maintained in a Five Continent computer. The electronic drawing and other computer files thus constitute a significant asset of Five Continent.

19. On information and belief, the three-dimensional electronic drawings and related computer files showing how to build the PuckMaster machines were stored on a computer used by Defendant Charles Arnold (“Arnold”), a former Five Continent employee.

20. Crown Bank has made substantial business loans to Five Continent. In connection with these loans, Five Continent entered security agreements granting Crown Bank a security interest in substantially all of the assets of Five Continent.

21. On or about July 1, 2009, Five Continent executed two Security Agreements in favor of Crown Bank (attached hereto as Exhibits A and B) to secure payment on promissory notes in the amounts of \$280,000 and \$400,000.

22. Pursuant to the July 1, 2009 Security Agreements, Five Continent pledged its interest in inventory, equipment, intangible property, and other rights to payment to secure the promissory notes.

23. The intangible property pledged in the July 1, 2009 Security Agreement consisted of:

“All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.”

24. On or about July 7, 2009, Crown Bank filed a U.C.C. financing statement with the Delaware Department of State to perfect its security interest in “[a]ll inventory, chattel paper, accounts, contract rights, equipment, general intangibles, furniture, fixtures, machinery and all other business assets . . .” of Five Continent.

25. On June 1, 2011, Five Continent executed another Security Agreement in favor of Crown Bank (attached hereto as Exhibit C) to secure payment on an additional promissory note

in the amount of \$225,000. Five Continent pledged its interest in the “INTELLECTUAL PROPERTY OF 5 CONTINENT DISTRIBUTING, LLC EVIDENCED BY A SECURITY AGREEMENT DATED JULY 1, 2009” as security for the note.

26. Five Continent continues to owe Crown Bank approximately \$650,000 plus accrued interest on the outstanding notes.

27. Landmark Bank is another creditor of Five Continent, and, like Crown Bank, Landmark Bank had received one or more security agreements from Five Continent. In order “to avoid a conflict of security interests,” Crown Bank and Landmark Bank entered into an Intercreditor Subordination Agreement (“Intercreditor Agreement” attached hereto as Exhibit D).

28. Borrowers and guarantors, including GVAG Holdings, LLC, Intrepid Management Group, Inc., Donlyn Manufacturing Minnesota, LLC, Superior Engineering Delaware, LLC, Five Continent Distributing, LLC, and Todd Garamella, also consented to the Intercreditor Agreement.

29. Pursuant to the Intercreditor Agreement, Landmark Bank was granted priority security interests in certain machines in Five Continent’s inventory and Crown Bank was granted priority in all other Five Continent assets.

30. The Intercreditor Agreement defined the “Collateral” in which Landmark Bank was granted a first priority security interest as “[a]ll inventory including PuckMaster Units more fully described in Exhibit A attached hereto and made a part hereof.” Exhibit A to the Intercreditor Agreement listed certain PuckMaster machines in inventory at Five Continent.

31. Pursuant to the Intercreditor Agreement, Crown Bank subordinated its security interest in the Collateral to Landmark Bank’s security interest.

32. Pursuant to the Intercreditor Agreement, Landmark Bank subordinated its security interest in all of the assets of Five Continent other than the Collateral to the security interest of Crown Bank.

33. As a result of the Intercreditor Agreement, Crown Bank retained the first secured position with respect to Five Continent's intangible property, including intellectual property and trade names such as "PuckMaster", as well as all other assets of Five Continent not specifically included within the definition of Collateral.

34. Until approximately April 2012, when he resigned without giving notice, Arnold was a Five Continent employee. Arnold had responsibilities for sales and business development.

35. Arnold entered an agreement in connection with his employment not to divulge, transmit, or otherwise disclose or cause to be disclosed, any confidential or proprietary information. Arnold also agreed not to solicit business from any customer for twenty-four months following termination of his employment.

36. In addition to his agreement, Arnold had fiduciary duties to his employer that precluded disclosure of confidential information obtained in the course of his employment.

II. Five Continent Defaulted on Its Obligations to Crown Bank and Landmark Bank.

37. Five Continent's Chief Manager Todd Garamella experienced personal financial difficulties in 2012, and his businesses, including Five Continent, were also experiencing financial difficulties. Five Continent reduced its staffing levels, with Arnold as one of the only remaining employees of Five Continent.

38. On or about July 11, 2012, Five Continent's Chief Manager Todd Garamella personally filed for bankruptcy.

39. In or about July 2011, Five Continent defaulted on its obligations to Crown Bank under the promissory notes. As a result of Five Continent's default, Crown Bank obtained a

right to possession of the assets that had been pledged as security, including the intellectual property of Five Continent and the computer containing electronic machine drawings.

40. On information and belief, Five Continent also defaulted on its obligations to Landmark Bank. As a result of Five Continent's default, Landmark Bank obtained a right to possession of the inventory identified in the Intercreditor Agreement. Any right that Landmark Bank obtained to possess other Five Continent Assets was subject to Crown Bank's first secured position in those other assets.

III. Defendants Conspired to Convert the Intellectual Property of Five Continent and to Create a New Company to Exploit the PuckMaster Name and Sell PuckMaster Machines.

41. In approximately April 2012, Arnold abruptly resigned from Five Continent without notice.

42. On April 9, 2012, Arnold filed a certificate in his own name to use the assumed business name Synergy Resource Group.

43. Five Continent became aware of at least one purchase order for a PuckMaster unit issued to Mr. Charles Arnold of Manufacturing Success at his home address.

44. By letter dated April 15, 2012, Five Continent demanded that Arnold cease and desist from contacting customers of Five Continent and selling or offering to sell PuckMaster machines.

45. Landmark Bank removed the inventory identified in the Intercreditor Agreement, over which it had a security interest in or about July 2012.

46. On information and belief, Arnold and/or Landmark Bank also removed from Five Continent the computer containing the electronic drawings and other files.

47. On information and belief, Landmark Bank, Arnold, and/or others have conspired to deprive Crown Bank of the intellectual property and other intangible assets of Five Continent

and to instead make use of the said property for their own financial benefit, to the exclusion of Crown Bank.

48. In mid-2012, Arnold met with Joseph J. Garamella (“J.J. Garamella”) for lunch. J.J. Garamella is the son of Five Continent’s Chief Manager Todd Garamella. At their lunch meeting, Arnold told J.J. Garamella that he had purchased Puckmaster from Landmark Bank, and that he was making payments to Landmark Bank for the purchase. However, Landmark Bank had no right to sell and Arnold had no right to purchase those Five Continent assets, including intellectual property and trade names, in which Crown Bank had the first priority security interest.

49. Arnold currently has a recorded voice mail message on his phone that says “Thank you for calling Puckmaster, you have reached the cell phone of Charles Arnold. Please leave a message and we will get back to you.”

50. Although Crown Bank held the first secured interest in Five Continent’s assets including intellectual property, goodwill, trade names, and other assets, and Landmark Bank had a priority interest only in certain inventory, Defendants removed a Five Continent computer containing electronic machine drawings and other computer files and created a new legal entity – Puckmaster, LLC – to take over the business of making and/or selling scrap metal-recycling machines under the Puckmaster name.

51. On July 25, 2012, Articles of Organization creating “Puckmaster, LLC” were filed with the Office of the Minnesota Secretary of State.

52. Puckmaster, LLC lists its registered office address as 220 South 6th Street, #1950, Minneapolis, Minnesota, which is the office address of Bonner and Borhart, LLP, attorneys for Landmark Bank.

53. The Articles of Organization for Puckmaster, LLC list Thomas F. Cross (“Cross”) as the sole organizer of Puckmaster, LLC. On information and belief, Cross is a Senior Vice President and in house attorney for Landmark Bank.

54. By letter dated July 31, 2012, Five Continent notified Arnold that he was not authorized to represent Five Continent, or communicate with any individuals or entities on its behalf.

55. On August 2, 2012, Puckmaster, LLC filed an application to trademark “Puckmaster” with the United States Patent and Trademark Office.

56. The use of the Puckmaster name by Defendants is directly contrary to and an improper interference with Crown Bank’s rights in the Puckmaster trade name.

57. By letter dated August 14, 2012, Five Continent demanded that Arnold cease and desist from all use of the PuckMaster name or PUCKMASTER trademark.

58. Crown Bank sought to foreclose its security interest, and sell or otherwise utilize the PuckMaster brand and intellectual property in order to recover on the outstanding amount of the loans to Five Continent. On or about August 3, 2012, Crown Bank issued foreclosure notices to Landmark Bank, Todd Garamella, Five Continent and LSQ Funding Group, L.C.

59. Crown Bank attempted to recover the Five Continent computer, including the intellectual property files and electronic drawings which would be critical to obtaining funds to pay off its loans. The computer used by Arnold, which contained the electronic machine drawings, could not be located by Five Continent or Todd Garamella.

60. On August 30, 2012, J.J. Garamella contacted Tommy Blais (“Blais”), who had done computer work for Five Continent. He asked Blais where the electronic drawings used to build the PuckMaster machine were located.

61. Blais explained that the PuckMaster machine drawings were not stored on the network or in Five Continent's cloud-based storage. Blais stated that he was unaware of the location of the machine drawings, but thought they might be on an external hard drive.

62. At 11:04 a.m. on September 4, 2012, Arnold contacted J.J. Garamella by email and informed him that "the only electronic drawings are on an old computer *that has been retained by Landmark Bank* with the [Five Continent] inventory that was taken" (emphasis added).

63. By letter dated September 7, 2012, Crown Bank, through its attorneys, demanded that Arnold return the computer containing the electronic machine drawings and demanded that Arnold cease and desist all use of the Puckmaster name.

64. By letter dated September 12, 2012, Crown Bank, through its attorneys, contacted Landmark Bank and notified Landmark Bank of its interest in the Puckmaster name and the demand for return of the computer.

65. By letter dated September 20, 2012, Crown Bank, through its attorneys, again demanded that Arnold return any physical assets of Five Continent and cease and desist all use of the Puckmaster name.

66. On information and belief, Arnold and Puckmaster, LLC continue to operate a business using the Puckmaster name with the assistance of Landmark Bank, John Does 1–10, and ABC Entities 1–10.

67. On information and belief, Arnold and Puckmaster, LLC, with the assistance of Landmark Bank, John Does 1–10, and ABC Entities 1–10, have contacted Five Continent customers to solicit business.

68. On information and belief, the continued operation of an entity under the name Puckmaster is confusing Five Continent's customers and diluting the value of the PuckMaster brand.

IV. Arnold Personally Conducts Business under the Name Synergy Resource Group.

69. Arnold has sold and received payment for at least one PuckMaster machine using the Synergy name.

70. Arnold markets and sells parts for PuckMaster machines using the Synergy name.

71. Because the registration of the Synergy name is personal to Arnold, he is liable for actions taken under the Synergy name.

72. Upon information and belief, Arnold has reactivated or intends to reactivate Synergy Resource Group, Inc. in an effort to avoid personal liability for the actions he took while the corporate entity was dissolved and while Arnold was personally operating under the Synergy name.

73. Arnold's attempt to avoid paying annual registration fees for a corporate entity until the point when liability might be imposed and to actively conduct business using a similar business name he registered personally is contrary to the rationale underlying the limitations of liability under the Minnesota Business Corporations Act.

74. To the extent that the Court concludes that Arnold should be permitted to retroactively assign liability for his own actions to a defunct corporate entity, Synergy Resource Group, Inc. is a necessary party to this action, and will be liable for Arnold's actions.

75. To the extent that Synergy Resource Group, Inc. sells PuckMaster machines going forward, it will be liable for those sales.

V. Defendants Conspired to Destroy Electronically Stored Information.

76. On October 26, 2012, Landmark Bank finally produced the Five Continent computer that contained the electronic machine drawing files. Thomas Cross, the organizer of Puckmaster, LLC and a Landmark Bank executive arranged to have the computer delivered by Landmark Bank. However, the valuable intellectual property and other files had been first deleted from the computer so that Crown Bank would be deprived of access to them.

77. Without ever turning it on, Crown Bank turned over the computer to a company called Computer Forensic Services to investigate its contents and whether anything had been deleted, and to determine whether any data could be recovered. Computer Forensics Services determined that more than seven thousand computer files, including electronic drawings of the PuckMaster machines, had been deleted.

78. Some 1,394 files were deleted between 11:28 am and 12:17 pm on September 4, 2012, just minutes after Arnold emailed J.J. Garamella indicating that the computer had been retained by Landmark Bank.

79. On information and belief, Arnold and Landmark Bank conspired to delete the electronic computer files to destroy Crown Bank's ability to utilize or sell the valuable intellectual property pledged as security for Crown Bank's loans and to conceal their attempt to utilize the intellectual property for their own benefit through the new company using the PuckMaster name.

80. On information and belief, Defendants transferred the deleted files onto one or more computers within their possession, custody or control for use in the new business.

81. On information and belief, John Does 1-10 and ABC Entities 1-10 actively participated in and/or acted in furtherance of the above-described actions of Landmark Bank, Arnold, and Puckmaster, LLC.

82. On information and belief, Arnold, Landmark Bank, Puckmaster, LLC, John Does 1–10, and ABC Entities 1–10 have electronic communications and other computer files containing intellectual property that Crown Bank has a right to possess.

83. On information and belief, Defendants knowingly destroyed electronically stored information on the Five Continent Computer and transferred the intellectual property and other files to computers within their possession, custody or control, and are likely to continue to destroy and/or transfer electronically stored information without Court intervention.

COUNT I
(Breach of Contract against Landmark Bank)

84. Crown Bank incorporates by reference paragraphs 1 through 73, above.

85. Crown Bank entered an Intercreditor Agreement with Landmark Bank.

86. Crown Bank performed its obligations under the Intercreditor Agreement.

87. By its above-described actions and omissions, Landmark Bank breached its obligations to Crown Bank pursuant to the Intercreditor Agreement.

88. Specifically, Landmark Bank breached its obligations to Crown Bank under the Intercreditor Agreement by, among other things, removing collateral that was subject to Crown Bank's security interest, destroying computer files containing valuable intellectual property, and attempting to sell or use the Puckmaster name and Five Continent intellectual property for its own benefit even though Crown Bank held the senior security interest in the Puckmaster name and other intangible assets.

89. As a direct and proximate result of Defendants breaches of contract, Crown Bank has suffered harm, including without limitation financial losses, and is entitled to equitable relief and/or damages in excess of \$50,000.

COUNT II
(Breach of the Implied Covenant of Good Faith and Fair Dealing
against Landmark Bank)

90. Crown Bank incorporates by reference paragraphs 1 through 79, above.

91. Crown Bank entered an Intercreditor Agreement with Landmark Bank.

92. A covenant of good faith and fair dealing is implied in that contract by law.

93. By its above-described actions and omissions, Landmark Bank breached the covenant of good faith and fair dealing implied by law into its agreement with Crown Bank.

94. Landmark Bank breached the covenant of good faith and fair dealing implied by law into its agreement with Crown Bank by, among other things, removing collateral that was subject to Crown Bank's senior security interest, destroying computer files containing valuable intellectual property, and attempting to use the Puckmaster name for its own benefit.

95. Landmark Bank's actions interfered with Crown Bank's ability to exercise its rights to tangible and intangible property under the Intercreditor Agreement and the Security Agreements.

96. As a result of said breaches of the implied covenant of good faith and fair dealing, Crown Bank has suffered harm, including without limitation financial losses, and is entitled to equitable relief and/or damages in excess of \$50,000.

COUNT III
(Conversion against All Defendants)

97. Crown Bank incorporates by reference paragraphs 1 through 86, above.

98. Crown Bank has a security interest in the tangible and intangible property of Five Continent including the computer containing electronic machine drawings, the trademarks, trade names, patents, and other intellectual property.

99. After Five Continent defaulted under its loan obligations, Crown Bank had a right to possession of the property pledged as security for the promissory notes.

100. Defendants knowingly deprived Crown Bank of its right to possession of the property subject to Crown Bank's security interest by removing the computer from Five Continent and destroying certain computer files.

101. By their above-described actions and omissions, Defendants converted the tangible and intangible property of Five Continent including the computer containing electronic machine drawings, the trademarks, trade names, patents, and other intellectual property and deprived Crown Bank of its right to possession of the property.

102. Although Defendants were aware of Crown Bank's rights, Defendants deliberately disregarded Crown Bank's rights as a secured creditor. Defendants acted in conscious or intentional disregard of the high probability that their actions would injure Crown Bank's rights as a secured creditor.

103. As a direct and proximate result of Defendants' conversion Crown Bank has suffered harm, including without limitation financial losses, and is entitled equitable relief and/or damages in excess of \$50,000.

COUNT IV
(Tortious Interference with Contract against All Defendants except
Landmark Bank)

104. Crown Bank incorporates by reference paragraphs 1 through 94, above.

105. On information and belief, Defendants were aware of the Intercreditor Agreement.

106. On information and belief, Defendants encouraged Landmark Bank to breach the Intercreditor Agreement by taking possession of property in which Crown Bank had the senior security interest.

107. On information and belief, Defendants hoped to set up a new legal entity to continue the Five Continent business under the name Puckmaster.

108. By its above-described actions and omissions, Landmark Bank breached the Intercreditor Agreement.

109. By their above-described actions and omissions, the remaining Defendants tortiously interfered with the Intercreditor Agreement.

110. Although the remaining Defendants were aware of Crown Bank's rights under the Intercreditor Agreement, Defendants deliberately disregarded Crown Bank's rights under the Intercreditor Agreement. Defendants acted in conscious or intentional disregard of the high probability that their actions would injure Crown Bank's rights under the Intercreditor Agreement.

111. As a result of Defendants' tortious interference with the Intercreditor Agreement, Crown Bank has suffered harm, including without limitation financial losses, and is entitled equitable relief and/or damages in excess of \$50,000.

COUNT V
(Unjust Enrichment)

112. Crown Bank incorporates by reference paragraphs 1 through 102, above.

113. Defendants were aware that Crown Bank had the senior security interest in the tangible and intangible property of Five Continent including the computer containing electronic machine drawings, the trademarks, trade names, patents, and other intellectual property.

114. Defendants have received benefits from exploiting the tangible and intangible property of Five Continent including the computer containing electronic machine drawings, the trademarks, trade names, patents, and other intellectual property for their own benefit.

115. As a result of Defendants' actions and omissions, Defendants have received benefits that, under the circumstances, it would be legally, equitably or morally wrong for it to keep.

116. Defendants have been unjustly enriched at Crown Bank's expense.

117. As a result of Defendants' unjust enrichment, Crown Bank has been and/or will be damaged in an amount in excess of \$50,000.

**COUNT VI
(Civil Conspiracy)**

118. Crown Bank incorporates by reference paragraphs 1 through 107, above.

119. Defendants formed a common design to injure Crown Bank through, among other things, the unlawful conversion of the computer and Five Continent's intellectual property, the destruction of computer files containing intellectual property in which Crown Bank held the senior security interest, the creation of a separate legal entity using the name Puckmaster, and their efforts to continue to operate a business under the Puckmaster name.

120. Defendants had a common knowledge and tacit understanding that wrongs would be committed upon Crown Bank.

121. Defendants acted in furtherance of their common design to injure Crown Bank through, among other things, coordinating the creation of a new legal entity, Puckmaster, LLC, unlawfully continuing to operate a business under the Puckmaster name, which Crown Bank had a right to possess, and depriving Crown Bank of its security interest.

122. As direct and proximate result of Defendants' conspiracy to harm Crown Bank, Crown Bank has suffered harm, including without limitation financial losses, and is entitled equitable relief and/or damages in excess of \$50,000.

**COUNT VII
(Injunctive Relief)**

123. Crown Bank hereby incorporates the allegations of Paragraphs 1 through 112 as though fully set forth herein.

124. As a result of defendants' wrongful conduct, as more fully alleged herein, Crown Bank will suffer irreparable harm if Defendants are not preliminarily and permanently enjoined from using the PuckMaster name, or any variation thereof, or the PuckMaster intellectual property for any purpose.

125. Thousands of computer files were deleted while in the possession, custody, or control of Defendants.

126. As a result of defendants' wrongful conduct, as more fully alleged herein, Crown Bank will suffer irreparable harm if Defendants are not preliminarily and permanently ordered to turn over any and all computer files that relate to Puckmaster, Five Continent, or any of the facts alleged in this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Crown Bank prays for the following relief:

1. Entry of judgment in favor of Crown Bank under Counts I, II, III, IV, V and VI in an amount in excess of \$50,000;
2. Entry of an Order directing Defendants to cease and desist from all use of any Five Continent intellectual property including the PuckMaster name, Puckmaster trademark, or any design showing how to construct PuckMaster machines;

3. Entry of an Order directing Defendants to turn over any and all computer files that relate to Puckmaster, Five Continent, or any of the facts alleged in this Complaint
4. Costs, disbursements and attorneys' fees as allowed by law; and
5. Entry of such other relief as the Court deems just and appropriate.

**ANTHONY OSTLUND BAER
& LOUWAGIE P.A.**

Dated: May 30, 2013

By: 
Randy G. Gullickson (#185607)
Daniel R. Hall (#392757)
3600 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402
Telephone: 612-349-6969
Facsimile: 612-349-6996

ATTORNEYS FOR PLAINTIFFS

ACKNOWLEDGEMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, to the parties against whom the allegations in the Summons and Complaint are asserted.



Exhibit A to Complaint

SECURITY AGREEMENT

DATE AND PARTIES. The date of this Security Agreement (Agreement) is July 1, 2009. The parties and their addresses are:

SECURED PARTY:
CROWN BANK
6900 Franco Avenue South Ste 125
Edina, MN 55436

DEBTOR:
5 CONTINENT DISTRIBUTING, LLC
a Minnesota Limited Liability Company
5041 GREEN FARMS ROAD
EDINA, MN 55436

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Debtor and agreeing to give the Property described in this Agreement as security for the Secured Debts.

1. SECURED DEBTS. The term "Secured Debts" includes and this Agreement will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 4090916, dated July 1, 2009, from me to you, in the amount of \$280,000.00.

B. All Debts. All present and future debts from me to you, even if this Agreement is not specifically referenced, the future debts are also secured by other collateral, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Agreement, each agrees that it will secure debts incurred either individually or with others who may not sign this Agreement. Nothing in this Agreement constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing.

This Agreement will not secure any debt for which you fail to give any required notice of the right of rescission. This Agreement will not secure any debt for which a non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. In addition, this Agreement will not secure any other debt if, as a result, the other debt would become subject to Section 870 of the John Warner National Defense Authorization Act for Fiscal Year 2007.

C. Sums Advanced. All sums advanced and expenses incurred by you under the terms of this Agreement.

Loan Documents refer to all the documents executed in connection with the Secured Debts.

2. SECURITY INTEREST. To secure the payment and performance of the Secured Debts, I give you a security interest in all of the Property described in this Agreement that I own or have sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products from the Property (including, but not limited to, all parts, accessories, repairs, replacements, improvements, and occasions to the Property). Property is all the collateral given as security for the Secured Debts and described in this Agreement, and includes all obligations that support the payment or performance of the Property. "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property.

This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and you are no longer obligated to advance funds to me under any loan or credit agreement.

3. PROPERTY DESCRIPTION. The Property is described as follows:

A. Inventory. All inventory which I hold for ultimate sale or lease, or which has been or will be supplied under contracts of services, or which are raw materials, work in process, or materials used or consumed in my business.

B. Accounts and Other Rights to Payment. All rights I have now or in the future to payments including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned, whether or not I have earned such payment by performance. This includes any rights and interests (including all liens and security interests) which I may have by law or agreement against any Account Debtor or obligor of mine.

C. General Intangibles. All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.

D. Equipment. All equipment including, but not limited to, all machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. All equipment described in a list or schedule which I give to you will also be included in the Property, but such a list is not necessary for a valid security interest in my equipment.

4. WARRANTIES AND REPRESENTATIONS. I make to you the following warranties and representations which will continue as long as this Agreement is in effect:

A. Power. I am duly organized, and validly existing and in good standing in all jurisdictions in which I operate. I have the power and authority to enter into this transaction and to carry on my business or activity as it is now being conducted and, as applicable, am qualified to do so in each jurisdiction in which I operate.

B. Authority. The execution, delivery and performance of this Agreement and the obligation evidenced by this Agreement are within my powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which I am a party or to which I am or any of my property is subject.

C. Name and Location. My name indicated in the DATE AND PARTIES section is my exact legal name. I am an entity organized and registered under the laws of Minnesota. I will provide verification of registration and location upon your request. I will provide you with at least 30 days notice prior to any change in my name, address, or state of organization or registration.

D. Business Name. Other than previously disclosed in writing to you I have not changed my name or principal place of business within the last 10 years and have not used any other trade or fictitious name. Without your prior written consent, I do not and will not use any other name and will preserve my existing name, trade names and franchises.

E. Ownership of Property. I represent that I own all of the Property. Your claim to the Property is ahead of the claims of any other creditor, except as disclosed in writing to you prior to any advance on the Secured Debts. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

5. DUTIES TOWARD PROPERTY.

A. Protection of Secured Party's Interest. I will defend the Property against any other claim. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these and make copies at any reasonable time. I will prepare any report or accounting you request which deals with the Property.

B. Use, Location, and Protection of the Property. I will keep the Property in my possession and in good repair. I will use it only for commercial purposes. I will not change this specified use without your prior written consent. You have the right of reasonable access to inspect the Property and I will immediately inform you of any loss or damage to the Property. I will not cause or permit waste to the Property.

I will keep the Property at my address listed in the DATE AND PARTIES section unless we agree I may keep it at another location. If the Property is to be used in other states, I will give you a list of those states. The location of the Property is given to aid in the identification of the Property. It does not in any way limit the scope of the security interest granted to you. I will notify you in writing and obtain your prior written consent to any change in location of any of the Property. I will not use the Property in violation of any law. I will notify you in writing prior to any change in my address, name or, if an organization, any change in my identity or structure.

Until the Secured Debts are fully paid and this Agreement is terminated, I will not grant a security interest in any of the Property without your prior written consent. I will pay all taxes and assessments levied or assessed against me or the Property and provide timely proof of payment of these taxes and assessments upon request.

C. Selling, Leasing or Encumbering the Property. I will not sell, offer to sell, lease, or otherwise transfer or encumber the Property without your prior written permission, except for inventory sold in the ordinary course of business at fair market value, or at a minimum price established between you and me. If I am in default under this Agreement, I may not sell the inventory portion of the Property even in the ordinary course of business. Any disposition of the Property contrary to this Agreement will violate your rights. Your permission to sell the Property may be reasonably withheld without regard to the creditworthiness of any buyer or transferee. I will not permit the Property to be the subject of any court order affecting my rights to the Property in any action by anyone other than you. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, I will note your security interest on the face of the chattel paper or instruments.

D. Additional Duties Specific to Accounts. I will not settle any Account for less than its full value without your written permission. Until you tell me otherwise, I will collect all Accounts in the ordinary course of business. I will not dispose of the Accounts by assignment without your prior written consent. I will keep the proceeds from all the Accounts and any goods which are returned to me or which I take back. I will not commingle them with any of my other property. I will deliver the Accounts to you at your request. If you ask me to pay you the full price on any returned items or items retained by me, I will do so. I will make



no material change in the terms of any Account, and I will give you any statements, reports, certificates, lists of Account Debtors (showing names, addresses and amounts owing), invoices applicable to each Account, and other data in any way pertaining to the Accounts as you may request.

5. INSURANCE. I agree to keep the Property insured against the risks reasonably associated with the Property. I will maintain this insurance in the amounts you require. This insurance will last until the Property is released from this Agreement. I may choose the insurance company, subject to your approval, which will not be unreasonably withheld.

I will have the insurance company name you as loss payee on any insurance policy. I will give you and the insurance company immediate notice of any loss. You may apply the insurance proceeds toward what is owed on the Secured Debts. You may require added security as a condition of permitting any insurance proceeds to be used to repair or replace the Property.

If you acquire the Property in damaged condition, my right to any insurance policies and proceeds will pass to you to the extent of the Secured Debts.

I will immediately notify you of cancellation or termination of insurance. If I fail to keep the Property insured, you may obtain insurance to protect your interest in the Property and I will pay for the insurance on your demand. You may demand that I pay for the insurance all at once, or you may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include coverages not originally required of me, may be written by a company other than one I would choose, and may be written at a higher rate than I could obtain if I purchased the insurance. I acknowledge and agree that you or one of your affiliates may receive commissions on the purchase of this insurance.

7. COLLECTION RIGHTS OF THE SECURED PARTY. Account Debtor means the person who is obligated on an account, chattel paper, or general intangible. I authorize you to notify my Account Debtors of your security interest and to deal with the Account Debtors' obligations at your discretion. You may enforce the obligations of an Account Debtor, exercising any of my rights with respect to the Account Debtors' obligations to make payment or otherwise render performance to me, including the enforcement of any security interest that secures such obligations. You may apply proceeds received from the Account Debtors to the Secured Debts or you may release such proceeds to me.

I specifically and irrevocably authorize you to exercise any of the following powers at my expense, without limitation, until the Secured Debts are paid in full:

- A. demand payment and enforce collection from any Account Debtor or Obligor by suit or otherwise.
- B. enforce any security interest, lien or encumbrance given to secure the payment or performance of any Account Debtor or any obligation constituting Property.
- C. file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated as an Account Debtor.
- D. compromise, release, extend, or exchange any indebtedness of an Account Debtor.
- E. take control of any proceeds of the Account Debtors' obligations and any returned or repossessed goods.
- F. endorse all payments by any Account Debtor which may come into your possession as payable to me.
- G. deal in all respects as the holder and owner of the Account Debtors' obligations.

8. AUTHORITY TO PERFORM. I authorize you to do anything you deem reasonably necessary to protect the Property, and perfect and continue your security interest in the Property. If I fail to perform any of my duties under this Agreement or any other Loan Document, you are authorized, without notice to me, to perform the duties or cause them to be performed.

These authorizations include, but are not limited to, permission to:

- A. pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Property.
- B. pay any rents or other charges under any lease affecting the Property.
- C. order and pay for the repair, maintenance and preservation of the Property.
- D. file any financing statements on my behalf and pay for filing and recording fees pertaining to the Property.
- E. place a note on any chattel paper indicating your interest in the Property.
- F. take any action you feel necessary to realize on the Property, including performing any part of a contract or endorsing it in my name.
- G. handle any suits or other proceedings involving the Property in my name.
- H. prepare, file, and sign my name to any necessary reports or accountings.
- I. make an entry on my books and records showing the existence of this Agreement.
- J. notify any Account Debtor of your interest in the Property and tell the Account Debtor to make payments to you or someone else you name.

If you perform for me, you will use reasonable care. If you exercise the care and follow the procedures that you generally apply to the collection of obligations owed to you, you will be deemed to be using reasonable care. Reasonable care will not include: any steps necessary to preserve rights against prior parties; the duty to send notices, perform services or take any other action in connection with the management of the Property; or the duty to protect, preserve or maintain any security interest given to others by me or other parties. Your authorization to perform for me will not create an obligation to perform and your failure to perform will not preclude you from exercising any other rights under the law or this Agreement. All cash and non-cash proceeds of the Property may be applied by you only upon your actual receipt of cash proceeds against such of the Secured Debts, matured or unmatured, as you determine in your sole discretion.

If you come into actual or constructive possession of the Property, you will preserve and protect the Property. For purposes of this paragraph, you will be in actual possession of the Property only when you have physical, immediate and exclusive control over the Property and you have affirmatively accepted that control. You will be in constructive possession of the Property only when you have both the power and the intent to exercise control over the Property.

9. DEFAULT. I will be in default if any of the following occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Obligor, or any co-signer, endorser, surety or guarantor of this Agreement or any other obligations Obligor has with you.
- C. **Business Termination.** I merge, dissolve, reorganize, and my business or existence, or a partner or majority owner dies or is declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Agreement.
- E. **Other Documents.** A default occurs under the terms of any other Loan Document.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.
- G. **Misrepresentation.** I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- H. **Judgment.** I fail to satisfy or appeal any judgment against me.
- I. **Forfeiture.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- J. **Name Change.** I change my name or assume an additional name without notifying you before making such a change.
- K. **Property Transfer.** I transfer all or a substantial part of my money or property.
- L. **Property Value.** You determine in good faith that the value of the Property has declined or is impaired.
- M. **Material Change.** Without first notifying you, there is a material change in my business, including ownership, management, and financial conditions.
- N. **Insolvency.** You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Agreement or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

10. DUE ON SALE OR ENCUMBRANCE. You may, at your option, declare the entire balance of this Agreement to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. However, if I am in default under this Agreement, I may not sell the inventory portion of the Property even in the ordinary course of business.

11. REMEDIES. After I default, you may at your option do any one or more of the following.

- A. **Acceleration.** You may make all or any part of the amount owing by the terms of the Secured Debts immediately due.
- B. **Seizure.** You may use any and all remedies you have under state or federal law or in any Loan Document.
- C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on my default.
- D. **Payments Made On My Behalf.** Amounts advanced on my behalf will be immediately due and may be added to the Secured Debts.
- E. **Assembly of Property.** You may require me to gather the Property and make it available to you in a reasonable fashion.
- F. **Repossession.** You may repossess the Property so long as the repossession does not involve a breach of the peace. You may sell, lease or otherwise dispose of the Property as provided by law. You may apply what you receive from the disposition of the Property to your expenses, your attorneys' fees and legal expenses (where not prohibited by law), and any debt I owe you. If what you receive from the disposition of the Property does not satisfy the debt, I will be liable for the deficiency (where permitted by law). In some cases, you may keep the Property to satisfy the debt.

Where a notice is required, I agree that ten days prior written notice sent by first class mail to my address listed in this Agreement will be reasonable notice to me under the Minnesota Uniform Commercial Code. If the Property is perishable or threatens to decline speedily in value, you may, without notice to me, dispose of any or all of the Property in a commercially reasonable manner at my expense following any commercially reasonable preparation or processing.

if any items not otherwise subject to this Agreement are contained in the Property when you take possession, you may hold those items for me at my risk and you will not be liable for taking possession of them.

G. Use and Operation. You may enter upon my premises and take possession of all or any part of my property for the purpose of preserving the Property or its value, so long as you do not breach the peace. You may use and operate my property for the length of time you feel is necessary to protect your interest, all without payment or compensation to me.

H. Waiver. By choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

12. WAIVER OF CLAIMS. I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

13. PERFECTION OF SECURITY INTEREST AND COSTS. I authorize you to file a financing statement covering the Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining perfection or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code. I agree to pay all taxes, fees and costs you pay or incur in connection with preparing, filing or recording any financing statements or other security interest filings on the Property. I agree to pay all actual costs of terminating your security interest.

14. APPLICABLE LAW. This Agreement is governed by the laws of Minnesota, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Minnesota, unless otherwise required by law.

15. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. You may sue each Debtor individually or together with any other Debtor. You may release any part of the Property and I will still be obligated under this Agreement for the remaining Property. Debtor agrees that you and any party to this Agreement may extend, modify or make any change in the terms of this Agreement or any evidence of debt without Debtor's consent. Such a change will not release Debtor from the terms of this Agreement. If you assign any of the Secured Debts, you may assign all or any part of this Agreement without notice to me or my consent, and this Agreement will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpeded right to enforce this Agreement as to any of the Secured Debts that are not assigned. This Agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Secured Debts and shall be binding upon and enforceable against me and my personal representatives, successors, heirs and assigns.

16. AMENDMENT, INTEGRATION AND SEVERABILITY. This Agreement may not be amended or modified by oral agreement. No amendment or modification of this Agreement is effective unless made in writing and executed by you and me. This Agreement and the other Loan Documents are the complete and final expression of the understanding between you and me. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

17. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

18. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Debtor will be deemed to be notice to all Debtors. I will inform you in writing of any change in my name, address or other application information. I will provide you any financial statement or information you request. All financial statements and information I give you will be correct and complete. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Agreement and to confirm your lien status on any Property. Time is of the essence.

SIGNATURES. By signing, I agree to the terms contained in this Agreement. I also acknowledge receipt of a copy of this Agreement.

DEBTOR:

B CONTINENT DISTRIBUTING, LLC

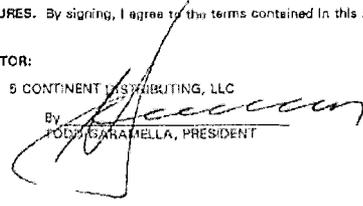
By 
TODD J. ARAMELLA, PRESIDENT



Exhibit B to Complaint

SECURITY AGREEMENT

DATE AND PARTIES. The date of this Security Agreement (Agreement) is July 1, 2009. The parties and their addresses are:

SECURED PARTY:
CROWN BANK
6000 France Avenue South Ste 125
Edina, MN 55436

DEBTOR:
5 CONTINENT DISTRIBUTING, LLC
a Minnesota Limited Liability Company
5041 GREEN FARMS ROAD
EDINA, MN 55436

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Debtor and agreeing to give the Property described in this Agreement as security for the Secured Debts.

1. SECURED DEBTS. The term "Secured Debts" includes and this Agreement will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 4090908, dated July 1, 2009, from me to you, in the amount of \$400,000.00.

B. All Debts. All present and future debts from me to you, even if this Agreement is not specifically referenced, the future debts are also secured by other collateral, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Agreement, each agrees that it will secure debts incurred either individually or with others who may not sign this Agreement. Nothing in this Agreement constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing.

This Agreement will not secure any debt for which you fail to give any required notice of the right of rescission. This Agreement will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. In addition, this Agreement will not secure any other debt if, as a result, the other debt would become subject to Section 67D of the John Warner National Defense Authorization Act for Fiscal Year 2007.

C. Sums Advanced. All sums advanced and expenses incurred by you under the terms of this Agreement.

Loan Documents refer to all the documents executed in connection with the Secured Debts.

2. SECURITY INTEREST. To secure the payment and performance of the Secured Debts, I give you a security interest in all of the Property described in this Agreement that I own or have sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products from the Property (including, but not limited to, all parts, accessories, repairs, replacements, improvements, and accessions to the Property). Property is all the collateral given as security for the Secured Debts and described in this Agreement, and includes all obligations that support the payment or performance of the Property. "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property.

This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and you are no longer obligated to advance funds to me under any loan or credit agreement.

3. PROPERTY DESCRIPTION. The Property is described as follows:

A. Inventory. All inventory which I hold for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.

B. Accounts and Other Rights to Payment. All rights I have now or in the future to payments including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned, whether or not I have earned such payment by performance. This includes any rights and interests (including all liens and security interests) which I may have by law or agreement against any Account Debtor or obligor of mine.

C. General Intangibles. All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, goodwill, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.

D. Equipment. All equipment including, but not limited to, all machinery, vehicles, trailers, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. All equipment described in a list or schedule which I give to you will also be included in the Property, but such a list is not necessary for a valid security interest in my equipment.

4. WARRANTIES AND REPRESENTATIONS. I make to you the following warranties and representations which will continue as long as this Agreement is in effect:

A. Power. I am duly organized, and validly existing and in good standing in all jurisdictions in which I operate. I have the power and authority to enter into this transaction and to carry on my business or activity as it is now being conducted and, as applicable, am qualified to do so in each jurisdiction in which I operate.

B. Authority. The execution, delivery and performance of this Agreement and the obligation evidenced by this Agreement are within my powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which I am a party or to which I am or any of my property is subject.

C. Name and Location. My name indicated in the DATE AND PARTIES section is my exact legal name. I am an entity organized and registered under the laws of Minnesota. I will provide verification of registration and location upon your request. I will provide you with at least 30 days notice prior to any change in my name, address, or state of organization or registration.

D. Business Name. Other than previously disclosed in writing to you I have not changed my name or principal place of business within the last 10 years and have not used any other trade or fictitious name. Without your prior written consent, I do not and will not use any other name and will preserve my existing name, trade names and franchises.

E. Ownership of Property. I represent that I own all of the Property. Your claim to the Property is ahead of the claims of any other creditor, except as disclosed in writing to you prior to any advance on the Secured Debts. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

5. DUTIES TOWARD PROPERTY.

A. Protection of Secured Party's Interest. I will defend the Property against any other claim. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these and make copies at any reasonable time. I will prepare any report or accounting you request which deals with the Property.

B. Use, Location, and Protection of the Property. I will keep the Property in my possession and in good repair. I will use it only for commercial purposes. I will not change this specified use without your prior written consent. You have the right of reasonable access to inspect the Property and I will immediately inform you of any loss or damage to the Property. I will not cause or permit waste to the Property.

I will keep the Property at my address listed in the DATE AND PARTIES section unless we agree I may keep it at another location. If the Property is to be used in other states, I will give you a list of those states. The location of the Property is given to aid in the identification of the Property. It does not in any way limit the scope of the security interest granted to you. I will notify you in writing and obtain your prior written consent to any change in location of any of the Property. I will not use the Property in violation of any law. I will notify you in writing prior to any change in my address, name or, if an organization, any change in my identity or structure.

Until the Secured Debts are fully paid and this Agreement is terminated, I will not grant a security interest in any of the Property without your prior written consent. I will pay all taxes and assessments levied or assessed against me or the Property and provide timely proof of payment of these taxes and assessments upon request.

C. Selling, Leasing or Encumbering the Property. I will not sell, offer to sell, lease, or otherwise transfer or encumber the Property without your prior written permission, except for inventory sold in the ordinary course of business at fair market value, or at a minimum price established between you and me. If I am in default under this Agreement, I may not sell the inventory portion of the Property even in the ordinary course of business. Any disposition of the Property contrary to this Agreement will violate your rights. Your permission to sell the Property may be reasonably withheld without regard to the creditworthiness of any buyer or transferee. I will not permit the Property to be the subject of any court order affecting my rights to the Property in any action by anyone other than you. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, I will note your security interest on the face of the chattel paper or instruments.

D. Additional Duties Specific to Accounts. I will not settle any Account for less than its full value without your written permission. Until you tell me otherwise, I will collect all Accounts in the ordinary course of business. I will not dispose of the Accounts by assignment without your prior written consent. I will keep the proceeds from all the Accounts and any goods which are returned to me or which I take back. I will not commingle them with any of my other property. I will deliver the Accounts to you at your request. If you ask me to pay you the full price on any returned items or items retaken by me, I will do so. I will make

no material change in the terms of any Account, and I will give you any statements, reports, certificates, lists of Account Debtors (showing names, addresses and amounts owing), invoices applicable to each Account, and other data in any way pertaining to the Accounts as you may request.

6. INSURANCE. I agree to keep the Property Insured against the risks reasonably associated with the Property. I will maintain this insurance in the amounts you require. This insurance will last until the Property is released from this Agreement. I may choose the insurance company, subject to your approval, which will not be unreasonably withheld.

I will have the insurance company name you as loss payee on any insurance policy. I will give you and the insurance company immediate notice of any loss. You may apply the insurance proceeds toward what is owed on the Secured Debts. You may require added security as a condition of permitting any insurance proceeds to be used to repair or replace the Property.

If you acquire the Property in damaged condition, my right to any insurance policies and proceeds will pass to you to the extent of the Secured Debts.

I will immediately notify you of cancellation or termination of insurance. If I fail to keep the Property insured, you may obtain insurance to protect your interest in the Property and I will pay for the insurance on your demand. You may demand that I pay for the insurance all at once, or you may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include coverages not originally required of me, may be written by a company other than one I would choose, and may be written at a higher rate than I could obtain if I purchased the insurance. I acknowledge and agree that you or one of your affiliates may receive commissions on the purchase of this insurance.

7. COLLECTION RIGHTS OF THE SECURED PARTY. Account Debtor means the person who is obligated on an account, chattel paper, or general intangible. I authorize you to notify my Account Debtors of your security interest and to deal with the Account Debtors' obligations at your discretion. You may enforce the obligations of an Account Debtor, exercising any of my rights with respect to the Account Debtors' obligations to make payment or otherwise render performance to me, including the enforcement of any security interest that secures such obligations. You may apply proceeds received from the Account Debtors to the Secured Debts or you may release such proceeds to me.

I specifically and irrevocably authorize you to exercise any of the following powers at my expense, without limitation, until the Secured Debts are paid in full:

- A. demand payment and enforce collection from any Account Debtor or Obligor by suit or otherwise.
- B. enforce any security interest, lien or encumbrance given to secure the payment or performance of any Account Debtor or any obligation constituting Property.
- C. file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated as an Account Debtor.
- D. compromise, release, extend, or exchange any indebtedness of an Account Debtor.
- E. take control of any proceeds of the Account Debtors' obligations and any returned or repossessed goods.
- F. endorse all payments by any Account Debtor which may come into your possession as payable to me.
- G. deal in all respects as the holder and owner of the Account Debtors' obligations.

8. AUTHORITY TO PERFORM. I authorize you to do anything you deem reasonably necessary to protect the Property, and perfect and continue your security interest in the Property. If I fail to perform any of my duties under this Agreement or any other Loan Document, you are authorized to perform the duties or cause them to be performed.

These authorizations include, but are not limited to, permission to:

- A. pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Property.
- B. pay any rents or other charges under any lease affecting the Property.
- C. order and pay for the repair, maintenance and preservation of the Property.
- D. file any financing statements on my behalf and pay for filing and recording fees pertaining to the Property.
- E. place a note on any chattel paper indicating your interest in the Property.
- F. take any action you feel necessary to realize on the Property, including performing any part of a contract or endorsing it in my name.
- G. handle any suits or other proceedings involving the Property in my name.
- H. prepare, file, and sign my name to any necessary reports or accountings.
- I. make an entry on my books and records showing the existence of this Agreement.
- J. notify any Account Debtor of your interest in the Property and tell the Account Debtor to make payments to you or someone else you name.

If you perform for me, you will use reasonable care. If you exercise the care and follow the procedures that you generally apply to the collection of obligations owed to you, you will be deemed to be using reasonable care. Reasonable care will not include: any steps necessary to preserve rights against prior parties; the duty to send notices, perform services or take any other action in connection with the management of the Property; or the duty to protect, preserve or maintain any security interest given to others by me or other parties. Your authorization to perform for me will not create an obligation to perform and your failure to perform will not preclude you from exercising any other rights under the law or this Agreement. All cash and non-cash proceeds of the Property may be applied by you only upon your actual receipt of cash proceeds against such of the Secured Debts, matured or unmatured, as you determine in your sole discretion.

If you come into actual or constructive possession of the Property, you will preserve and protect the Property. For purposes of this paragraph, you will be in actual possession of the Property only when you have physical, immediate and exclusive control over the Property and you have affirmatively accepted that control. You will be in constructive possession of the Property only when you have both the power and the intent to exercise control over the Property.

9. DEFAULT. I will be in default if any of the following occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Obligor, or any co-signer, endorser, surety or guarantor of this Agreement or any other obligations Obligor has with you.
- C. **Business Termination.** I merge, dissolve, reorganize, end my business or existence, or a partner or majority owner dies or is declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Agreement.
- E. **Other Documents.** A default occurs under the terms of any other Loan Document.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.
- G. **Misrepresentation.** I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- H. **Judgment.** I fail to satisfy or appeal any judgment against me.
- I. **Forfeiture.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- J. **Name Change.** I change my name or assume an additional name without notifying you before making such a change.
- K. **Property Transfer.** I transfer all or a substantial part of my money or property.
- L. **Property Value.** You determine in good faith that the value of the Property has declined or is impaired.
- M. **Material Change.** Without first notifying you, there is a material change in my business, including ownership, management, and financial conditions.
- N. **Insecurity.** You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Agreement or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

10. DUE ON SALE OR ENCUMBRANCE. You may, at your option, declare the entire balance of this Agreement to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. However, if I am in default under this Agreement, I may not sell the inventory portion of the Property even in the ordinary course of business.

11. REMEDIES. After I default, you may at your option do any one or more of the following.

- A. **Acceleration.** You may make all or any part of the amount owing by the terms of the Secured Debts immediately due.
- B. **Sources.** You may use any and all remedies you have under state or federal law or in any Loan Document.
- C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on my default.
- D. **Payments Made On My Behalf.** Amounts advanced on my behalf will be immediately due and may be added to the Secured Debts.
- E. **Assembly of Property.** You may require me to gather the Property and make it available to you in a reasonable fashion.
- F. **Repossession.** You may repossess the Property so long as the repossession does not involve a breach of the peace. You may sell, lease or otherwise dispose of the Property as provided by law. You may apply what you receive from the disposition of the Property to your expenses, your attorneys' fees and legal expenses (where not prohibited by law), and any debt I owe you. If what you receive from the disposition of the Property does not satisfy the debt, I will be liable for the deficiency (where permitted by law). In some cases, you may keep the Property to satisfy the debt.

Where a notice is required, I agree that ten days prior written notice sent by first class mail to my address listed in this Agreement will be reasonable notice to me under the Minnesota Uniform Commercial Code. If the Property is perishable or threatens to decline speedily in value, you may, without notice to me, dispose of any or all of the Property in a commercially reasonable manner at my expense following any commercially reasonable preparation or processing.

If any items not otherwise subject to this Agreement are contained in the Property when you take possession, you may hold these items for me at my risk and you will not be liable for taking possession of them.

G. Use and Operation. You may enter upon my premises and take possession of all or any part of my property for the purpose of preserving the Property or its value, so long as you do not breach the peace. You may use and operate my property for the length of time you feel is necessary to protect your interest, all without payment or compensation to me.

H. Waiver. By choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

12. WAIVER OF CLAIMS. I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

13. PERFECTION OF SECURITY INTEREST AND COSTS. I authorize you to file a financing statement covering the Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining perfection or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code. I agree to pay all taxes, fees and costs you pay or incur in connection with preparing, filing or recording any financing statements or other security interest filings on the Property. I agree to pay all actual costs of terminating your security interest.

14. APPLICABLE LAW. This Agreement is governed by the laws of Minnesota, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Minnesota, unless otherwise required by law.

15. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. You may sue each Debtor individually or together with any other Debtor. You may release any part of the Property and I will still be obligated under this Agreement for the remaining Property. Debtor agrees that you and any party to this Agreement may extend, modify or make any change in the terms of this Agreement or any evidence of debt without Debtor's consent. Such a change will not release Debtor from the terms of this Agreement. If you assign any of the Secured Debts, you may assign all or any part of this Agreement without notice to me or my consent, and this Agreement will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Agreement as to any of the Secured Debts that are not assigned. This Agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Secured Debts and shall be binding upon and enforceable against me and my personal representatives, successors, heirs and assigns.

16. AMENDMENT, INTEGRATION AND SEVERABILITY. This Agreement may not be amended or modified by oral agreement. No amendment or modification of this Agreement is effective unless made in writing and executed by you and me. This Agreement and the other Loan Documents are the complete and final expression of the understanding between you and me. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

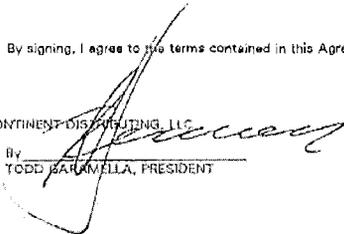
17. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

18. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Debtor will be deemed to be notice to all Debtors. I will inform you in writing of any change in my name, address or other application information. I will provide you any financial statement or information you request. All financial statements and information I give you will be correct and complete. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Agreement and to confirm your lien status on any Property. Time is of the essence.

SIGNATURES. By signing, I agree to the terms contained in this Agreement. I also acknowledge receipt of a copy of this Agreement.

DEBTOR:

5 CONTINENT DISTRIBUTING, LLC

By 
TODD BARUMELLA, PRESIDENT

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

DELAWARE DEPARTMENT OF STATE
 U.C.C. FILING SECTION
 FILED 05:49 PM 07/07/2009
 INITIAL FILING # 2009 2183355

SRV: 090680006

A. NAME & PHONE OF CONTACT AT FILER (optional)	
LISA STALBERGER	6514880100
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
CAPITOL GROUP OF COMPANIES	
1010 N DALE STREET	
ST. PAUL MN 55117	

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME				
5 CONTINENT DISTRIBUTING, LLC				
OR 1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS		CITY	STATE	POSTAL CODE COUNTRY
5041 GREEN FARMS ROAD		EDINA	MN	55436 US
1e. TYPE OF ORGANIZATION		1f. JURISDICTION OF ORGANIZATION		
LTD LIABILITY COMPANY		DE		

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME				
OR 2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE COUNTRY
2e. TYPE OF ORGANIZATION		2f. JURISDICTION OF ORGANIZATION		

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME				
CROWN BANK				
OR 3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS		CITY	STATE	POSTAL CODE COUNTRY
6600 FRANCE AVENUE SOUTH SUITE 125		EDINA	MN	55435 US

4. This FINANCING STATEMENT covers the following collateral:

All inventory, chattel paper, accounts, contract rights, equipment, general intangibles, furniture, fixtures, machinery and all other business assets; whether any of the foregoing is owned now or acquired later; all accessions and additions.

6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Acknowledgment <input type="checkbox"/> If applicable	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE) <input type="checkbox"/> optional	<input type="checkbox"/> All Debtors	<input type="checkbox"/> Debtor 1	<input type="checkbox"/> Debtor 2
8. OPTIONAL FILER REFERENCE DATA				

Exhibit C to Complaint

SCANNED BY JT

SECURITY AGREEMENT

DATE AND PARTIES. The date of this Security Agreement (Agreement) is JUNE 1, 2011. The parties and their addresses are:

SECURED PARTY:
CROWN BANK
8800 France Avenue South Ste 126
Edina, MN 55435

DEBTOR:
5 CONTINENT DISTRIBUTING, LLC
a Delaware Limited Liability Company
5041 GREEN FARMS ROAD
EDINA, MN 55436

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Debtor and agreeing to give the Property described in this Agreement as security for the Secured Debts.

1. SECURED DEBTS. The term "Secured Debts" includes and this Agreement will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 4090916, dated June 1, 2011, from me to you, in the amount of \$226,000.00.

B. All Debts. All present and future debts from me to you, even if this Agreement is not specifically referenced, the future debts are also secured by other collateral, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Agreement, each agrees that it will secure debts incurred either individually or with others who may not sign this Agreement. Nothing in this Agreement constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing.

This Agreement will not secure any debt for which you fail to give any required notice of the right of rescission. This Agreement will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. In addition, this Agreement will not secure any other debt if, with respect to such other debt, you fail to fulfill any necessary requirements or limitations of Sections 19(a), 32 or 35 of Regulation Z or if, as a result, the other debt would become subject to Section 870 of the John Warner National Defense Authorization Act for Fiscal Year 2007.

C. Sums Advanced. All sums advanced and expenses incurred by you under the terms of this Agreement.

Loan Documents refer to all the documents executed in connection with the Secured Debts.

2. SECURITY INTEREST. To secure the payment and performance of the Secured Debts, I give you a security interest in all of the Property described in this Agreement that I own or have sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products from the Property (including, but not limited to, all parts, accessories, repairs, replacements, improvements, and accessions to the Property). Property is all the collateral given as security for the Secured Debts and described in this Agreement, and includes all obligations that support the payment or performance of the Property. "Proceeds" includes cash proceeds, non-cash proceeds and anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property.

This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and you are no longer obligated to advance funds to me under any loan or credit agreement.

3. PROPERTY DESCRIPTION. The Property is described as follows:

A. Specific Property. 2 PUCKMASTER MACHINES

PUCKMASTER MODEL 225H (DEMO UNIT)

PUCKMASTER WITH ALLEN BRADLEY PC-560 CONTROL MODEL 175

INTELLECTUAL PROPERTY OF 5 CONTINENT DISTRIBUTING, LLC EVIDENCED BY A SECURITY AGREEMENT DATED JULY 1, 2009

4. WARRANTIES AND REPRESENTATIONS. I make to you the following warranties and representations which will continue as long as this Agreement is in effect:

A. Power. I am duly organized, and validly existing and in good standing in all jurisdictions in which I operate. I have the power and authority to enter into this transaction and to carry on my business or activity as it is now being conducted and, as applicable, am qualified to do so in each jurisdiction in which I operate.

B. Authority. The execution, delivery and performance of this Agreement and the obligation evidenced by this Agreement are within my powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which I am a party or to which I am or any of my property is subject.

C. Name and Location. My name disclosed in the DATE AND PARTIES section is my exact legal name. I am an entity organized and registered under the laws of Delaware. I will provide verification of registration and location upon your request. I will provide you with at least 30 days notice prior to any change in my name, address, or state of organization or registration.

D. Business Name. Other than previously disclosed in writing to you I have not changed my name or principal place of business within the last 10 years and have not used any other trade or fictitious name. Without your prior written consent, I do not and will not use any other name and will preserve my existing name, trade names and franchises.

E. Ownership of Property. I represent that I own all of the Property. Your claim to the Property is ahead of the claims of any other creditor, except as disclosed in writing to you prior to any advance on the Secured Debts. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

5. DUTIES TOWARD PROPERTY.

A. Protection of Secured Party's Interest. I will defend the Property against any other claim. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these and make copies at any reasonable time. I will prepare any report or accounting you request which deals with the Property.

B. Use, Location, and Protection of the Property. I will keep the Property in my possession and in good repair. I will use it only for commercial purposes. I will not change this specified use without your prior written consent. You have the right of reasonable access to inspect the Property and I will immediately inform you of any loss or damage to the Property. I will not abuse or permit waste to the Property.

I will keep the Property at my address listed in the DATE AND PARTIES section unless we agree I may keep it at another location. If the Property is to be used in other states, I will give you a list of those states. The location of the Property is given to aid in the identification of the Property. It does not in any way limit the scope of the security interest granted to you. I will notify you in writing and obtain your prior written consent to any change in location of any of the Property. I will not use the Property in violation of any law. I will notify you in writing prior to any change in my address, name or, if an organization, any change in my identity or structure.

Until the Secured Debts are fully paid and this Agreement is terminated, I will not grant a security interest in any of the Property without your prior written consent. I will pay all taxes and assessments levied or assessed against me or the Property and provide timely proof of payment of these taxes and assessments upon request.

C. Selling, Leasing or Encumbering the Property. I will not sell, offer to sell, lease, or otherwise transfer or encumber the Property without your prior written permission. Any disposition of the Property contrary to this Agreement will violate your rights. Your permission to sell the Property may be reasonably withheld without regard to the creditworthiness of any buyer or transferee. I will not permit the Property to be the subject of any court order affecting my rights to the Property in any action by anyone other than you. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, I will note your security interest on the face of the chattel paper or instruments.

6. INSURANCE. I agree to keep the Property insured against the risks reasonably associated with the Property. I will maintain this insurance in the amounts you require. This insurance will last until the Property is released from this Agreement. I may choose the insurance company, subject to your approval, which will not be unreasonably withheld.

I will have the insurance company name you as loss payee on any insurance policy. I will give you and the insurance company immediate notice of any loss. You may apply the insurance proceeds toward what is owed on the Secured Debts. You may require added security as a condition of permitting any insurance proceeds to be used to repair or replace the Property.

If you acquire the Property in damaged condition, my right to any insurance policies and proceeds will pass to you to the extent of the Secured Debts.

I will immediately notify you of cancellation or termination of insurance. If I fail to keep the Property insured, you may obtain insurance to protect your interest in the Property and I will pay for the insurance on your demand. You may demand that I pay for the insurance all at once, or you may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include coverages not originally

5 CONTINENT DISTRIBUTING, LLC
Minnesota Security Agreement
MN/4Xpburton00184400007454010082311Y

Wolters Kluwer Financial Services ©1996, 2011 Bankers Systems™

Initials
Date

EXHIBIT C

required of me, may be written by a company other than one I would choose, and may be written at a higher rate than I could obtain if I purchased the insurance. I acknowledge and agree that you or one of your affiliates may receive commissions on the purchase of this insurance.

7. COLLECTION RIGHTS OF THE SECURED PARTY. Account Debtor means the person who is obligated on an account, chattel paper, or general intangible. I authorize you to notify my Account Debtors of your security interest and to deal with the Account Debtors' obligations at your discretion. You may enforce the obligations of an Account Debtor, exercising any of my rights with respect to the Account Debtors' obligations to make payment or otherwise render performance to me, including the enforcement of any security interest that secures such obligations. You may apply proceeds received from the Account Debtors to the Secured Debts or you may release such proceeds to me.

I specifically and irrevocably authorize you to exercise any of the following powers at my expense, without limitation, until the Secured Debts are paid in full:

- A. demand payment and enforce collection from any Account Debtor or Obligor by suit or otherwise.
- B. enforce any security interest, lien or encumbrance given to secure the payment or performance of any Account Debtor or any obligation constituting Property.
- C. file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated as an Account Debtor.
- D. compromise, release, extend, or exchange any indebtedness of an Account Debtor.
- E. take control of any proceeds of the Account Debtors' obligations and any returned or repossessed goods.
- F. endorse all payments by any Account Debtor which may come into your possession as payable to me.
- G. deal in all respects as the holder and owner of the Account Debtors' obligations.

8. AUTHORITY TO PERFORM. I authorize you to do anything you deem reasonably necessary to protect the Property, and perfect and continue your security interest in the Property. If I fail to perform any of my duties under this Agreement or any other Loan Document, you are authorized, without notice to me, to perform the duties or cause them to be performed.

These authorizations include, but are not limited to, permission to:

- A. pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Property.
- B. pay any rents or other charges under any lease affecting the Property.
- C. order and pay for the repair, maintenance and preservation of the Property.
- D. file any financing statements on my behalf and pay for filing and recording fees pertaining to the Property.
- E. place a note on any chattel paper indicating your interest in the Property.
- F. take any action you feel necessary to realize on the Property, including performing any part of a contract or endorsing it in my name.
- G. handle any suits or other proceedings involving the Property in my name.
- H. prepare, file, and sign my name to any necessary reports or accountings.
- I. make an entry on my books and records showing the existence of this Agreement.
- J. notify any Account Debtor of your interest in the Property and tell the Account Debtor to make payments to you or someone else you name.

If you perform for me, you will use reasonable care. If you exercise the care and follow the procedures that you generally apply to the collection of obligations owed to you, you will be deemed to be using reasonable care. Reasonable care will not include: any steps necessary to preserve rights against prior parties; the duty to send notices, perform services or take any other action in connection with the management of the Property; or the duty to protect, preserve or maintain any security interest given to others by me or other parties. Your authorization to perform for me will not create an obligation to perform and your failure to perform will not preclude you from exercising any other rights under the law or this Agreement. All cash and non-cash proceeds of the Property may be applied by you only upon your actual receipt of cash proceeds against such of the Secured Debts, matured or unmatured, as you determine in your sole discretion.

If you come into actual or constructive possession of the Property, you will preserve and protect the Property. For purposes of this paragraph, you will be in actual possession of the Property only when you have physical, immediate and exclusive control over the Property and you have affirmatively accepted that control. You will be in constructive possession of the Property only when you have both the power and the intent to exercise control over the Property.

9. DEFAULT. I will be in default if any of the following events (known separately and collectively as an Event of Default) occur:

- A. **Payments.** I fail to make a payment in full when due.
- B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me, Obligor, or any co-signer, endorser, surety or guarantor of this Agreement or any other obligations Obligor has with you.
- C. **Business Termination.** I merge, dissolve, reorganize, and my business or existence, or a partner or majority owner dies or is declared legally incompetent.
- D. **Failure to Perform.** I fail to perform any condition or to keep any promise or covenant of this Agreement.
- E. **Other Documents.** A default occurs under the terms of any other Loan Document.
- F. **Other Agreements.** I am in default on any other debt or agreement I have with you.
- G. **Misrepresentation.** I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- H. **Judgment.** I fail to satisfy or appeal any judgment against me.
- I. **Forfeiture.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- J. **Name Change.** I change my name or assume an additional name without notifying you before making such a change.
- K. **Property Transfer.** I transfer all or a substantial part of my money or property.
- L. **Property Value.** You determine in good faith that the value of the Property has declined or is impaired.
- M. **Material Change.** Without first notifying you, there is a material change in my business, including ownership, management, and financial conditions.
- N. **Insecurity.** You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Agreement or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

10. DUE ON SALE OR ENCUMBRANCE. You may, at your option, declare the entire balance of this Agreement to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable.

11. REMEDIES. After I default, you may at your option do any one or more of the following.

- A. **Acceleration.** You may make all or any part of the amount owing by the terms of the Secured Debts immediately due.
- B. **Sources.** You may use any and all remedies you have under state or federal law or in any Loan Document.
- C. **Insurance Benefits.** You may make a claim for any and all insurance benefits or refunds that may be available on my default.
- D. **Payments Made On My Behalf.** Amounts advanced on my behalf will be immediately due and may be added to the Secured Debts.
- E. **Assembly of Property.** You may require me to gather the Property and make it available to you in a reasonable fashion.
- F. **Repossession.** You may repossess the Property so long as the repossession does not involve a breach of the peace. You may sell, lease or otherwise dispose of the Property as provided by law. You may apply what you receive from the disposition of the Property to your expenses, your attorneys' fees and legal expenses (where not prohibited by law), and any debt I owe you. If what you receive from the disposition of the Property does not satisfy the debt, I will be liable for the deficiency (where permitted by law). In some cases, you may keep the Property to satisfy the debt.

Where a notice is required, I agree that ten days prior written notice sent by first class mail to my address listed in this Agreement will be reasonable notice to me under the Minnesota Uniform Commercial Code. If the Property is perishable or threatens to decline speedily in value, you may, without notice to me, dispose of any or all of the Property in a commercially reasonable manner at my expense following any commercially reasonable preparation or processing.

If any items not otherwise subject to this Agreement are contained in the Property when you take possession, you may hold these items for me at my risk and you will not be liable for taking possession of them.

G. Use and Operation. You may enter upon my premises and take possession of all or any part of my property for the purpose of preserving the Property or its value, so long as you do not breach the peace. You may use and operate my property for the length of time you feel is necessary to protect your interest, all without payment or compensation to me.

H. Waiver. By choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

12. WAIVER OF CLAIMS. I waive all claims for loss or damage caused by your acts or omissions where you acted reasonably and in good faith.

13. PERFECTION OF SECURITY INTEREST AND COSTS. I authorize you to file a financing statement and/or security agreement, as appropriate, covering the Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining perfection or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code. I agree to pay all taxes, fees and costs you pay or incur in connection with preparing, filing or recording any financing statements or other security interest filings on the Property. I agree to pay all actual costs of terminating your security interest.

14. APPLICABLE LAW. This Agreement is governed by the laws of Minnesota, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law. In the event of a dispute, the exclusive forum, venue and place of jurisdiction will be in Minnesota, unless otherwise required by law.

15. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. You may sue each Debtor individually or together with any other Debtor. You may release any part of the Property and I will still be obligated under this Agreement for the remaining Property. Debtor agrees that you and any party to this Agreement may extend, modify or make any change in the terms of this Agreement or any evidence of debt without Debtor's consent. Such a change will not release Debtor from the terms of this Agreement. If you assign any of the Secured Debts, you may assign all or any part of this Agreement without notice to me or my consent, and this Agreement will inure to the benefit of your assignee to the extent of such assignment. You will continue to have the unimpaired right to enforce this Agreement as to any of the Secured Debts that are not assigned. This Agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and any other person to whom you may grant an interest in the Secured Debts and shall be binding upon and enforceable against me and my personal representatives, successors, heirs and assigns.

16. AMENDMENT, INTEGRATION AND SEVERABILITY. This Agreement may not be amended or modified by oral agreement. No amendment or modification of this Agreement is effective unless made in writing and executed by you and me. This Agreement and the other Loan Documents are the complete and final expression of the understanding between you and me. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

17. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

18. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Debtor will be deemed to be notice to all Debtors. I will inform you in writing of any change in my name, address or other application information. I will provide you any financial statement or information you request. All financial statements and information I give you will be correct and complete. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Agreement and to confirm your lien status on any Property. Time is of the essence.

SIGNATURES. By signing, I agree to the terms contained in this Agreement. I also acknowledge receipt of a copy of this Agreement.

DEBTOR:

5 CONTINENT DISTRIBUTING, LLC

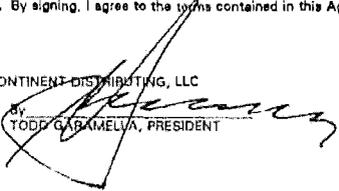
By 
TODD GARAMELLA, PRESIDENT

Exhibit D to Complaint

INTERCREDITOR SUBORDINATION AGREEMENT

LCB Loan No: 736934
Debtor Name: 5 Continent Distributing, LLC
Debtor Address: 160 Green Tree Drive, Suite 101, Dover, DE 19904

WHEREAS, Landmark Community Bank, N.A. ("Lender") and Crown Bank ("Crown") have obtained (or are about to obtain) certain Security Agreements from 5 Continent Distributing, LLC ("Debtor"), and Lender and Crown have filed (or intend to file) a Financing Statement(s) pursuant to the Uniform Commercial Code perfecting security interests in:

- (a) All inventory including all PuckMaster Units more fully described in Exhibit A attached hereto and made a part hereof.

("Collateral") of Debtor; and

WHEREAS, Lender and Crown desire to avoid a conflict of security interests arising from their respective Security Agreements and Financing Statements.

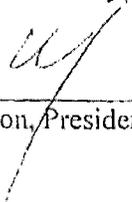
NOW, THEREFORE, it is agreed by and between Lender and Crown as follows:

1. To induce Lender to extend financial accommodations to Debtor, Crown hereby subordinates its security interest in the Collateral to the security interest of Lender.
2. To induce Crown to subordinate its security interest in the Collateral to the security interest of Lender, Lender hereby subordinates its security interest in all of the assets of Debtor other than the Collateral to the security interest of Lender.
3. This Agreement shall remain in effect until it is terminated by written notice by either Lender or Crown. However, termination shall not impair the rights or priorities created by this Agreement and arising prior to the receipt of such notice of termination. This Agreement is solely for the benefit of Lender and Crown and their respective successors and assigns and shall be binding after due execution by Lender and Crown. Neither Debtor or any other persons or entities are intended to be third party beneficiaries hereunder or to have any right, benefit or interest under, or to have any right to enforce, this Agreement.
4. This Agreement is the sole and entire agreement of Lender and Crown with respect to the collateral and any and all prior agreements, discussion, commitment or understanding between Lender and Crown concerning the collateral is superseded by this Agreement. The parties hereto acknowledge that they have read this Agreement and execute it without relying upon any

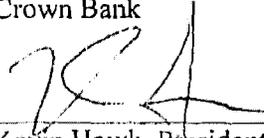
statements not expressly set forth herein and have obtained such independent legal or other advice as they have decided is necessary.

5. Lender and Crown warrant that the individuals signing below have the requisite legal authority to execute this Agreement on their behalf. This Agreement is only effective with the express consent of Debtor and all borrowers and guarantors of the referenced Lender Loan.

LENDER
Landmark Community Bank, N.A.

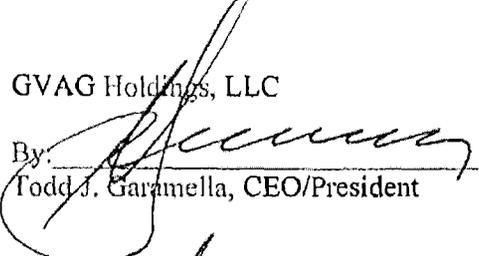
By: 
Kevin Johnson, President

Crown
Crown Bank

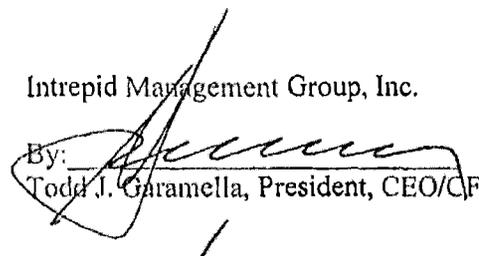

Kevin Howk, President

CONSENT OF BORROWERS AND GUARANTORS

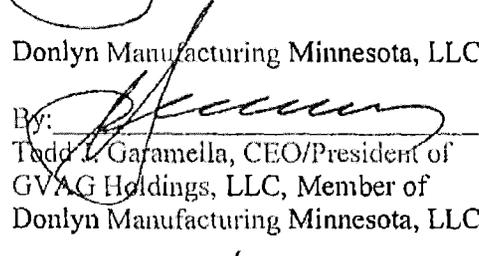
GVAG Holdings, LLC

By: 
Todd J. Garamella, CEO/President

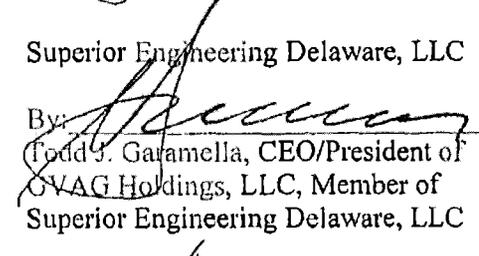
Intrepid Management Group, Inc.

By: 
Todd J. Garamella, President, CEO/CFO

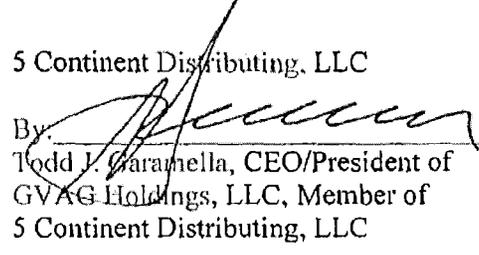
Donlyn Manufacturing Minnesota, LLC

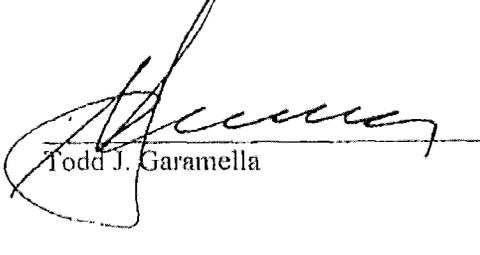
By: 
Todd J. Garamella, CEO/President of
GVAG Holdings, LLC, Member of
Donlyn Manufacturing Minnesota, LLC

Superior Engineering Delaware, LLC

By: 
Todd J. Garamella, CEO/President of
GVAG Holdings, LLC, Member of
Superior Engineering Delaware, LLC

5 Continent Distributing, LLC

By: 
Todd J. Garamella, CEO/President of
GVAG Holdings, LLC, Member of
5 Continent Distributing, LLC


Todd J. Garamella

5 Continent Distributing, LLC
PuckMaster Machines

Model #	Serial #	Quantity	Description
- 225H		1	PuckMaster <i>Have</i>
300		1	PuckMaster
1622		1	PuckMaster Shreader
275		1	PuckMaster
175		1	PuckMaster
- 175		1	PuckMaster with Allen Bradley PC-550 Control <i>Have</i>
225		1	PuckMaster
LT-250		1	PuckMaster
1616		1	PuckMaster Shreader
1622		1	PuckMaster SESA Shreader
1622		1	PuckMaster SESA Shreader

Exhibit B

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: CONTRACT

Crown Bank,

Plaintiff,

v.

**ANSWER OF DEFENDANT
LANDMARK COMMUNITY BANK, N.A.**

Landmark Community Bank, N.A.,
Puckmaster, LLC, Charles Arnold,
John Does 1-10, and ABC
Entities 1-10,

Court File No. _____

Defendants.

Defendant Landmark Community Bank, N.A., for its Answer to Plaintiff's Complaint, states as follows:

1. Except as hereinafter admitted, qualified or otherwise denied, this answering defendant denies each and every claim, allegation, matter and thing in plaintiff's Complaint contained.

2. Plaintiff fails to state a claim upon which relief may be granted.

3. Plaintiff has failed to join parties necessary to adjudicate plaintiff's Complaint.

Namely, 5 Continent Distributing, LLC and 5 Continent, Inc.

INTRODUCTION

4. Plaintiff brings its claim against defendants asserting rights in the name and mark "Puckmaster" after determining that its borrower, 5 Continent Distributing, LLC ("Old 5 Continent") had lost any rights in the name and mark "Puckmaster" as a registered trademark by failing to pay necessary fees to the U.S. Patent and Trademark Office and abandoned any claim it

might have had to the tradename by going out of business in June or July of 2012. In June of 2012, Old 5 Continent notified Landmark Bank that it was abandoning all of its assets located within certain leased premises in Blaine, Minnesota. A copy of the notice was sent to Old 5 Continent's landlord and, upon information and belief, Crown Bank had knowledge of this action taken by its borrower Old 5 Continent.

5. After being notified of the fact that Old 5 Continent had stopped doing business, Landmark Bank made arrangements with the landlord to secure the premises at 1451 - 91st Avenue NE, Suite 120, Blaine, MN ("Suite 120") and take possession of the property located within the premises. Landmark Bank believed that all of the property located therein comprised its collateral in that Landmark believed that as of the date it took possession, there appeared to be no other property other than inventory Landmark Bank collateral located on the premises.

6. The premises at Suite 120 were locked with the landlord retaining the key. Subsequently, Landmark Bank made arrangements to remove its collateral from Suite 120 to another location. Charles Arnold, believed to be a former employee of Old 5 Continent, assisted in that endeavor. In July of 2012, Todd Garamella, believed to be the sole shareholder of Old 5 Continent, filed a bankruptcy petition. As a result, Landmark Bank believes that Old 5 Continent is currently controlled by Garamella's bankruptcy trustee. Old 5 Continent, having lost any trademark rights to the Puckmaster name, could only have had tradename rights in the areas where it was, if indeed it was, selling product. Old 5 Continent no longer has the ability or intent to manufacture or sell Puckmaster product and accordingly no rights in the tradename.

7. Several months later, a corporation named 5 Continent, Inc. ("New 5 Continent") was formed in the State of Minnesota by, upon information and belief, Todd Garamella. New 5

Continent filed a trademark application for the name Puckmaster with the U.S. Patent & Trademark Office. According to sworn testimony of Todd Garamella, New 5 Continent is engaged in no business and Garamella has not determined what, if any, business it will be engaged in. New 5 Continent is, together with plaintiff Crown Bank, apparently engaged in efforts to determine what, if any, materials may have been deleted or reproduced on a computer allegedly formerly in the possession of Old 5 Continent.

8. Defendant Landmark Bank understands, on information and belief, that plaintiff has initiated a possible sale of its collateral but has apparently declined to do so.

9. Defendant Landmark Bank, through counsel, has demanded that defendant Landmark Bank be furnished a copy of any report indicating that any computerized drawings were deleted or copied. Plaintiff has failed to do so.

10. Defendant Landmark Bank has been advised that only duplicate drawings were deleted along with email irrelevant to the manufacture of any machine merely to clean up the machine and make space for future use. Except as set forth above, defendant Landmark Bank is informed and believes that no other data was destroyed and that no copies of the data were made by Landmark Bank or anyone associated with it.

11. Landmark Bank agrees that it entered into the Intercreditor Agreement attached to plaintiff Complaint. However, Landmark Bank never violated the terms of that agreement. Landmark Bank affirmatively alleges that Crown Bank itself took no action to protect its interest in any collateral belonging to it until approximately September 2012. Upon information and belief, substantial portions of Crown Bank's collateral were abandoned to the landlord and destroyed subsequently.

12. Defendant Landmark Bank admits the allegations of paragraphs 7, 8, and 9 of plaintiff's Complaint.

13. Landmark Bank believes the allegations in paragraph 10 to be true.

14. Paragraph 11 of plaintiff's Complaint requires no answer.

JURISDICTION AND VENUE

15. Landmark Bank admits that, as currently pled, this Court has personal jurisdiction over the parties and subject matter.

FACTUAL ALLEGATIONS

16. Landmark Bank denies that Old 5 Continent manufactures and sells machines and affirmatively alleges that it is and has been for many months out of business. Old 5 Continent's former chief manager has filed for bankruptcy.

17. As to paragraphs 14, 15, 16 and 17 of plaintiff's Complaint, defendant Landmark Bank denies that Old 5 Continent is in the business of manufacturing machines fitting the description set forth within those paragraphs in that it is and has been for many months out of business. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or falsity of the allegations with respect to the place of storage of designs for Puckmaster machines and believes that upon information and belief, other drawings and files exist which were utilized in manufacturing Puckmaster machines.

18. As to paragraph 19, Defendant Landmark Bank, upon information and belief, admits that certain loans were made and security agreements executed in conjunction with said loans. Landmark Bank is without knowledge as to whether Exhibits A or B constitute true

copies of the security agreements executed in connection with loans from Crown and whether Crown filed security agreements in the State of Delaware.

19. As to paragraph 24, Defendant Landmark Bank is without knowledge as to what sum is owed Crown Bank.

20. As to paragraph 25, Defendant Landmark Bank admits that it is a creditor of Old 5 Continent and that it possessed a security interest in certain collateral. Landmark Bank admits that it executed the Intercreditor Agreement attached as Exhibit D.

21. Upon information and belief, defendant Landmark Bank admits paragraphs 26 and 27.

22. As to paragraphs 28, 29, 30 and 31, the document attached as Exhibit D speaks for itself.

23. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or veracity of the allegations set forth in paragraphs 32, 33 and 34. Landmark Bank asserts that the allegations with regard to defendant Arnold fail to state a claim and that Crown Bank lacks any standing to assert such a claim. On information and belief, Landmark Bank admits that Todd Garamella was experiencing personal financial difficulties in 2012 along with his businesses including Old 5 Continent.

24. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the allegation that Old 5 Continent reduced staffing levels with Arnold as one of the only remaining employees.

25. Defendant Landmark Bank, is without knowledge as to whether Old 5 Continent defaulted on its obligations to Crown Bank. Defendant Landmark Bank is without

knowledge as to the truth or falsity of the balance of the allegations of paragraph 37. Defendant Landmark Bank admits that Old 5 Continent also defaulted on its obligations to Landmark Bank and affirmatively alleges that Landmark Bank, pursuant to notice and direction from Old 5 Continent, entered into possession of its collateral. It did so when Old 5 Continent advised Landmark Bank and the landlord of Old 5 Continent that it was ceasing business and abandoning the property located within the warehouse bay leased from the landlord.

26. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 39, 40 and 41 and alleges affirmatively that Crown Bank, as to said allegations, fails to state a claim and lacks any standing to do so.

27. As set forth above, defendant Landmark Bank removed the property subject to its security interest and abandoned by Old 5 Continent in July 2012.

28. Defendant Landmark Bank specifically denies the allegations of paragraph 44.

29. Landmark Bank alleges that it is without knowledge sufficient to form a belief as to the truth or falsity of the factual allegations set forth at paragraph 45 and therefore denies the allegations within paragraph 45.

30. Defendant Landmark Bank is without knowledge sufficient to form an understanding as to the truth or falsity of the allegation of paragraph 46.

31. Defendant Landmark Bank denies the allegations of paragraph 47.

32. Defendant Landmark Bank admits the allegations of paragraph 48.

33. Defendant Landmark Bank admits the allegations of paragraph 49.

34. Defendant Landmark Bank admits the allegations of paragraph 50.

35. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 51.

36. Defendant Landmark Bank admits the allegations of paragraph 52 and affirmatively allege that on July 31, New 5 Continent filed an application to trademark "Puckmaster" with the U.S. Patent & Trademark Office.

37. Defendant Landmark Bank denies the allegations of paragraph 53.

38. As to paragraph 54, as of August 14, 2012, Old 5 Continent was no longer in business and owned no rights in the Puckmaster trademark and trade name.

39. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 55 except admits it received a foreclosure notice apparently authored by Crown Bank. Said notice appeared to furnish notification of an intended sale of collateral. So far as defendant Landmark Bank knows, no such sale has ever been held.

40. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 56, 57, 58, 59, and 60.

41. In answer to the allegations of paragraph 61, Defendant Landmark Bank admits that Crown Bank sought return of a computer. Any notice speaks for itself.

42. In answer to the allegations of paragraph 62, Defendant Landmark Bank admits that Crown Bank sought return of a computer and affirmatively alleges that Crown Bank received the computer in Arnold's possession that Old 5 Continent had abandoned when it ceased doing business.

43. Landmark Bank affirmatively alleges that as the owner of the Puckmaster inventory, it is legally entitled to sell that inventory using the Puckmaster name and mark.

44. Defendant Landmark Bank denies that Old 5 Continent has any customers and that it is and has been out of business for many months.

45. In answer to the allegations of paragraph 65, defendant Landmark Bank denies that Old 5 Continent has any customers and affirmatively alleges that New 5 Continent has been contacting former customers of Old 5 Continent and falsely claiming that it is “still in business.”

46. Defendant Landmark Bank denies on information and belief that any valuable intellectual property was deleted from any computer to deprive Crown Bank of access to them.

47. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or falsity of the allegations at paragraph 67. Landmark Bank affirmatively alleges that it has on more than one occasion demanded a copy of any written report from Computer Forensic Services or any other entity performing forensic services on the computer. No such report has been forthcoming.

48. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 68.

49. Defendant Landmark Bank denies the allegations of paragraph 69.

50. Defendant Landmark Bank denies the allegations of paragraph 70.

51. Defendant Landmark Bank denies the allegations of paragraph 71.

52. Defendant Landmark Bank denies the allegations of paragraph 72.

53. Defendant Landmark Bank denies the allegations of paragraph 73.

54. Defendant Landmark Bank realleges the allegations in paragraphs 1 through 53 above.

55. Defendant Landmark Bank admits the allegations in paragraph 75.

56. Defendant Landmark Bank is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 76.

57. Defendant Landmark Bank denies the allegations of paragraph 77.

58. Defendant Landmark Bank denies the allegations of paragraph 78.

59. Defendant Landmark Bank denies the allegations of paragraph 79.

60. Defendant Landmark Bank realleges the allegations in paragraphs 1 through 59 above.

61. Defendant Landmark Bank admits the allegations of paragraph 81.

62. As to paragraph 82, defendant Landmark Bank asserts that this allegation is nothing more than a statement of plaintiff's belief concerning the law and requires no responsive pleading.

63. Defendant Landmark Bank denies the allegations of paragraph 83.

64. Defendant Landmark Bank denies the allegations of paragraph 84.

65. Defendant Landmark Bank denies the allegations of paragraph 85.

66. Defendant Landmark Bank denies the allegations of paragraph 86.

67. Defendant Landmark Bank realleges the allegations in paragraphs 1 through 66 above.

68. With respect to the allegations of paragraph 88, any security agreement speaks for itself. Defendant Landmark Bank affirmatively alleges that no trademarks or tradename of any value exist.

69. With respect to the allegations of paragraph 89, any security agreement speaks for itself.

70. Defendant Landmark Bank denies the allegations of paragraph 90.

71. Defendant Landmark Bank denies the allegations of paragraph 91.

72. Defendant Landmark Bank denies the allegations of paragraph 92.

73. Defendant Landmark Bank denies the allegations of paragraph 93.

74. Defendant Landmark Bank realleges the allegations in paragraphs 1 through 73 above.

75. Defendant Landmark Bank admits that it executed the Intercreditor Agreement.

76. Defendant Landmark Bank denies the allegations of paragraph 96.

77. Defendant Landmark Bank denies the allegations of paragraph 97.

78. Defendant Landmark Bank denies the allegations of paragraph 98.

79. Defendant Landmark Bank denies the allegations of paragraph 99.

80. Defendant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 100.

81. Defendant Landmark Bank denies the allegations of paragraph 101.

82. Defendant Landmark Bank realleges the allegations in paragraphs 1 through 81 above.

83. Defendant Landmark Bank affirmatively alleges that Crown Bank abandoned any collateral located on the premises occupied by Old 5 Continent including any computers located thereon. Accordingly, Crown Bank abandoned any rights to any data located on any computer abandoned at the property formerly operated by Old 5 Continent.

84. Defendant Landmark Bank realleges the allegations in paragraphs 1 through 78 above.

85. Defendant Landmark Bank specifically denies any attempt to injure Crown Bank or to unlawfully convert any intellectual property.

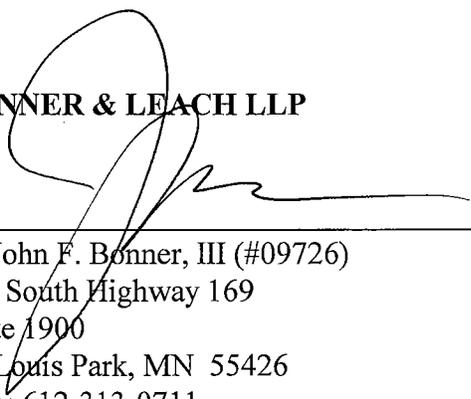
86. Defendant Landmark Bank realleges the allegations in paragraphs 1 through 85 above.

87. Defendant Landmark Bank denies that Crown Bank has any right to the Puckmaster name or intellectual property and denies that the deletion of any computer files caused any harm to Crown Bank and accordingly denies paragraphs 103 through 116, inclusive.

WHEREFORE, this answering defendant prays that the Complaint of plaintiff be denied in its entirety and that defendant Landmark Bank be awarded its costs, disbursements and attorneys' fees as allowed by law, together with such other and further relief as the Court may deem just and appropriate.

Dated: January 29, 2013

BONNER & LEACH LLP

By  _____

John F. Bonner, III (#09726)
600 South Highway 169
Suite 1900
St. Louis Park, MN 55426
Tele: 612-313-0711
*Attorneys for Defendant Landmark Community
Bank, N.A.*

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions may be imposed under the circumstances set forth in Minn. Stat. Section 549.211.

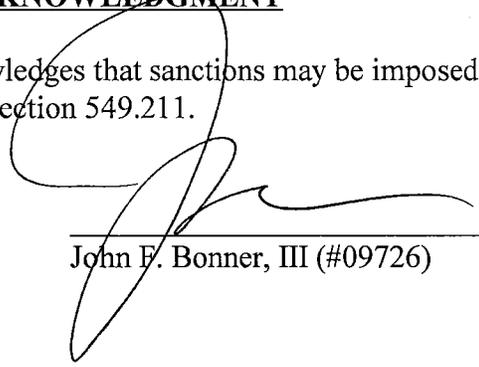
 _____
John F. Bonner, III (#09726)

Exhibit C

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
CASE TYPE: CONTRACT

Crown Bank,

Plaintiff,

v.

**ANSWER OF DEFENDANT
PUCKMASTER, LLC**

Landmark Community Bank, N.A.,
Puckmaster, LLC, Charles Arnold,
John Does 1-10, and ABC
Entities 1-10,

Court File No. _____

Defendants.

Defendant Puckmaster, LLC, for its Answer to Plaintiff's Complaint, states as follows:

1. Except as hereinafter admitted, qualified or otherwise denied, this answering defendant denies each and every claim, allegation, matter and thing in plaintiff's Complaint contained.

2. Plaintiff fails to state a claim upon which relief may be granted.

3. Plaintiff has failed to join parties necessary to adjudicate plaintiff's Complaint.

Namely, 5 Continent Distributing, LLC and 5 Continent, Inc.

INTRODUCTION

4. Plaintiff brings its claim against defendants asserting rights in the name and mark "Puckmaster" after determining that its borrower, 5 Continent Distributing, LLC ("Old 5 Continent") had lost any rights in the name and mark "Puckmaster" as a registered trademark by failing to pay necessary fees to the U.S. Patent and Trademark Office and abandoned any claim it might have had to the tradename by going out of business in June or July of 2012. In June of

2012, Old 5 Continent notified Puckmaster that it was abandoning all of its assets located within certain leased premises in Blaine, Minnesota. A copy of the notice was sent to Old 5 Continent's landlord and, upon information and belief, Crown Bank had knowledge of this action taken by its borrower Old 5 Continent.

5. Upon information and belief, after being notified of the fact that Old 5 Continent had stopped doing business, Puckmaster made arrangements with the landlord to secure the premises at 1451 - 91st Avenue NE, Suite 120, Blaine, MN ("Suite 120") and take possession of the property located within the premises. Upon information and belief, Puckmaster believed that all of the property located therein comprised its collateral in that Landmark believed that as of the date it took possession, there appeared to be no other property other than inventory Puckmaster collateral located on the premises.

6. Upon information and belief, the premises at Suite 120 were locked with the landlord retaining the key. Subsequently, Puckmaster made arrangements to remove its collateral from Suite 120 to another location. Charles Arnold, believed to be a former employee of Old 5 Continent, assisted in that endeavor. In July of 2012, Todd Garamella, believed to be the sole shareholder of Old 5 Continent, filed a bankruptcy petition. As a result, Puckmaster believes that Old 5 Continent is currently controlled by Garamella's bankruptcy trustee. Old 5 Continent, having lost any trademark rights to the Puckmaster name, could only have had tradename rights in the areas where it was, if indeed it was, selling product. Old 5 Continent no longer has the ability or intent to manufacture or sell Puckmaster product and accordingly no rights in the tradename.

7. Several months later, a corporation named 5 Continent, Inc. ("New 5 Continent") was formed in the State of Minnesota by, upon information and belief, Todd Garamella. New 5 Continent filed a trademark application for the name Puckmaster with the U.S. Patent & Trademark Office. According to sworn testimony of Todd Garamella, New 5 Continent is engaged in no business and Garamella has not determined what, if any, business it will be engaged in. New 5 Continent is, together with plaintiff Crown Bank, apparently engaged in efforts to determine what, if any, materials may have been deleted or reproduced on a computer allegedly formerly in the possession of Old 5 Continent.

8. Defendant Puckmaster understands, on information and belief, that plaintiff has initiated a possible sale of its collateral but has apparently declined to do so.

9. Defendant Puckmaster has been advised that only duplicate drawings were deleted along with email irrelevant to the manufacture of any machine merely to clean up the machine and make space for future use. Except as set forth above, defendant Puckmaster is informed and believes that no other data was destroyed and that no copies of the data were made by Puckmaster or anyone associated with it.

10. Defendant Puckmaster admits the allegations of paragraphs 7, 8, and 9 of plaintiff's Complaint.

11. Defendant Puckmaster believes the allegations in paragraph 10 to be true.

12. Paragraph 11 of plaintiff's Complaint requires no answer.

JURISDICTION AND VENUE

13. Defendant Puckmaster admits that, as currently pled, this Court has personal jurisdiction over the parties and subject matter.

FACTUAL ALLEGATIONS

14. Puckmaster denies that Old 5 Continent manufactures and sells machines and affirmatively alleges that it is and has been for many months out of business. Old 5 Continent's former chief manager has filed for bankruptcy.

15. As to paragraphs 14, 15, 16 and 17 of plaintiff's Complaint, defendant Puckmaster denies that Old 5 Continent is in the business of manufacturing machines fitting the description set forth within those paragraphs in that it is and has been for many months out of business. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations with respect to the place of storage of designs for Puckmaster machines and believes that upon information and belief, other drawings and files exist which were utilized in manufacturing Puckmaster machines.

16. As to paragraph 19, Defendant Puckmaster, upon information and belief, is without knowledge as to whether certain loans made and security agreements executed in conjunction with said loans. Puckmaster is without knowledge as to whether Exhibits A or B constitute true copies of the security agreements executed in connection with loans from Crown and whether Crown filed security agreements in the State of Delaware.

17. As to paragraph 24, Defendant Puckmaster is without knowledge as to what sum is owed Crown Bank.

18. Defendant Puckmaster alleges it is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 25.

19. Defendant Puckmaster alleges it is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 26, 27, 28, 29, 30, 31, 32, 33 and 34.

20. Defendant Puckmaster asserts that the allegations with regard to defendant Arnold fail to state and that Crown Bank lacks any standing to assert such a claim. Upon information and belief, defendant Puckmaster admits that Todd Garamella was experiencing personal financial difficulties in 2012.

21. Defendant Puckmaster is without knowledge sufficient to form a belief as to the allegation that Old 5 Continent reduced staffing levels with Arnold as one of the only remaining employees.

22. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations regarding a default by Old 5 Continent.

23. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 39, 40, 41, 42, and 43.

24. Defendant Puckmaster denies the allegations of paragraph 44.

25. Puckmaster alleges that it is without knowledge sufficient to form a belief as to the truth or falsity of the factual allegations set forth at paragraph 45 and therefore denies the allegations within paragraph 45.

26. Defendant Puckmaster admits the allegations of paragraph 46 and affirmatively asserts that it has the right to use the name Puckmaster.

27. Defendant Puckmaster denies the allegation of paragraph 47 that Puckmaster removed any computer; admits that Puckmaster, LLC was formed.

28. Defendant Puckmaster admits the allegations of paragraph 48.

29. Defendant Puckmaster admits the allegations of paragraph 49.

30. Defendant Puckmaster admits the allegations of paragraph 50.

31. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 51.

32. Defendant Puckmaster admits the allegations of paragraph 52.

33. Defendant Puckmaster denies the allegations of paragraph 53.

34. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 54.

35. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 55.

36. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 56, 57, 58, 59, and 60.

37. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 61.

38. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 62.

39. Defendant Puckmaster admits that it operates a business using the Puckmaster name in order to liquidate the inventory which constitutes the security of Landmark Bank.

40. Defendant Puckmaster admits that it has attempted to market the inventory which constitute the security of Landmark Bank.

41. Defendant Puckmaster denies the allegations of paragraph 65 and affirmatively alleges that Puckmaster is entitled to use the name and mark of "Puckmaster" in conjunction with the sale of Landmark Bank's inventory.

42. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 66.

43. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations at paragraph 67.

44. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 68.

45. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 69.

46. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 70.

47. Defendant Puckmaster denies the allegations of paragraph 71.

48. Defendant Puckmaster denies the allegations of paragraph 72.

49. Defendant Puckmaster denies the allegations of paragraph 73.

50. Defendant Puckmaster realleges the allegations in paragraphs 1 through 49 above.

51. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 75.

52. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 76.

53. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 77.

54. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 78.

55. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 79.

56. Defendant Puckmaster realleges the allegations in paragraphs 1 through 55 above.

57. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 81.

58. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 82.

59. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 83.

60. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 84.

61. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 85.

62. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 86.

63. Defendant Puckmaster realleges the allegations in paragraphs 1 through 62 above.

64. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 88.

65. With respect to the allegations of paragraph 89, any security agreement speaks for itself.

66. Defendant Puckmaster denies the allegations of paragraph 90.

67. Defendant Puckmaster denies the allegations of paragraph 91.

68. Defendant Puckmaster denies the allegations of paragraph 92.

69. Defendant Puckmaster denies the allegations of paragraph 93.

70. Defendant Puckmaster realleges the allegations in paragraphs 1 through 69 above.

71. Defendant Puckmaster denies the allegations of paragraph 95..

72. Defendant Puckmaster denies the allegations of paragraph 96.

73. Defendant Puckmaster affirmatively alleges that defendants established Puckmaster, LLC to market the inventory Landmark Bank took possession of pursuant to its security agreement and the Intercreditor Agreement.

74. Defendant Puckmaster denies the allegations of paragraph 98.

75. Defendant Puckmaster denies the allegations of paragraph 99.

76. Defendant Puckmaster denies the allegations of paragraph 100.

77. Defendant Puckmaster denies the allegations of paragraph 101.

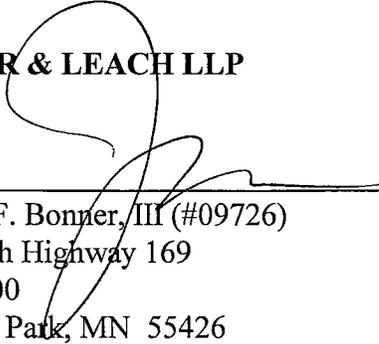
78. Defendant Puckmaster realleges the allegations in paragraphs 1 through 77 above.

79. Defendant Puckmaster denies the allegations of paragraph 102.
80. Defendant Puckmaster denies the allegations of paragraph 103.
81. Defendant Puckmaster denies the allegations of paragraph 104.
82. Defendant Puckmaster denies the allegations of paragraph 105.
83. Defendant Puckmaster denies the allegations of paragraph 106.
84. Defendant Puckmaster denies the allegations of paragraph 107.
85. Defendant Puckmaster denies the allegations of paragraph 108.
86. Defendant Puckmaster denies the allegations of paragraph 109.
87. Defendant Puckmaster denies the allegations of paragraph 110.
88. Defendant Puckmaster denies the allegations of paragraph 111.
89. Defendant Puckmaster denies the allegations of paragraph 112.
90. Defendant Puckmaster denies the allegations of paragraph 113.
91. Defendant Puckmaster denies the allegations of paragraph 114.
92. Defendant Puckmaster denies the allegations of paragraph 115.
93. Defendant Puckmaster denies the allegations of paragraph 116.

WHEREFORE, this answering defendant prays that the Complaint of plaintiff be denied in its entirety and that defendant Puckmaster be awarded its costs, disbursements and attorneys' fees as allowed by law, together with such other and further relief as the Court may deem just and appropriate.

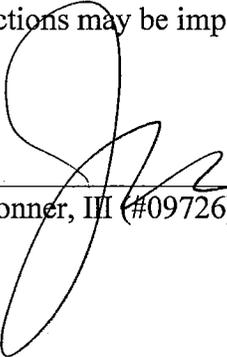
Dated: January 29, 2013

BONNER & LEACH LLP

By 
John F. Bonner, III (#09726)
600 South Highway 169
Suite 1900
St. Louis Park, MN 55426
Tele: 612-313-0711
Attorneys for Defendant Puckmaster, LLC

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions may be imposed under the circumstances set forth in Minn. Stat. Section 549.211.


John F. Bonner, III (#09726)

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: CONTRACT

Crown Bank,

Plaintiff,

v.

**AMENDED ANSWER OF DEFENDANT
PUCKMASTER, LLC**

Landmark Community Bank, N.A.,
Puckmaster, LLC, Charles Arnold,
John Does 1-10, and ABC
Entities 1-10,

Court File No. _____

Defendants.

Defendant Puckmaster, LLC, for its Amended Answer to Plaintiff's Complaint, states as follows:

1. Except as hereinafter admitted, qualified or otherwise denied, this answering defendant denies each and every claim, allegation, matter and thing in plaintiff's Complaint contained.

2. Plaintiff fails to state a claim upon which relief may be granted.

3. Plaintiff has failed to join parties necessary to adjudicate plaintiff's Complaint.

Namely, 5 Continent Distributing, LLC and 5 Continent, Inc.

INTRODUCTION

4. Plaintiff brings its claim against defendants asserting rights in the name and mark "Puckmaster" after determining that its borrower, 5 Continent Distributing, LLC ("Old 5 Continent") had lost any rights in the name and mark "Puckmaster" as a registered trademark by failing to pay necessary fees to the U.S. Patent and Trademark Office and abandoned any claim it

might have had to the tradename by going out of business in June or July of 2012. In June of 2012, Old 5 Continent notified Landmark Bank that it was abandoning all of its assets located within certain leased premises in Blaine, Minnesota. A copy of the notice was sent to Old 5 Continent's landlord and, upon information and belief, Crown Bank had knowledge of this action taken by its borrower Old 5 Continent.

5. Upon information and belief, after being notified of the fact that Old 5 Continent had stopped doing business, Landmark Bank made arrangements with the landlord to secure the premises at 1451 - 91st Avenue NE, Suite 120, Blaine, MN ("Suite 120") and take possession of the property located within the premises. Upon information and belief, Landmark Bank believed that all of the property located therein comprised its collateral in that Landmark believed that as of the date it took possession, there appeared to be no other property other than Landmark Bank's inventory collateral located on the premises.

6. Upon information and belief, the premises at Suite 120 were locked with the landlord retaining the key. Subsequently, Landmark Bank made arrangements to remove its collateral from Suite 120 to another location. Charles Arnold, believed to be a former employee of Old 5 Continent, assisted in that endeavor. In July of 2012, Todd Garamella, believed to be the sole shareholder of Old 5 Continent, filed a bankruptcy petition. As a result, Puckmaster believes that Old 5 Continent is currently controlled by Garamella's bankruptcy trustee. Old 5 Continent, having lost any trademark rights to the Puckmaster name, could only have had tradename rights in the areas where it was, if indeed it was, selling product. Old 5 Continent no longer has the ability or intent to manufacture or sell Puckmaster product and accordingly no rights in the tradename.

7. Several months later, a corporation named 5 Continent, Inc. (“New 5 Continent”) was formed in the State of Minnesota by, upon information and belief, Todd Garamella. New 5 Continent filed a trademark application for the name Puckmaster with the U.S. Patent & Trademark Office. According to sworn testimony of Todd Garamella, New 5 Continent is engaged in no business and Garamella has not determined what, if any, business it will be engaged in. New 5 Continent is, together with plaintiff Crown Bank, apparently engaged in efforts to determine what, if any, materials may have been deleted or reproduced on a computer allegedly formerly in the possession of Old 5 Continent.

8. Defendant Puckmaster understands, on information and belief, that plaintiff has initiated a possible sale of its collateral but has apparently declined to do so.

9. Defendant Puckmaster has been advised that only duplicate drawings were deleted along with email irrelevant to the manufacture of any machine merely to clean up the machine and make space for future use. Except as set forth above, defendant Puckmaster is informed and believes that no other data was destroyed but that a backup copy of the data was made by Mr. Arnold shortly after he took possession of the computer as a standard procedure.

10. Defendant Puckmaster admits the allegations of paragraphs 7, 8, and 9 of plaintiff’s Complaint.

11. Defendant Puckmaster believes the allegations in paragraph 10 to be true.

12. Paragraph 11 of plaintiff’s Complaint requires no answer.

JURISDICTION AND VENUE

13. Defendant Puckmaster admits that, as currently pled, this Court has personal jurisdiction over the parties and subject matter.

FACTUAL ALLEGATIONS

14. Puckmaster denies that Old 5 Continent manufactures and sells machines and affirmatively alleges that it is and has been for many months out of business. Old 5 Continent's former chief manager has filed for bankruptcy.

15. As to paragraphs 14, 15, 16 and 17 of plaintiff's Complaint, defendant Puckmaster denies that Old 5 Continent is in the business of manufacturing machines fitting the description set forth within those paragraphs in that it is and has been for many months out of business. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations with respect to the place of storage of designs for Puckmaster machines and believes that upon information and belief, other drawings and files exist which were utilized in manufacturing Puckmaster machines.

16. As to paragraph 19, Defendant Puckmaster, upon information and belief, is without knowledge as to whether certain loans were made and security agreements executed in conjunction with said loans. Puckmaster is without knowledge as to whether Exhibits A or B constitute true copies of the security agreements executed in connection with loans from Crown and whether Crown filed security agreements in the State of Delaware.

17. As to paragraph 24, Defendant Puckmaster is without knowledge as to what sum is owed Crown Bank.

18. Defendant Puckmaster alleges it is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 25.

19. Defendant Puckmaster alleges it is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 26, 27, 28, 29, 30, 31, 32, 33 and 34.

20. Defendant Puckmaster asserts that the allegations with regard to defendant Arnold fail to state a claim and that Crown Bank lacks any standing to assert such a claim. Upon information and belief, defendant Puckmaster admits that Todd Garamella was experiencing personal financial difficulties in 2012.

21. Defendant Puckmaster is without knowledge sufficient to form a belief as to the allegation that Old 5 Continent reduced staffing levels with Arnold as one of the only remaining employees.

22. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations regarding a default by Old 5 Continent.

23. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 39, 40, 41, 42, and 43.

24. Defendant Puckmaster denies the allegations of paragraph 44.

25. Puckmaster alleges that it is without knowledge sufficient to form a belief as to the truth or falsity of the factual allegations set forth at paragraph 45 and therefore denies the allegations within paragraph 45.

26. Defendant Puckmaster admits the allegations of paragraph 46 and affirmatively asserts that it has the right to use the name Puckmaster.

27. Defendant Puckmaster denies the allegation of paragraph 47 that Puckmaster removed any computer; admits that Puckmaster, LLC was formed.

28. Defendant Puckmaster admits the allegations of paragraph 48.

29. Defendant Puckmaster admits the allegations of paragraph 49.

30. Defendant Puckmaster admits the allegations of paragraph 50.

31. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 51.

32. Defendant Puckmaster admits the allegations of paragraph 52.

33. Defendant Puckmaster denies the allegations of paragraph 53.

34. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 54.

35. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 55.

36. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 56, 57, 58, 59, and 60.

37. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 61.

38. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 62.

39. Defendant Puckmaster admits that it operates a business using the Puckmaster name in order to liquidate the inventory which constitutes the security of Landmark Bank.

40. Defendant Puckmaster admits that it has attempted to market the inventory which constitute the security of Landmark Bank.

41. Defendant Puckmaster denies the allegations of paragraph 65 and affirmatively alleges that Puckmaster is entitled to use the name and mark of "Puckmaster" in conjunction with the sale of Landmark Bank's inventory.

42. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 66.

43. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations at paragraph 67.

44. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 68.

45. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 69.

46. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 70.

47. Defendant Puckmaster denies the allegations of paragraph 71.

48. Defendant Puckmaster denies the allegations of paragraph 72.

49. Defendant Puckmaster denies the allegations of paragraph 73.

50. Defendant Puckmaster realleges the allegations in paragraphs 1 through 49 above.

51. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 75.

52. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 76.

53. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 77.

54. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 78.

55. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 79.

56. Defendant Puckmaster realleges the allegations in paragraphs 1 through 55 above.

57. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 81.

58. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 82.

59. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 83.

60. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 84.

61. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 85.

62. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 86.

63. Defendant Puckmaster realleges the allegations in paragraphs 1 through 62 above.

64. Defendant Puckmaster is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 88.

65. With respect to the allegations of paragraph 89, any security agreement speaks for itself.

66. Defendant Puckmaster denies the allegations of paragraph 90.

67. Defendant Puckmaster denies the allegations of paragraph 91.

68. Defendant Puckmaster denies the allegations of paragraph 92.

69. Defendant Puckmaster denies the allegations of paragraph 93.

70. Defendant Puckmaster realleges the allegations in paragraphs 1 through 69 above.

71. Defendant Puckmaster denies the allegations of paragraph 95..

72. Defendant Puckmaster denies the allegations of paragraph 96.

73. Defendant Puckmaster affirmatively alleges that defendants established Puckmaster, LLC to market the inventory Landmark Bank took possession of pursuant to its security agreement and the Intercreditor Agreement.

74. Defendant Puckmaster denies the allegations of paragraph 98.

75. Defendant Puckmaster denies the allegations of paragraph 99.

76. Defendant Puckmaster denies the allegations of paragraph 100.

77. Defendant Puckmaster denies the allegations of paragraph 101.

78. Defendant Puckmaster realleges the allegations in paragraphs 1 through 77 above.

79. Defendant Puckmaster denies the allegations of paragraph 102.
80. Defendant Puckmaster denies the allegations of paragraph 103.
81. Defendant Puckmaster denies the allegations of paragraph 104.
82. Defendant Puckmaster denies the allegations of paragraph 105.
83. Defendant Puckmaster denies the allegations of paragraph 106.
84. Defendant Puckmaster denies the allegations of paragraph 107.
85. Defendant Puckmaster denies the allegations of paragraph 108.
86. Defendant Puckmaster denies the allegations of paragraph 109.
87. Defendant Puckmaster denies the allegations of paragraph 110.
88. Defendant Puckmaster denies the allegations of paragraph 111.
89. Defendant Puckmaster denies the allegations of paragraph 112.
90. Defendant Puckmaster denies the allegations of paragraph 113.
91. Defendant Puckmaster denies the allegations of paragraph 114.
92. Defendant Puckmaster denies the allegations of paragraph 115.
93. Defendant Puckmaster denies the allegations of paragraph 116.

WHEREFORE, this answering defendant prays that the Complaint of plaintiff be denied in its entirety and that defendant Puckmaster be awarded its costs, disbursements and attorneys' fees as allowed by law, together with such other and further relief as the Court may deem just and appropriate.

Dated: January 31, 2013

BONNER & LEACH LLP

By 
John F. Bonner, III (#09726)
600 South Highway 169
Suite 1900
St. Louis Park, MN 55426
Tele: 612-313-0711
Attorneys for Defendant Puckmaster, LLC

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions may be imposed under the circumstances set forth in Minn. Stat. Section 549.211.

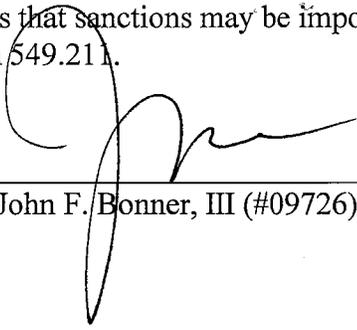

John F. Bonner, III (#09726)

Exhibit D

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

CASE TYPE: CONTRACT

Crown Bank,

Plaintiff,

v.

**ANSWER OF DEFENDANT
CHARLES ARNOLD**

Landmark Community Bank, N.A.,
Puckmaster, LLC, Charles Arnold,
John Does 1-10, and ABC
Entities 1-10,

Court File No. 27-CV-13-2022

Defendants.

Defendant Arnold, LLC, for its Answer to Plaintiff's Complaint, states as follows:

1. Except as hereinafter admitted, qualified or otherwise denied, this answering defendant denies each and every claim, allegation, matter and thing in plaintiff's Complaint contained.

2. Plaintiff fails to state a claim upon which relief may be granted.

3. Plaintiff has failed to join parties necessary to adjudicate plaintiff's Complaint.

Namely, 5 Continent Distributing, LLC and 5 Continent, Inc.

INTRODUCTION

4. Plaintiff brings its claim against defendants asserting rights in the name and mark "Puckmaster" after determining that its borrower, 5 Continent Distributing, LLC ("Old 5 Continent") had lost any rights in the name and mark "Puckmaster" as a registered trademark by failing to pay necessary fees to the U.S. Patent and Trademark Office and abandoned any claim it might have had to the tradename by going out of business in June or July of 2012. In June of

2012, Old 5 Continent notified Puckmaster that it was abandoning all of its assets located within certain leased premises in Blaine, Minnesota. A copy of the notice was sent to Old 5 Continent's landlord and, upon information and belief, Crown Bank had knowledge of this action taken by its borrower Old 5 Continent.

5. Upon information and belief, after being notified of the fact that Old 5 Continent had stopped doing business, Landmark Bank made arrangements with the landlord to secure the premises at 1451 - 91st Avenue NE, Suite 120, Blaine, MN ("Suite 120") and take possession of the property located within the premises. Upon information and belief, Landmark Bank believed that all of the property located therein comprised its collateral in that Landmark believed that as of the date it took possession, there appeared to be no other property other than inventory Puckmaster collateral located on the premises.

6. Upon information and belief, the premises at Suite 120 were locked with the landlord retaining the key. Subsequently, Landmark Bank made arrangements to remove its collateral from Suite 120 to another location. Charles Arnold, believed to be a former employee of Old 5 Continent, assisted in that endeavor. In July of 2012, Todd Garamella, believed to be the sole shareholder of Old 5 Continent, filed a bankruptcy petition. As a result, Puckmaster believes that Old 5 Continent is currently controlled by Garamella's bankruptcy trustee. Old 5 Continent, having lost any trademark rights to the Puckmaster name, could only have had tradename rights in the areas where it was, if indeed it was, selling product. Old 5 Continent no longer has the ability or intent to manufacture or sell Puckmaster product and accordingly no rights in the tradename.

7. Several months later, a corporation named 5 Continent, Inc. ("New 5 Continent") was formed in the State of Minnesota by, upon information and belief, Todd Garamella. New 5 Continent filed a trademark application for the name Puckmaster with the U.S. Patent & Trademark Office. According to sworn testimony of Todd Garamella, New 5 Continent is engaged in no business and Garamella has not determined what, if any, business it will be engaged in. New 5 Continent is, together with plaintiff Crown Bank, apparently engaged in efforts to determine what, if any, materials may have been deleted or reproduced on a computer allegedly formerly in the possession of Old 5 Continent.

8. Defendant Arnold asserts that only duplicate drawings were deleted along with email irrelevant to the manufacture of any machine merely to clean up the machine and make space for future use. Except as set forth above, Defendant Arnold is informed and believes that no other data was destroyed and that no copies of the data were made by Puckmaster or anyone associated with it.

9. Defendant Arnold admits the allegations of paragraphs 7, 8, and 9 of plaintiff's Complaint.

10. Defendant Arnold believes the allegations in paragraph 10 to be true.

11. Paragraph 11 of plaintiff's Complaint requires no answer.

JURISDICTION AND VENUE

12. Defendant Arnold admits that, as currently pled, this Court has personal jurisdiction over the parties and subject matter.

FACTUAL ALLEGATIONS

13. Defendant Arnold denies that Old 5 Continent manufactures and sells machines

and affirmatively alleges that it is and has been for many months out of business. Old 5 Continent's former chief manager has filed for bankruptcy.

14. As to paragraphs 14, 15, 16 and 17 of plaintiff's Complaint, defendant Arnold denies that Old 5 Continent is in the business of manufacturing machines fitting the description set forth within those paragraphs in that it is and has been for many months out of business. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations with respect to the place of storage of designs for Puckmaster machines and believes that upon information and belief, other drawings and files exist which were utilized in manufacturing Puckmaster machines.

15. As to paragraph 19, Defendant Arnold, upon information and belief, is without knowledge as to whether certain loans made and security agreements executed in conjunction with said loans. Defendant Arnold is without knowledge as to whether Exhibits A or B constitute true copies of the security agreements executed in connection with loans from Crown and whether Crown filed security agreements in the State of Delaware.

16. As to paragraph 24, Defendant Arnold is without knowledge as to what sum is owed Crown Bank.

17. Defendant Arnold alleges he is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 25.

18. Defendant Arnold alleges he is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 26, 27, 28, 29, 30, 31, and 34, and admits he was an employee of Old 5 Continent.

19. Defendant Arnold denies the allegations of paragraph 33.

20. Defendant Arnold asserts that the allegations with regard to defendant Arnold fail to state a claim and that Crown Bank lacks any standing to assert such a claim. Upon information and belief, Defendant Arnold admits that Todd Garamella was experiencing personal financial difficulties in 2012.

21. Defendant Arnold is without knowledge sufficient to form a belief as to the allegation that Old 5 Continent reduced staffing levels with Arnold as one of the only remaining employees.

22. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations regarding a default by Old 5 Continent.

23. With respect to paragraph 39, defendant Arnold affirmatively alleges that he furnished notice to Old 5 Continent.

24. Defendant Arnold states that a purchase order was sent to the address alleged and further alleges that Todd Garamella had taken a deposit on this machine and failed to deliver it.

25. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 41, 42, and 43.

26. Defendant Arnold denies the allegations of paragraph 44.

27. Defendant Arnold alleges that he is without knowledge sufficient to form a belief as to the truth or falsity of the factual allegations set forth at paragraph 45 and therefore denies the allegations within paragraph 45 except admits he had lunch with J. J. Garamella.

28. Defendant Arnold admits the allegations of paragraph 46 and affirmatively asserts that he has the right to use the name Puckmaster.

29. Defendant Arnold denies the allegation of paragraph 47 that Puckmaster

removed any computer; admits that Puckmaster, LLC was formed.

30. Defendant Arnold admits the allegations of paragraph 48.

31. Defendant Arnold admits the allegations of paragraph 49.

32. Defendant Arnold admits the allegations of paragraph 50.

33. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 51.

34. Defendant Arnold admits the allegations of paragraph 52.

35. Defendant Arnold denies the allegations of paragraph 53.

36. Defendant Arnold admits receiving a letter and affirmatively alleges that Old 5 Continent had no rights in the Puckmaster name or the Puckmaster trademark.

37. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 55.

38. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraphs 56, 57, 58, 59, and 60.

39. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 61.

40. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 62.

41. Defendant Arnold admits that it operates a business using the Puckmaster name in order to liquidate the inventory which constitutes the security of Landmark Bank.

42. Defendant Arnold admits that he has attempted to market the inventory which constitute the security of Landmark Bank.

43. Defendant Arnold denies the allegations of paragraph 65 and affirmatively alleges that Puckmaster is entitled to use the name and mark of "Puckmaster" in conjunction with the sale of Landmark Bank's inventory.

44. Defendant Arnold understands that a computer was delivered to Crown Bank. If that computer is the same computer that Old 5 Continent abandoned, no valuable intellectual property was, to the knowledge of Defendant Arnold, destroyed.

45. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations at paragraph 67.

46. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 68.

47. Defendant Arnold denies conspiring to delete any such files.

48. Defendant Arnold denies the allegations within paragraph 70.

49. Defendant Arnold denies the allegations of paragraph 71.

50. Defendant Arnold denies the allegations of paragraph 72.

51. Defendant Arnold denies the allegations of paragraph 73.

52. Defendant Arnold realleges the allegations in paragraphs 1 through 49 above.

53. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 75.

54. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 76.

55. Defendant Arnold is without knowledge sufficient to form a belief as to

the truth or falsity of the allegations set forth in paragraph 77.

56. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 78.

57. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 79.

58. Defendant Arnold realleges the allegations in paragraphs 1 through 55 above.

59. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 81.

60. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 82.

61. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 83.

62. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 84.

63. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 85.

64. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 86.

65. Defendant Arnold realleges the allegations in paragraphs 1 through 62 above.

66. Defendant Arnold is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 88.

67. With respect to the allegations of paragraph 89, any security agreement speaks for itself.

68. Defendant Arnold denies the allegations of paragraph 90.

69. Defendant Arnold denies the allegations of paragraph 91.

70. Defendant Arnold denies the allegations of paragraph 92.

71. Defendant Arnold denies the allegations of paragraph 93.

72. Defendant Arnold realleges the allegations in paragraphs 1 through 69 above.

73. Defendant Arnold denies the allegations of paragraph 95..

74. Defendant Arnold denies the allegations of paragraph 96.

75. Defendant Arnold affirmatively alleges that defendants established Puckmaster, LLC to market the inventory Landmark Bank took possession of pursuant to its security agreement and the Intercreditor Agreement.

76. Defendant Arnold denies the allegations of paragraph 98.

77. Defendant Arnold denies the allegations of paragraph 99.

78. Defendant Arnold denies the allegations of paragraph 100.

79. Defendant Arnold denies the allegations of paragraph 101.

80. Defendant Arnold realleges the allegations in paragraphs 1 through 77 above.

81. Defendant Arnold denies the allegations of paragraph 102.
82. Defendant Arnold denies the allegations of paragraph 103.
83. Defendant Arnold denies the allegations of paragraph 104.
84. Defendant Arnold denies the allegations of paragraph 105.
85. Defendant Arnold denies the allegations of paragraph 106.
86. Defendant Arnold denies the allegations of paragraph 107.
87. Defendant Arnold denies the allegations of paragraph 108.
88. Defendant Arnold denies the allegations of paragraph 109.
89. Defendant Arnold denies the allegations of paragraph 110.
90. Defendant Arnold denies the allegations of paragraph 111.
91. Defendant Arnold denies the allegations of paragraph 112.
92. Defendant Arnold denies the allegations of paragraph 113.
93. Defendant Arnold denies the allegations of paragraph 114.
94. Defendant Arnold denies the allegations of paragraph 115.
95. Defendant Arnold denies the allegations of paragraph 116.

WHEREFORE, this answering defendant prays that the Complaint of plaintiff be denied in its entirety and that Defendant Arnold be awarded his costs, disbursements and attorneys' fees as allowed by law, together with such other and further relief as the Court may deem just and appropriate.

Dated: February 26, 2013

Charles Arnold

Charles Arnold, Pro Se
3212 Independence Road
Maple Plain, MN 55359

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions may be imposed under the circumstances set forth in Minn. Stat. Section 549.211.

Charles Arnold

Charles Arnold, Pro Se

Exhibit E

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
CASE TYPE: CONTRACT

Crown Bank,

Plaintiff,

**SEPARATE ANSWER OF DEFENDANT
SYNERGY RESOURCE GROUP, INC.**

v.

Landmark Community Bank, N.A.,
Puckmaster, LLC, Charles Arnold,
Synergy Resource Group, Inc.,
John Does 1-10, and ABC
Entities 1-10,

Court File No. 27-CV-13-2022

Defendants.

Defendant Synergy Resource Group, Inc., for its separate answer to plaintiff's complaint, states as follows:

1. Except as hereinafter admitted, qualified or otherwise denied, this answering defendant denies each and every claim, allegation, matter and thing in plaintiff's complaint contained.

2. Plaintiff fails to state a claim upon which relief may be granted.

3. Plaintiff has failed to join parties necessary to adjudicate plaintiff's complaint.

Namely, 5 Continent Distributing, LLC and 5 Continent, Inc.

INTRODUCTION

4. Plaintiff brings its claims against defendants asserting rights in the name and mark "Puckmaster" after determining that its borrower, 5 Continent Distributing, LLC ("Old 5 Continent") had either lost any rights in the name and mark "Puckmaster" registered trademark by failing to pay

necessary fees to the U.S. Patent and Trademark Office; abandoned any rights it might have had to the trade name by going out of business in June or July, 2012 or never had any rights in the same. In June of 2012, Old 5 Continent notified Landmark Bank that it was abandoning all of its assets located within certain leased premises in Blaine, Minnesota. A copy of that notice was sent to Old 5 Continent's landlord and, upon information and belief, Crown Bank had knowledge of this action taken by its borrower, Old 5 Continent. A new corporation, "5 Continent, Inc." has, upon information and belief, been formed to attempt to exploit the goodwill and business opportunities of now defunct 5 Continent Distributing, LLC. Plaintiff is aware of, and has done business with, 5 Continent, Inc. and now in its pleading using the generic designation of "5 Continent" to confuse and blur any distinction between these two separate entities.

5. Upon information and belief, Landmark Bank possessed a security interest in all personal property and equipment owned by Intrepid Manufacturing and Engineering, Inc. Among the items of equipment and personal property was a computer located on the premises at 1451-91st Avenue N.E., Suite 120, Blaine, MN ("Suite 120"). Installed on the computer were certain miscellaneous drawings used in conjunction with the manufacture of the Puckmaster device. Also on the computer were certain CAD drawings. Said drawings were accessible for use only following the purchase of an expensive program to access the same. The balance of the drawings were not useful in the design or construction of the Puckmaster device. This is apparently the computer referred to within the Plaintiff's Complaint.

6. This answering Defendant denies the allegations in paragraphs 1, 4, 5, 6 and 13 of Plaintiff's Complaint.

7. Defendant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations within Plaintiff's Complaint of paragraphs 2, 3, 7, 8, 9, 11 and 12

8. Defendant admits the allegations of paragraphs 10 and 14.

9. Defendant denies the allegations of paragraph 15 in that 5 Continent Distributing, LLC is not engaged in any business.

10. Defendant denies the allegations of paragraphs 16, 17 and 18 of Plaintiff's Complaint.

11. Defendant admits that certain drawings were stored on a computer which, upon information and belief, was collateral for a loan given by Landmark Community Bank to Intrepid Manufacturing and Engineering, Inc.

12. This answering Defendant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth at paragraphs 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33.

13. Defendant denies paragraph 34 insofar as the paragraph alleges that he resigned without notice and further that he was employed by 5 Continent, LLC.

14. Defendant denies that he gave 5 Continent Distributing, LLC or 5 Continent, Inc. any such agreement. Defendant alleges that to the extent any such agreement may have existed, said agreement was breached.

15. Defendant denies any confidential information was given to Arnold.

16. Defendant is without knowledge as to the truth or falsity of the allegations set forth at paragraphs 37 except alleges that Arnold was not employed at 5 Continent Distributing, Inc. in July 2012.

17. This answering Defendant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth at paragraphs 38, 39 and 40.

18. As to the allegations set forth in paragraph 42 of Plaintiff's Complaint, Defendant alleges that Arnold resigned because he was not receiving paychecks which he could reliably cash.

19. Defendant admits paragraph 42.

20. Defendant is without knowledge as to the truth or falsity of the allegations set forth at paragraph 43.

21. Defendant denies any letter was received from 5 Continent, LLC or 5 Continent Distributing, Inc. and specifically denies that any customer of either entity had been contacted. The only parties contacted were entities from whom 5 Continent Distributing, Inc. had accepted deposits on machines and breached the agreement to deliver the same, or alternatively former customers who needed parts who were referred to Defendant by employees of 5 Continent Distributing, Inc. because 5 Continent Distributing, Inc. was unable to perform or deliver any parts.

22. Defendant admits that the collateral of Landmark Community Bank included certain inventory and a computer were removed from the premises of the defunct 5 Continent Distributing, Inc. after 5 Continent Distributing, Inc. abandoned the same.

23. Defendant denies that any conspiracy exists to deprive Crown Bank of any assets serving as security for any Crown Bank loan.

24. Defendant admits that he met with J.J. Garamella but alleges that Plaintiff misstates the conversation and denies the allegation that Landmark Community Bank had no right to purchase assets which constituted the security for loans made by Landmark Community Bank.

25. Defendant admits paragraph 49.

26. Defendant denies that Crown Bank held a security interest in the computer referred to at paragraph 50.

27. Defendant is without knowledge as to the allegations set forth at paragraphs 51, 52, 53 except Defendant believes that Thomas Cross is a Vice President of Landmark Community Bank, 55, 58, 59, 60, 61, 64 and 65.

28. Defendant denies that any letter was sent to Arnold by 5 Continent, LLC or 5 Continent Distributing, Inc. and denies paragraph 56.

29. Defendant denies that any letter was sent by 5 Continent, LLC or 5 Continent Distributing, Inc.

30. Defendant admits paragraph 68 and admits that Puckmaster, LLC is operating business.

31. Defendant denies that either 5 Continent Distributing, LLC or 5 Continent, Inc. have any customers.

32. Defendant denies paragraph 68.

33. Defendant admits the allegations at paragraphs 69 and 70.

34. Defendant denies paragraph 71 and 72 except that Synergy Resource Group, Inc. is a Minnesota corporation in good standing.

35. Defendant denies the allegations at paragraphs 73, 74, 75 and 76 except that it admits, on information and belief, that a computer was delivered to Crown Bank.

36. Defendant is without knowledge as to the truth or falsity of the allegations at paragraphs 77 and 78.

37. Defendant denies paragraphs 79, 80, 81, 82 and 83.

COUNTS I & II

38. Paragraphs 84 through 96 have no application to this answering Defendant.

COUNT III

39. Defendant incorporates by reference all of Defendant's statements, allegations and responses set forth above and specifically denies that Crown Bank has any interest, security, or otherwise in the computer referred to at paragraph 98, as well as any materials contained therein and denies the allegations at paragraphs 99 through 103.

COUNT IV

40. Defendant incorporates by reference all of Defendant's statements, allegations and responses set forth above and specifically denies paragraphs 104 through 111.

COUNT V

42. Defendant incorporates by reference all of Defendant's statements, allegations and responses set forth above and specifically denies paragraphs 112 through 117.

COUNT VI

43. Defendant incorporates by reference all of Defendant's statements, allegations and responses set forth above and specifically denies paragraphs 118 through 122.

COUNT VII

44. Defendant incorporates by reference all of Defendant's statements, allegations and responses set forth above and specifically denies paragraphs 123 through 126.

WHEREFORE, this answering Defendant prays Plaintiff take nothing by its pretended cause of action and that this answering Defendant be awarded costs, disbursements and attorney's fees allowed by law, together with such other and further relief as the court deems just, fair and equitable.

Dated: July 19, 2013.

BONNER & LEACH LLP

By 

John F. Bonner, III (#09726)

600 South Highway 169

Suite 1900

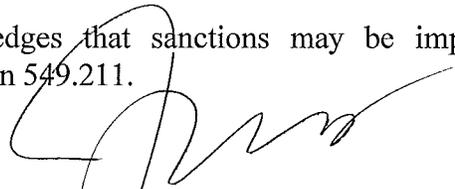
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Tele: 612-313-0711

*Attorneys for Defendant Synergy Resource Group,
Inc.*

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions may be imposed under the circumstances set forth in Minn. Stat. Section 549.211.



John F. Bonner, III (#09726)

Exhibit F

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY 12-44067

Todd Jonathon Garamella

Debtor.

Landmark Community Bank, N.A.

Plaintiff,

ADV 12-_____

v.

Todd Jonathon Garamella

COMPLAINT

Defendant.

Landmark Community Bank, N.A. (the “Plaintiff” or “Bank”), a creditor in the above-referenced Bankruptcy Case, for its complaint in this matter, states and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Todd Jonathon Garamella (“Debtor” or “Defendant”) filed a voluntary petition under Chapter 7 of the United States Bankruptcy Code¹ on July 11, 2012, (“Petition Date”) thereby commencing a bankruptcy case, case number 12-44067 (the “Bankruptcy Case”). The Bankruptcy Case is now pending in this Court.

2. Plaintiff is a national banking association authorized to do business in Minnesota, is a creditor of the Debtor, and is scheduled by Debtor on his Schedule D and Schedule F filed in the Bankruptcy Case.

3. The Debtor is subject to the jurisdiction of this Court pursuant to the petition filed in the Bankruptcy Case.

¹11 U.S.C. §101 *et seq* (the “Bankruptcy Code”).

4. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §157 and 1334, and Rule 7001 of the Federal Rules of Bankruptcy Procedure.²

5. This adversary proceeding is a core proceeding as provided in 28 U.S.C. §157(b)(2)(A) and (F).

6. This adversary proceeding arises under Section 523 of the Bankruptcy Code and is filed under Rule 7001 of the Bankruptcy Rules. This is an action brought by Plaintiff to determine that the claim held by Plaintiff against Debtor, pursuant to the provisions of Section 523(a) of the Bankruptcy Code, is excepted from the discharge available under Section 727 of the United States Bankruptcy Code.

7. Pursuant to 28 U.S.C §§ 1408 and 1409, venue for this matter is proper in this district.

FACTUAL ALLEGATIONS

8. Commencing in 2008, and from time to time thereafter, the Plaintiff provided financing to business entities of which the Debtor was either part or full owner, director or governor, and/or officer or manager.

9. The Debtor personally guaranteed the Bank's loans to the business entities.

Facts Regarding Debt

10. The Debtor is liable to Plaintiff pursuant to his personal guaranties of the following obligations:

(a) Promissory Note, dated September 27, 2010, in the original principal amount of \$995,000.00, executed and delivered by GVAG Holdings, LLC, Intrepid Management Group, Inc. and Donlyn Manufacturing Minnesota, LLC to Plaintiff evidencing money loaned by Plaintiff to the makers of the note ("SBA Note");

² Fed.R.Bankr.P. 1001 *et seq* ("Bankruptcy Rules")

(b) Promissory Note, dated September 27, 2010, in the original principal amount of \$1,000,000.00, executed and delivered by GVAG Holdings, LLC, Donlyn Manufacturing Minnesota, LLC, and Superior Engineering Delaware, LLC to Plaintiff evidencing money loaned by Plaintiff to the makers of the note (“\$1M Note”); and

(c) Promissory Note, dated June 29, 2011, in the original principal amount of \$100,000.00, executed and delivered by GVAG Holdings, LLC, Donlyn Manufacturing Minnesota, LLC and Intrepid Manufacturing & Engineering, LLC to Plaintiff evidencing money loaned by Plaintiff to the makers of the note (“\$100k Note”).

In addition to the guaranty by the Debtor of the SBA Note, the \$1M Note, and the \$100k Note (collectively, the “Notes”), the Notes were guaranteed by 5 Continent Distributing, LLC, a business entity for which the Debtor is a governor and manager.

11. Pursuant to its terms, the \$1M Note matured and came due on October 31, 2011.

12. Pursuant to its terms, the \$100k Note matured and came due on June 29, 2012.

13. The makers of the Notes are in default of the obligations due on the Notes, and the Debtor and 5 Continent Distributing LLC are in default of the obligations under the guaranties of the Notes. The amount due on the Notes and the guaranties is the aggregate sum of \$1,491,286.55 as of the Petition Date.

Facts Regarding the Relationships among the Obligor

14. On the Petition Date and before said date at all relevant times, the Debtor owned at least eighty-five percent (85%) of the membership interests in GVAG Holdings, LLC and was a governor and manager of GVAG Holdings, LLC.

15. On the Petition Date and before said date at all relevant times, GVAG Holdings, LLC owned one hundred percent (100%) of the membership interests in 5 Continent Distributing, LLC, and the Debtor was a governor and manager of 5 Continent Distributing, LLC.

16. On the Petition Date and before said date at all relevant times, GVAG Holdings, LLC owned at least eighty percent (80%) of the membership interests in Intrepid Manufacturing & Engineering, LLC, and the Debtor was a governor and manager of Intrepid Manufacturing & Engineering, LLC. Intrepid Manufacturing & Engineering, LLC was formerly known as Superior Engineering Delaware, LLC.

17. On the Petition Date and before said date at all relevant times, GVAG Holdings, LLC owned one hundred percent (100%) of the membership interests in Donlyn Manufacturing Minnesota, LLC, and the Debtor was a governor and manager of Donlyn Manufacturing Minnesota, LLC.

18. On the Petition Date and before said date at all relevant times, the Debtor owned one hundred percent (100%) of the stock in Intrepid Management, Inc., and the Debtor was a director and officer of Intrepid Management, Inc.

19. The Debtor was the authorized individual that executed each of the Notes on behalf of each of the makers of each of the Notes and the individual that executed each of the guaranties of 5 Continent Distributing, LLC.

20. The Debtor had a substantial financial interest, either directly or indirectly, in each of the makers of each of the Notes and in 5 Continent Distributing, LLC.

21. The Debtor had the primary role in directing the actions of each of the makers of the Notes and the actions of 5 Continent Distributing LLC in the events and circumstances underlying the claims asserted in this Complaint.

Facts Regarding the Collateral Securing the Debt

22. The Notes are secured by various security interests granted by the makers of the Notes and other parties in various security agreements. Pursuant to said security agreements, the

Bank has a security interest in the following assets of the following entities:

GVAG Holdings, LLC	Inventory, chattel paper, accounts, instruments, equipment, fixtures and general intangibles, and all proceeds of all of the foregoing.
Donlyn Manufacturing Minnesota LLC	Inventory, chattel paper, accounts, instruments, equipment and general intangibles, and all proceeds of all of the foregoing.
Intrepid Manufacturing & Engineering, LLC fka Superior Engineering Delaware, LLC	Inventory, chattel paper, accounts, instruments, equipment and general intangibles, and all proceeds of all of the foregoing.
5 Continent Distributing, LLC	Inventory (PuckMaster machines) , and all proceeds of all of the foregoing.
Intrepid Management Group, Inc.	Inventory, chattel paper, accounts, instruments, equipment, fixtures and general intangibles, and all proceeds of all of the foregoing.

Facts Regarding Debtor’s Wrongful Conduct

23. The Debtor has engaged in wrongful conduct rendering some or all of the debt he owes Plaintiff nondischargeable.

Facts Regarding Puckmaster Inventory

24. 5 Continent Distributing, LLC granted the Plaintiff a security interest in inventory; the inventory consisted of PuckMaster machines and various parts and accessories.

25. By email communication on December 29, 2011, from the Debtor to Kevin Johnson, president of Plaintiff, the Debtor provided a list of items that were represented to be the current PuckMaster inventory.

26. According to testimony provided by the Debtor at his Rule 2004 examination, 11 items on the list, designated by a gray mark in the left margin of the list and a gray shading of

certain serial numbers, constituted the items consisting of the PuckMaster inventory at the time of the December 29, 2011 representation.

27. The representation was false because, on information and belief, two items, namely Model 1622 Shredder Serial #1611-10-1072 and Model 1622 Shredder Serial #1622.10.1068, had already been sold and were no longer a part of the PuckMaster inventory, and one item, namely Model 300, Serial #300.10.1067, never had the value stated on the inventory list.

28. The representations regarding the Puckmaster inventory may be false for other reasons that are discovered in the course of this litigation.

29. At the time that the Debtor made the representation to Plaintiff regarding the Puckmaster inventory, the Debtor knew, or should have known, that the representation was false.

30. The Plaintiff, in reliance on the representation regarding the quantity and value of the Puckmaster inventory, forbore from taking enforcement action against the borrowers, guarantors and collateral.

31. By forbearing from enforcement, the Plaintiff lost the opportunity to realize value from the Puckmaster collateral and other sources of collection.

Facts Regarding Puckmaster Payment

32. 5 Continent Distributing, LLC granted to the Plaintiff a security interest in its inventory, namely the PuckMaster machines, parts and accessories.

33. 5 Continent Distributing, LLC sold a PuckMaster machine to Canadian Autoparts Toyota through a distributor, Danha's International Technology Ltd.

34. Pursuant to the contract for sale, the buyer was to remit payment for the Puckmaster machine in installments due at different times during the contract.

35. The buyer or the distributor remitted payment to 5 Continent Distributing, LLC.

36. 5 Continent Distributing, LLC, through the acts of the Debtor, did not remit the proceeds to the Plaintiff and instead kept the proceeds for its own use.

37. The Plaintiff did not consent to the use of the proceeds by 5 Continent Distributing, LLC; in fact the Plaintiff specifically directed the Debtor to cause the proceeds to be remitted to the Bank.

38. There may have been other sums that 5 Continent Distributing LLC received from the sale of PuckMaster machines but did not remit to Plaintiff in violation of the terms of the security agreement and Plaintiff's direction regarding sale proceeds.

39. As a result of the Debtor's wrongful conduct, the Bank incurred a loss of at least \$60,000.00.

Facts Regarding Specific Intrepid Manufacturing Accounts Receivable

40. Intrepid Manufacturing & Engineering, LLC, Superior Engineering Delaware, LLC (at the time when the name of the business entity now known as Intrepid Manufacturing & Engineering, LLC, was Superior Engineering Delaware, LLC) and Donlyn Manufacturing Minnesota, LLC, granted Plaintiff a security interest in, among other things, accounts receivable and proceeds thereof.

41. On or about November, 28, 2011, Intrepid Manufacturing & Engineering, LLC, entered into an Asset Purchase Agreement with SSL Corporation for the sale and purchase of all of the furniture, fixtures and equipment owned by the seller and located in North Branch, Minnesota.

42. From and after January, 2011, Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC were operating under a joint venture under the name of

Intrepid Manufacturing & Engineering, LLC. Accordingly, the purchase agreement between Intrepid Manufacturing & Engineering, LLC and SSL Corporation also involved assets owned by Donlyn Manufacturing Minnesota, LLC.

43. During the time period preceding and following the negotiation and execution of the asset purchase agreement, Intrepid Manufacturing & Engineering, LLC received payments on accounts receivable owned by the joint venture of Intrepid Manufacturing & Engineering and Donlyn Manufacturing Minnesota, LLC.

44. Specifically, Intrepid Manufacturing & Engineering, LLC, received the following sums on the following dates: \$21,106.03 on January 11 or 21, 2012; \$11,088.63 on January 30, 2012; \$3,580.31 on February 21, 2012 and \$4,934.28 on February 27, 2012. There may have been other sums that Intrepid Manufacturing & Engineering, LLC received on account of accounts receivable owned by the joint venture of Intrepid Manufacturing & Engineering and Donlyn Manufacturing Minnesota, LLC.

45. Intrepid Manufacturing & Engineering, LLC, through the acts of the Debtor, did not remit to Plaintiff the proceeds of the accounts receivable and instead kept the proceeds for its own use.

46. The Plaintiff did not consent to the use of the proceeds by Intrepid Manufacturing & Engineering, LLC; in fact the Plaintiff specifically directed the Debtor to cause the proceeds to be remitted to Plaintiff.

47. Intrepid Manufacturing Engineering, LLC may have received payments on other accounts receivable owned by the joint venture of Intrepid Manufacturing & Engineering and Donlyn Manufacturing Minnesota, LLC that Intrepid Manufacturing Engineering, LLC did not remit to Plaintiff and instead kept for its own use.

48. As a result of the Debtor's wrongful conduct, the Plaintiff incurred a loss of an amount to be proven at trial, which amount is at least \$40,709.25.

Facts Regarding Intrepid Manufacturing Inventory and Accounts

49. Intrepid Manufacturing & Engineering, LLC, Superior Engineering Delaware, LLC (at the time when the name of the business entity now known as Intrepid Manufacturing & Engineering, LLC, was Superior Engineering Delaware, LLC) and Donlyn Manufacturing Minnesota, LLC, granted Plaintiff a security interest in, among other things, accounts receivable, inventory and proceeds thereof.

50. From and after January, 2011, Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC were operating under a joint venture in the name of Intrepid Manufacturing & Engineering, LLC. Accordingly, certain financial statements of the operation of the joint venture of Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC were produced in, under and using the name of Intrepid Manufacturing & Engineering, LLC.

51. By email dated December 9, 2011, Robert Gann provided to Kevin Johnson, president of Plaintiff, an October 31, 2011 Balance Sheet and Profit and Loss Statement for Intrepid Manufacturing & Engineering, LLC, and an A/R Aging Summary listing accounts receivable as of December 8, 2011.

52. Robert Gann is a 15% member in GVAG Holdings, LLC, which owns an 80% membership interest in Intrepid Manufacturing & Engineering, LLC. Robert Gann is also an accountant.

53. The October 31, 2011 Balance Sheet states that there were total accounts receivable of \$165,677.98 and total inventory of \$757,710.86 as of October, 2011.

54. Intrepid Manufacturing & Engineering, LLC did not turn over to Plaintiff accounts receivable in the amount of \$165,677.98, nor did it remit to Plaintiff proceeds of accounts receivable in the amount of \$165,677.98 in or after October, 2011.

55. Intrepid Manufacturing & Engineering, LLC did not turn over to Plaintiff inventory of a value of \$757,710.86, nor did it remit to Plaintiff proceeds of inventory of a value of \$757,710.86 in or after October, 2011. In fact, Intrepid Manufacturing & Engineering, LLC did not turn over to Plaintiff any inventory of any value.

56. When asked at his Rule 2004 examination about the location or disposition of the inventory and accounts receivable, the Debtor gave various answers and explanations, including that some of the inventory may have been sold to the customers for whom it was manufactured.

57. The Plaintiff did not consent to the use of the proceeds of the accounts receivable or inventory by Intrepid Manufacturing & Engineering, LLC ; in fact the Plaintiff specifically directed the Debtor to cause the proceeds to be remitted to the Bank.

58. Intrepid Manufacturing & Engineering, LLC provided an A/R Aging Summary as of January 31, 2012. The January 31 A/R Aging Summary showed total accounts receivable of \$126,147.25.

59. A comparison of the December 8, 2011 A/R Aging Summary and the January 31, 2012 A/R Aging Summary reveals several accounts receivable on the December report that do not appear on the January report. The total amount of accounts receivable appearing on the December report but not appearing on the January report is \$96,459.70. Upon information and belief, Intrepid Manufacturing & Engineering, LLC received payment on said accounts receivable and converted the funds to its own use rather than remitting the proceeds to Plaintiff.

60. Through its own efforts, Plaintiff collected the sum of \$54,804.61 from some of the accounts receivable listed on the January 31, 2012 A/R Aging Summary.

61. As a result of the Debtor's wrongful conduct, the Bank incurred a loss in an amount to be determined at trial, which loss is at least \$96,459.70.

Facts regarding Missing Superior and Donlyn Equipment

62. Superior Engineering Delaware, LLC, later known as Intrepid Manufacturing & Engineering, LLC, granted Plaintiff a security interest in, among other items, all equipment and proceeds thereof.

63. Donlyn Manufacturing Minnesota, LLC, granted Plaintiff a security interest in, among other items, all equipment and proceeds thereof.

64. In April, 2010, the Bank obtained an appraisal of the equipment owned by Superior Engineering Delaware, LLC and Donlyn Manufacturing Minnesota, LLC.

65. The appraisal contained a list of all items of equipment owned by Superior Engineering Delaware, LLC and Donlyn Manufacturing Minnesota, LLC.

66. The items of equipment identified on the list of equipment attached to the April, 2010 appraisal was the equipment in which Superior Engineering Delaware, LLC and Donlyn Manufacturing Minnesota, LLC granted the Bank a security interest.

67. On or about November, 28, 2011, Intrepid Manufacturing & Engineering, LLC, entered into an Asset Purchase Agreement with SSL Corporation for the sale and purchase of all of the furniture, fixtures and equipment owned by the seller; the sale items were listed on an exhibit attached to the asset purchase agreement.

68. From and after January, 2011, Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC were operating under a joint venture under the name of

Intrepid Manufacturing & Engineering, LLC. Accordingly, the purchase agreement between Intrepid Manufacturing & Engineering, LLC and SSL Corporation also involved assets owned by Donlyn Manufacturing Minnesota, LLC.

69. The equipment listed on the exhibit attached to the Asset Purchase Agreement referenced in the preceding paragraph constituted the Bank's collateral.

70. Many of the items of equipment contained on the list of equipment attached to the April, 2010 appraisal were missing from the list of equipment in the 2011 Asset Purchase Agreement. The total value of the items of the missing equipment exceeds the sum of \$188,000.00.

71. Intrepid Manufacturing & Engineering, LLC did not turn over to Plaintiff any equipment that it owned.

72. Intrepid Manufacturing & Engineering, LLC did not remit to Plaintiff proceeds on account of equipment sold by Intrepid Manufacturing & Engineering, LLC to parties other than SSL Corporation.

73. Donlyn Manufacturing Minnesota, LLC did not turn over to Plaintiff any equipment that it owned.

74. Donlyn Manufacturing Minnesota, LLC did not remit to Plaintiff proceeds on account of equipment sold by it to parties other than SSL Corporation.

75. Other than the sale to SSL Corporation, the Plaintiff did not consent to the sale of any equipment owned by Intrepid Manufacturing & Engineering, LLC or Donlyn Manufacturing Minnesota LLC, nor did Plaintiff consent to the use by Intrepid Manufacturing & Engineering, LLC of the proceeds from the sale of any equipment.

76. Upon information and belief, the Debtor sold items of equipment and did not remit the proceeds from the sale to the Bank.

77. As a result of the Debtor's wrongful conduct, the Bank incurred a loss in an amount of at least \$188,000.00.

Facts regarding Intrepid Manufacturing Financial Statements

78. Pursuant to the terms of the \$1M Note, Intrepid Manufacturing & Engineering, LLC was required to submit monthly financial statements, namely a Balance Sheet and a Profit and Loss Statement for the period of the applicable month and year-to-date.

79. The \$1M Note was a revolving loan. Pursuant to the terms of the revolving loan, the amount available for advance under the revolver was based on fifty percent (50%) of the value of inventory and on seventy-five percent (75%) of the value of eligible receivables.

80. For the first nine months of 2011, the Debtor caused Intrepid Manufacturing & Engineering, LLC to provide to the Plaintiff the following interim financial statements: January monthly; February monthly but not year-to-date; April monthly, but not year-to-date; May monthly but not year-to-date; June monthly and year-to-date; July monthly and year-to-date, August monthly, but not year-to-date; and September monthly and year-to-date.

81. For January through September, 2011, the financial statements showed a year-to-date loss in an amount under \$200,000.00, and showed total accounts receivable at \$550,083.79 and inventory at \$1,480,642.27.

82. On December 8, 2011, Intrepid Manufacturing & Engineering, LLC provided to the Plaintiff financial statements as of October 31, 2011.

83. The October 31, 2011 financial statements showed a year-to-date loss of \$1,303,336.24 and showed total accounts receivable at \$165,677.98 and inventory at \$757,710.86.

84. On June 29, 2011, the Plaintiff made a loan in the amount of \$100,000.00 to GVAG Holdings, LLC, Donlyn Manufacturing Minnesota LLC and Intrepid Manufacturing & Engineering, LLC evidenced by the \$100k Note.

85. By presenting the January through September, 2011 financial statements showing only moderate losses, the Plaintiff fostered the false impression that Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC were not performing as poorly as in fact they were.

86. Presenting the false financial statements for January through September, 2011, constituted fraudulent acts with the design and purpose of deceiving the Bank as to the actual financial condition of Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC.

87. Plaintiff, had it known that the financial statements were false, would not have made the loan evidenced by the \$100k Note.

88. Plaintiff, in reliance on the false financial statements, forbore from taking enforcement action against the borrowers, guarantors and collateral on the SBA Note and the \$1M Note.

89. Had the Bank known that the financial statements were false, the Bank would have had the opportunity and would have undertaken to use its enforcement remedies including (a) auditing the books and records of the companies to ascertain the true condition of the companies; (b) enforcing the terms of the agreement governing the \$1M Note regarding the

amount of credit available to Intrepid Manufacturing & Engineering, LLC based on the levels of its inventory and accounts receivable; (c) requiring paydowns on the \$1M Note; (d) seeking the appointment of a receiver to manage the companies and to salvage the companies as going concerns; and (e) seeking the sale of the companies as going concerns.

90. The Plaintiff suffered a loss in the amount of \$90,983.66, plus continuing interest, pursuant to the loan evidenced by the \$100k Note which has not been paid in full as of the date of this Complaint.

91. By forbearing from enforcement, the Plaintiff lost the opportunity to realize value from the borrower, guarantors and collateral.

92. On information and belief, sometime in the late Fall or early Winter, 2011, the Debtor decided to sell the equipment of Intrepid Manufacturing & Engineering, LLC, effectively ceasing manufacturing and engineering operations.

93. The Debtor's decision to sell the equipment of Intrepid Manufacturing & Engineering, LLC was a complete surprise to the Bank.

COUNT 1 - FRAUDULENT MISREPRESENTATION –

PUCKMASTER INVENTORY

94. The Plaintiff reasserts and realleges the allegations set forth in all of the foregoing paragraphs.

95. The Debtor owes Plaintiff a debt for money, property, services or an extension, renewal, or refinancing of credit obtained by false representations.

96. The Debtor made a representation to Plaintiff regarding the Puckmaster inventory.

97. The Debtor's representation to Plaintiff was false.

98. At the time that the Debtor made the representation to Plaintiff, the Debtor knew, or should have known, that the representation was false.

99. The Debtor made the representation deliberately and intentionally and with the intention and purpose of deceiving the Plaintiff at the time of the representation.

100. Plaintiff justifiably relied on the representation made by the Debtor by forbearing from taking enforcement action against the borrowers, guarantors and collateral based on the represented sufficiency of the Puckmaster collateral.

101. As a direct and proximate result of the representation having been made, the Plaintiff incurred a loss consisting of the lost opportunity to realize more value from its collateral. The amount of the Bank's loss will be determined at trial.

102. Plaintiff's loss is nondischargeable pursuant to 11 U.S.C. §523(a)(2)(A).

COUNT 2 - WILLFUL AND MALICIOUS INJURY –

PUCKMASTER PAYMENT

103. The Plaintiff reasserts and realleges the allegations set forth in all of the foregoing paragraphs.

104. The Debtor is liable to the Plaintiff for a debt that arose as a result of a willful and malicious injury by Debtor to Plaintiff.

105. The Debtor's acts were targeted at the Plaintiff.

106. The Debtor either intended to cause Plaintiff harm and/or knew or should have known that harm to the Plaintiff was substantially certain to result.

107. The Debtor caused loss to the Plaintiff by causing 5 Continent Distributing, LLC to wrongfully convert to its own use, proceeds from the sale of the PuckMaster machine,

specifically the payment from Danha and possibly other payments from other entities, rather than remitting the proceeds to the Plaintiff.

108. As a direct and proximate consequence of Debtor's actions, Plaintiff has sustained damages in an amount to be proven at trial, which amount is at least \$60,000.00.

109. Plaintiff's damages are nondischargeable pursuant to 11 U.S.C. §523(a)(6).

COUNT 3 - WILLFUL AND MALICIOUS INJURY –

SPECIFIC INTREPID MANUFACTURING ACCOUNTS RECEIVABLE PROCEEDS

110. The Plaintiff reasserts and realleges the allegations set forth in all of the foregoing paragraphs.

111. The Debtor is liable to the Plaintiff for a debt that arose as a result of a willful and malicious injury by Debtor to Plaintiff.

112. The Debtor's acts were targeted at the Plaintiff.

113. The Debtor either intended to cause harm and/or knew or should have known that harm was substantially certain to result.

114. The Debtor caused loss to the Plaintiff by causing Intrepid Manufacturing & Engineering, LLC, to wrongfully convert certain accounts receivable to its own use rather than remitting the proceeds from the Plaintiff's collateral to the Plaintiff.

115. As a direct and proximate consequence of Debtor's actions, Plaintiff has sustained damages in an amount to be proven at trial, which amount is at least \$40,709.25.

116. Plaintiff's damages are nondischargeable pursuant to 11 U.S.C. §523(a)(6).

COUNT 4 - WILLFUL AND MALICIOUS INJURY –

INTREPID MANUFACTURING INVENTORY AND ACCOUNTS

117. The Plaintiff reasserts and realleges the allegations set forth in all of the foregoing paragraphs.

118. The Debtor is liable to the Plaintiff for a debt that arose as a result of a willful and malicious injury by Debtor to Plaintiff.

119. The Debtor's acts were targeted at the Plaintiff.

120. The Debtor either intended to cause harm and/or knew or should have known that harm was substantially certain to result.

121. The Debtor caused loss to the Plaintiff by failing to turn over to the Plaintiff accounts receivable, or their proceeds, in the amount of \$165,667.98, and by causing Intrepid Manufacturing & Engineering, LLC, or some other party, to wrongfully convert the accounts receivable, or their proceeds, to its own use rather than remitting the proceeds to the Plaintiff.

122. Specifically, on information and belief, the Debtor caused Intrepid Manufacturing & Engineering, LLC to wrongfully convert accounts receivable in the sum of at least \$96,459.70 (the sum of the accounts receivable listed on the December 8, 2011 A/R Aging Summary and not listed on the January 31, 2012 A/R Aging Summary).

123. The Debtor caused loss to the Plaintiff by failing to turn over to the Plaintiff inventory of Intrepid Manufacturing & Engineering, LLC of a value of \$757,710.86, or its proceeds, and by causing Intrepid Manufacturing & Engineering, LLC, or some other party, to wrongfully convert the inventory, or its proceeds, to its own use rather than remitting the inventory, or its proceeds, to the Plaintiff.

124. As a direct and proximate consequence of Debtor's actions, Plaintiff has sustained damages in an amount to be proven at trial, which amount is at least \$96,459.70 on account of the accounts receivable and \$757,710.86 on account of the inventory.

125. Plaintiff's damages are nondischargeable pursuant to 11 U.S.C. §523(a)(6).

COUNT 5 - WILLFUL AND MALICIOUS INJURY –

INTREPID MANUFACTURING EQUIPMENT

126. The Plaintiff reasserts and realleges the allegations set forth in all of the foregoing paragraphs.

127. The Debtor is liable to the Plaintiff for a debt that arose as a result of a willful and malicious injury by Debtor to Plaintiff.

128. The Debtor's acts were targeted at the Plaintiff.

129. The Debtor either intended to cause harm and/or knew or should have known that harm was substantially certain to result.

130. The Debtor caused injury to the Plaintiff by selling or transferring equipment that constituted the Bank's collateral and by failing to pay to the Bank the proceeds from the sale or transfer of the equipment.

131. As a direct and proximate consequence of Debtor's actions, Plaintiff has sustained damages in an amount of at least \$188,000.00.

132. Plaintiff's damages are nondischargeable pursuant to 11 U.S.C. §523(a)(6).

COUNT 6 – INTREPID MANUFACTURING FINANCIAL STATEMENTS -

FALSE PRETENSES

133. The Plaintiff reasserts and realleges the allegations set forth in all of the foregoing paragraphs.

134. The Debtor owes Plaintiff a debt for money, property, services or an extension, renewal, or refinancing of credit obtained by false pretenses.

135. The Debtor engaged in a series of acts and communications, including the presentation of false monthly financial statements, which created a false and misleading impression of the financial condition of Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC.

136. At the time that he engaged in the acts that constitute false pretenses, the Debtor knew, or should have known, that he was creating and fostering a false impression on the part of the Plaintiff.

137. The Debtor intended to create and foster a false impression on the part of the Plaintiff with the intent and for the purpose of deceiving the Plaintiff.

138. The Debtor obtained the loan evidenced by the \$100k Note by creating a false impression upon which Plaintiff justifiably relied.

139. In justifiable reliance on the false impression created by the Debtor, the Plaintiff forbore from taking enforcement action against the borrowers, guarantors and collateral, which action the Bank would have taken had it known the true financial condition of Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC.

140. The Plaintiff incurred a loss in the amount of \$90,983.66 plus continuing interest pursuant to the loan evidenced by the \$100k Note, which has not been paid in full as of the date of this Complaint.

141. The Plaintiff incurred a loss, including the lost opportunity to realize more value from the borrowers, guarantors and collateral, in an amount to be proven at trial, as a proximate result of the Debtor's false pretenses.

142. Plaintiff's loss is nondischargeable pursuant to 11 U.S.C. §523(a)(2)(A).

COUNT 7 - INTREPID MANUFACTURING FINANCIAL STATEMENTS –

ACTUAL FRAUD

143. The Plaintiffs reasserts and realleges the allegations set forth in all of the foregoing paragraphs.

144. The Debtor owes Plaintiff a debt for money, property, services or an extension, renewal, or refinancing of credit obtained by actual fraud.

145. The Debtor engaged in the fraudulent acts of presenting false financial information with the design of perpetrating what he knew to be a cheat or deception.

146. The Debtor obtained the loan evidenced by the \$100k Note by engaging in fraudulent acts upon which Plaintiff justifiably relied.

147. The Plaintiff incurred a loss in the amount of \$90,983.66 plus continuing interest pursuant to the loan evidenced by the \$100k Note, which has not been paid in full as of the date of this Complaint.

148. The Debtor engaged in said fraudulent acts with the intent and purpose of deceiving the Plaintiff.

149. The Plaintiff justifiably relied on the fraudulent acts of the Debtor by forbearing from taking action to enforcement action against the borrowers, guarantors and collateral, which action the Bank would have taken had it known the true financial condition of Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota, LLC.

150. The Plaintiff incurred a loss, including the lost opportunity to realize more value from the borrowers, guarantors and collateral, in an amount to be proven at trial, as a proximate result of the Debtor's actual fraud.

151. Plaintiff's loss is nondischargeable pursuant to 11 U.S.C. §523(a)(2)(A).

COUNT 8 - INTREPID MANUFACTURING FINANCIAL STATEMENTS –
FALSE FINANCIAL STATEMENTS

152. The Plaintiff reasserts and realleges the allegations set forth in all of the foregoing paragraphs.

153. The Debtor owes Plaintiff a debt for money, property, services or an extension, renewal, or refinancing of credit obtained by a false financial statements.

154. The Debtor submitted to Plaintiff, a statement in writing respecting the financial condition of Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC, insiders of the Debtor, said financial statements being the statements for the time period January through September, 2011.

155. The financial statements were materially false.

156. At the time that the Debtor submitted the financial statements to Plaintiff, the Debtor knew that the financial statements were false, should have known that the financial statements were false, and/or acted with reckless disregard for the truth of the information contained in the financial statements.

157. The Debtor submitted the false financial statements to Plaintiff with the intent to deceive the Plaintiff.

158. Plaintiff reasonably relied on the false financial statements.

159. Had Plaintiff known that the financial statements were false, Plaintiff would not have made the loan represented by the \$100k Note.

160. The Plaintiff incurred a loss in the amount of \$90,983.66 plus continuing interest pursuant to the loan evidenced by the \$100k Note, which has not been paid in full as of the date of this Complaint.

161. In reliance on the false financial statements, the Plaintiff forbore from taking enforcement action against the borrowers, guarantors and collateral, which action the Bank would have taken had it known the true financial condition of Intrepid Manufacturing & Engineering, LLC and Donlyn Manufacturing Minnesota LLC.

162. Had the Bank known that the financial statements were false, the Bank would have had the opportunity and would have undertaken to use its enforcement remedies including (a) auditing the books and records of the companies to ascertain the true condition of the companies; (b) enforcing the terms of the agreement governing the \$1M Note regarding the amount of credit available to Intrepid Manufacturing & Engineering, LLC based on the levels of its inventory and accounts receivable; (c) requiring paydowns on the \$1M Note; (d) seeking the appointment of a receiver to manage the companies and to salvage the companies as going concerns; and (e) seeking the sale of the companies as going concerns.

163. As a direct and proximate result of its reasonable reliance on the false financial statements, Plaintiff incurred a loss, including the lost opportunity to realize more value from the borrowers, guarantors and collateral, in an amount to be proven at trial.

164. Plaintiff's loss is nondischargeable pursuant to 11 U.S.C. §523(a)(2)(B).

Summary of Damages

165. Plaintiff suffered damages in an amount at least equal to the sum of the following:

Count 2	\$ 60,000.00
Count 3	\$ 40,709.25
Count 4	\$ 96,459.70 and
	\$ 757,710.86
Count 5	\$ 188,000.00
Counts 6-8	<u>\$ 90,983.66</u>
Total:	\$1,233,863.47

WHEREFORE, Plaintiff prays for an order as follows:

- (a) Determining that debt in an amount to be determined at trial, which amount may be as much as the sum of \$1,233,863.47 or more, plus interest at the judgment rate from the date of commencement of this lawsuit, and plus costs as allowed, is excepted from discharge;
- (b) Ordering entry of judgment in favor of Plaintiff and against Debtor in the amount determined at trial, plus interest at the judgment rate from the date of the commencement of this lawsuit and plus costs in the amount allowed;
- (c) Ordering entry of judgment in favor of Plaintiff and against Debtor that said debt is nondischargeable;
- (d) Permitting the Plaintiff to amend its complaint as additional facts and claims are discovered during the prosecution of this lawsuit; and
- (e) Granting such other relief as the Court deems just and equitable.

STEIN & MOORE, P.A.

Dated: March 29, 2013

/e/ Mary L. Cox
Mary L. Cox (#176552)
332 Minnesota Street, Suite W1650
St. Paul, Minnesota 55101
Telephone: 651-224-9683

Attorneys for Plaintiff

Exhibit G

Court File No. _____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

IN RE: Chapter 7
Todd Jonathon Garamella) US Bankruptcy Court
also known as Todd J. Garamella) Case No. 12-44067-NCD
Debtor)

Muhammad Farid, a sole proprietorship,)
Doing Business As Kaafronics) Adv. Proceeding Case No. _____
Plaintiff)
vs.)
Todd Jonathon Garamella) Complaint for
also Known as Todd J. Garamella) Non-Chargeability of Debt
Defendant) Pursuant to 11U.S.C. § 523
and Miscellaneous

I PARTIES

- 1 The Plaintiff, Muhammad Farid, a sole proprietorship, is registered to operate business in Province of Ontario and is a resident of Province of Ontario, Canada. The Plaintiff principal location of business is 1911 Rossland Road East, Whitby, Ontario, L1N-3P4, Canada and he is doing business as Kaafronics.
- 2 Todd Jonathon Garamella ("Debtor" or "Defendant"), also known as Todd J. Garamella, is resident of Hennepin County, State of Minnesota and filed for personal bankruptcy under 11 U.S.C, Chapter 7. Defendant resides at 5041 Green Farms Road, Edina, Minnesota, 55436, USA

II JURISDICTION AND VENUE

- 3 Todd Jonathon Garamella (Debtor" or "Defendant") filed a voluntary petition

under Chapter 7 of the United States Bankruptcy Code 11.U.S.C §101 on July 11, 2012 in US Bankruptcy Court, District of Minnesota, and commenced a bankruptcy case, case number 12-44067 (the "Bankruptcy Case"). The Bankruptcy case is pending in this court. Thus, the Debtor and the Defendant is subject to the jurisdiction of this Court pursuant to the petition filed in the Bankruptcy Case.

4 The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C §. 157 and 1334 and Rule 7001 of the Federal Rules of Bankruptcy Procedure.

5 This adversary proceedings arises under Section 523 of the Bankruptcy Code and is filed under Rule 7001 of the Bankruptcy Rules. This is an action brought by Plaintiff to determine that the claim held by Plaintiff against Debtor, pursuant to the provisions of Section 523(a) of the Bankruptcy Code, is excepted from the discharge available under Section 727 of the United States Bankruptcy Code

6 Pursuant to 28 U.S.C § 1408 and §1409, venue for this matter is proper in this district.

III RELATIONSHIP AMONG DEFENDANT AND DIFFERENT BUSIENSS ENTITIES

7 5 Continent Distributing, LLC, is a State of Delaware, USA, based registered and duly formed entity, which was also registered in State of Minnesota to do business in Minnesota as foreign entity. And its registered office address listed in State of Minnesota's Secretary of State office is 5041 Green Farms Road, Edina, Minnesota, 55436, USA, which is also defendant resident address. The defendant was either part or full owner, director or governor, and/or officer or manager of 5 Continent Distributing, LLC.

8 GVAG Holdings, LLC, is a State of Delaware, USA based registered and duly

formed entity, which was also registered in State of Minnesota to do business in Minnesota as a foreign entity and its registered office address listed in State of Minnesota's Secretary of State office is 5041 Green Farms Road, Edina, Minnesota, 55436, USA, which is also defendant resident address. The defendant was either part or full owner, director or governor, and/or officer or manager of Defendant GVAG Holdings, LLC.

- 9 On the petition Date and before said date at all relevant times, the Defendant owned at least eighty-five percent (85 %) of the membership interests in GVAG Holdings, LLC and was a governor and manager of the GVAG Holdings, LLC.
- 10 On the petition Date and before said date at all relevant times, GVAG Holdings, LLC owned one hundred percent (100 %) of the membership interests in 5 Continent Distributing, LLC and was the manager of 5 Continent Distributing, LLC. Defendant was a governor and manager of 5 Continent Distributing, LLC.
- 11 Defendant was the authorized individual who accepted the contract on behalf of GVAG Holdings, LLC, 5 Continent Distributing, LLC and himself.
- 12 Defendant is direct, indirect and the major (and/or one of the major) beneficiary (beneficiaries) of the contract that was established between the plaintiff and [the Defendant, GVAG Holdings, LLC, and 5 Continent Distributing, LLC].
- 13 Defendant was the Personal Continuing Guarantor of the contract performance for the defendant, GVAG Holdings, LLC, and 5 Continent Distributing, LLC.
- 14 Defendant had the primary role in directing the actions of GVAG Holdings, LLC, 5 Continent Distributing, LLC and himself.

**IV CONTRACTUAL RELATIONSHIP BETWEEN
THE DEFENDANT AND THE PLAINTIFF
AFFECTS JURISDICTION AND VENUE
FOR A 3RD PARTY, WHICH IS NOT PART OF LEGAL
ACTION, YET**

- 15 The parties "Plaintiff and the defendant" have agreed to Jurisdiction in Ontario through a written contract.
- 16 The Plaintiff contract with Government of Canada, which has Ontario, Canada as jurisdiction formed the base of contract between the plaintiff and the defendant. The contract between the Plaintiff and the Government of Canada is interpreted and governed by and the relationship between the parties is determined by applicable laws in the Province of Ontario.
- 17 The plaintiff defaulted in his contract with Government of Canada, which has jurisdiction and venue in Ontario. Government of Canada has declared the plaintiff in default and had terminated her contact with the plaintiff. However, she has not communicated determination, extent and nature of any losses, which she may have suffered due to the plaintiff's default in his contract with her to the Plaintiff, yet. If and when Government of Canada decides to take any action to recover her losses and damages from the plaintiff, Government of Canada shall take such action against the plaintiff in Province of Ontario, Canada.
- 18 Contractually, the defendant is responsible for any losses that the Government of Canada may have incurred and proper jurisdiction and venue for that losses determination is Ontario, Canada by Ontario Superior Court of Justice.

**V CHALLENGES TO JURISDICTION AND VENUE
BASED ON CONTRACTUAL LIABILITIES**

19 Even though the plaintiff recognizes that the court had jurisdiction in the bankruptcy court proceeding and the petition that the defendant had filed for Chapter 7 Filing, the proper forum to determine the contractual issues and liabilities that had arisen (and or shall arise) between the parties namely the plaintiff and the defendant, were and are governed by the laws of the Province of Ontario, Canada and Ontario Superior Court of Justice, in Ontario, Canada, arrests the venue.

20 Chapter 7 is a voluntarily filed proceeding which was maliciously, intentionally and knowingly filed to avoid and divert contractual liabilities that the Defendant had caused to the Plaintiff and the Government of Canada in a contractual relationship.

21 The defendant agreed to subject itself to Province of Ontario (Canada) jurisdiction and venue in a contractual relationship to gain financial benefits. After committing fraud knowingly and intentionally against the plaintiff and obtaining financial gains without performing its part in contract and by depriving the plaintiff from entrusted money, Defendant is using jurisdiction of US District Court, in District of Minnesota in voluntarily filed Chapter 7 bankruptcy proceedings to circumvent the jurisdiction of Ontario Superior Court of Justice in the Province of Ontario, Canada to avoid contractual liabilities, damages and losses that the defendant had caused to Government of Canada and the plaintiff who is resident of Canada.

**VI DEFENDANT FILED CHAPTER 7 BANKRUTPCY
TO AVOID LIABILITIES, DAMAGES AND LOSSES ARISING OUT
OF A CONTRACTUAL RELATIONSHIP WITH THE PLAINTIFF**

22 On June 15, 2012, the plaintiff wrote a very detailed letter to the defendant

outlining million of dollars worth of possible losses, damages and liabilities that he had caused to the Plaintiff due to his default in his contract with the plaintiff.

23 The plaintiff sent and delivered a letter to the defendant stating his intention to file a legal action against the Defendant if he failed to honor his contract with the plaintiff on July 10, 2012.

24 The defendant filed Chapter 7 bankruptcy with the court on July 11, 2012 in hurry without even filing required schedules with his petition for Bankruptcy.

VII DEFENDANT HAD KNOWLEDGE ABOUT LIABILITIES ARISING OUT OF CONTRACTUAL RELATIONSHIP AND HIS FAILURE TO RETURN DOWN PAYMENT OF US\$57,000.00 BUT HE NEVER LISTED THESE LIABILITIES IN HIS FILING WITH THE COUNTERS UNDER CHAPTER 7 BANKRUPTCY FILING

25 Even after knowing the debt that he owed to the plaintiff and liabilities that he had caused for himself and the liabilities that he had caused for the plaintiff in a contractual relationship, he chosen not to list the plaintiff's debt and his liabilities and the liabilities that he had caused for the plaintiff in his schedules intentionally and knowingly.

26 The Notice of bankruptcy filing that the defendant attorney in bankruptcy petition sent to the plaintiff, along notice of bankruptcy petition, also had a copy of the letter "intent to file legal action" that the plaintiff had written to the defendant on July 10, 2012.

VIII FACTS

27 The Plaintiff buys equipment and services from different suppliers and sells these to his customers and mainly to Government of Canada in Canada. The plaintiff is a registered supplier with Government of Canada.

- 28 “Government of Canada” needed a Metal Chip Briquetting System and associated services with very specific Mandatory Technical Requirements and Specifications.
- 29 The plaintiff contacted the 5 Continent Distributing, LLC and requested a price proposal against Government of Canada's published Mandatory Technical Requirements and Specifications.
- 30 After negotiations, the parties agreed to a price of US\$215,000.00 for a Metal Chip Briquetting System that entirely met the plaintiff's provided Mandatory Technical Specifications and Requirements and associated services, which were in-turn directly based on "**Government of Canada**" provided Mandatory Technical Specifications and Requirements for Metal Chip Briquetting System and associated services.
- 31 Agreed upon price of US\$215,000.00 was for “Turnkey Project”. The system should have been handed over operation ready to Department of National Defence, Government of Canada in Victoria, British Columbia, Canada.
- 32 Based on the 5 Continent Distributing, LLC's proposal, the Plaintiff submitted his proposal to “Government of Canada” on and/or around February 08, 2012, which she accepted and placed a purchase contract with the plaintiff on and/or around March 09, 2012.
- 33 Based on the Plaintiff's contract with “**Government of Canada**”, the plaintiff placed a purchase contract for a Metal Chip Briquetting System and associated services with the defendant, 5 Continent Distributing, LLC, and GVAG Holdings, LLC on April 18, 2012 with a firm project completion and delivery period of eight weeks (8), which fallen on June 13, 2013.
- 34 Defendant Todd J. Garamella provided **Personal Continuing Guarantee** for

the performance of the contract by himself, "5 Continent Distributing, LLC and GVAG Holdings, LLC as part of the plaintiff's purchase contract. Signed Personal Continuing Guarantee of the defendant states:

["I, Mr. Todd J. Garamella, resident of Hennepin County, agree to be personally responsible for any loss, including loss of profit of the buyer "Kaafronics" and associated costs including attorney cost, collection cost, courts costs, punitive damages and interest that may incur due to 5 Continent Distributing, LLC (GVAG Holdings, LLC)'s failure to deliver the ordered product and complete the project in the specified time which is given in the contract, for whatever reason it may be.

I further state that I have the signing authority to bind the company named in the Purchase Order as supplier (manufacturer/contractor).]

35 Contractually, Defendant was responsible to pay plaintiff's all losses, damages, profit, interest, plenty, courts award like punitive damages and costs, and costs including attorney cost, collection cost, and courts cost.

36 The Defendant was also contractually responsible to pay all of the plaintiff's end customer (Government of Canada)'s losses, damages, costs including attorney cost, collection cost, and courts cost. Defendant was also responsible to pay any amount in excess of which Government of Canada has agreed to pay to the plaintiff for the ordered goods and services (both) if and when "Government of Canada" has to pay in procuring the goods, services or both elsewhere due to plaintiff's failure to honor his contract with "Government of Canada". The contract between the plaintiff and the defendants states as follow:

[9.3 Supplier is responsible for all losses and damages, which Kaafronics may suffer by reason of supplier's default, including any amount in excess of the supplier's price that she has to pay in procuring the goods, services or both elsewhere, and/or levied by Kaafronics's

end customer against Kaafronics.

9.4 The supplier and Mr. Todd J. Garamella are personally, individually, mutually and inclusively responsible for any loss that the buyer may incur due to their failure to completely perform the contract and deliver all deliverables in time, which is specified in the contract. Additionally, they both are responsible to bear all cost associated with such default and failure including attorney cost, collection cost, courts cost, punitive damages and interest.

37 Contractually, the plaintiff was/is not responsible to bear cost of any partial and incomplete work that the defendants may have performed prior to their default in the contract. The contract between the parties states as follow:

18.2 Buyer is not responsible for any payment for any partial work of the project and any whatsoever work that manufacturer may have performed for any partial project regardless of it cost. Manufacturer will get paid for the complete project that has been ordered, and if and when it entirely meets the end customer's technical specifications that the buyer has provided to manufacturer with in its procurement contract and the end customer's full satisfaction and formal written approval.

38 The plaintiff and the defendant contractually agreed that time was of extreme essence and it was of critical nature and extreme importance to deliver ordered Metal Chip Briquetting System on time. To make it understood and explicit, parties to the contract specifically agreed upon plenty for any delay in the performance of the contract. Contract states as follow:

18.6 Time is of extreme essence. All deliverables must be completed with in the specified time in this contract. Late delivery shall be penalized at the rate of 5% of entire original cost of the project per week delay. At the end, each per week delay plenty shall be added to calculate the final plenty. Any delay in shipment has to be approved by the buyer and granting any delay is discretionary to the buyer at its free will.

39 Prior to award of contract to the Defendant, the Defendant and the plaintiff agreed that the Plaintiff shall pay a down payment of US\$57,000.00 to the defendant at the time of placing the purchase order to procure Hydraulic System and associated components and parts of the Hydraulic System, shredder and Tip Master to use in the plaintiff's prospective ordered Metal Chip Briquetting System.

40 Down Payment of US\$57,000.00 was an entrustment to the defendant, which was fully refundable to the plaintiff upon the defendant's default, within **30 days** of default with two percent (2%) monthly compound interest, compounded daily.

Contract states as:

[18.3 Down payment is a payment that is (shall be) made as part of payment for complete project and would be counted and credited toward final payment of "the completed Metal Chip Briquetting System project". It is fully reimbursable in 30 days if manufacturer fails to deliver the complete Metal Chip Briquetting System as requested and ordered without any deduction for any work whatsoever that manufacturer may have performed in between while working on this project regardless of cost involved. Incase of a default, 2% compound interest per month, compounded daily, on the paid down payment applies.]

41 Prior to award of a contract to defendant, the defendant asked for 40% upfront payment with purchase order for entire machine. The plaintiff refused to make any down payment.

42 During proposal stage, the defendant offered fifteen weeks delivery period for its proposed Metal Chip Briquetting System. The Plaintiff asked for short delivery period of six to eight weeks.

43 The Defendant's staff informed the plaintiff that:

(i) to reduce the delivery period from fifteen weeks to eight weeks, the

defendant had to pay upfront for hydraulic system that was needed for Metal Chip Briquetting System;

- (ii) they were custom building multiple machines for around the world;
- (iii) they had ordered a hydraulic system for one of their other orders, which had been cancelled by one of their customers;
- (iv) hydraulic supplier had manufactured their ordered hydraulic system for the cancelled machine order;
- (v) this hydraulic system is available with their supplier.
- (vi) the manufactured hydraulic system is suitable for use with the plaintiff's prospective ordered Metal Chip Briquetting System. It was stated that hydraulic system was perfect match with the plaintiff's prospective ordered Metal Chip Briquetting System and it is heavenly sent opportunity to pay for the hydraulic system and get the hydraulic system right away before somebody else takes it away as if we lost it, it will take 12 to 14 weeks to get this kind of hydraulic system through a special order again.
- (vii) the supplier for this hydraulic system is out-of-state supplier and would not extend credit to the defendant, so Defendant have to pay for the hydraulic system up-front also.
- (viii) due to building other machines at this time, they did not have funds to pay for this hydraulic system;
- (ix) if the plaintiff wanted to get project completed in shorter time than the offered delivery period, the Plaintiff had to extend US\$50,000.00 to Defendant to buy hydraulic system for use in the plaintiff's prospective ordered Metal Chip Briquetting System. And US\$50,000.00 shall be counted

toward the plaintiff's payment upon the completion and acceptance of the project at end customer site.

44 The defendant agreed to use Down payment of US\$50,000.00 to buy hydraulic system and with this understanding, the plaintiff agreed to pay US\$ 50,000.00 at the time of placing the purchase order.

45 After knowing that the plaintiff had offered his proposal based on the defendant's offered proposal to Government of Canada, the Defendant's staff asked for additional \$14,000.00 for shredder and tip master as down payment. The plaintiff counter offered US\$7,000.00 as down payment toward the purchase of shredder and tip master for specific use of these equipment for the Plaintiff's prospective ordered Metal Chip Briquetting System, which the defendant's staff agreed with.

46 The plaintiff made a payment of US\$ 57,000.00 as per agreed upon terms and understanding on April 19, 2012 with the placement of purchase order for Metal Chip Briquetting System to Defendant.

47 Defendant never shipped the ordered Metal Chip Briquetting System, defaulted in the contract on June 13, 2012 and plaintiff declared him in default in writing on June 15, 2012.

48 The defendant did not use the down payment of US\$57,000.00 (26.51% of price of plaintiff's ordered Metal Chip Briquetting System) for any of the promised and intended use.

49 Defendant did not even start the project and of which defendant had knowledge of.

50 Prior to using the down payment of US\$57,000.00 for other purposes than the agreed upon purpose and specific intended usage, the defendant did not seek the plaintiff's consent and pre-approval.

- 51 Defendant did not return the plaintiff paid down payment of US\$57,000.00 to the Plaintiff.
- 52 Defendant did not pay any interest that was due since default on down payment of US\$57,000.00 to the Plaintiff.
- 53 The plaintiff requested the defendant to quote a Metal Chip Briquetting System against very particular and specific characteristics and technical requirements and specifications. In addition to others, Metal Chip Briquetting System must have adhered to the mandatory requirement of Canadian Electrical Code (CSA) specification Class 1, Zone 2, Group IIA, IIB and Group D designation for an explosion proof system in a hazardous environment.
- 54 The defendant had never manufactured a metal chip briquetting system with such special characteristics and specific requirements for such hazardous environment before, nor has knowledge what it all entailed to manufacture a machine with such technical requirements, neither it checked with experts to understand what CSA Code was all about and what steps will be needed to comply with the strict and special requirements at the time of submitting his proposal to the plaintiff.
- 55 Even then after knowing what has been stated in above Paragraph Numbers 53-54, the defendant informed the plaintiff in writing that his offered system was in full compliance with the plaintiff's provided technical specifications and requirements and misrepresented that he was capable to manufacture metal chip briquetting system with such special requirements.
- 56 Prior to awarding of a contract by the Government of Canada to the plaintiff against his proposal that was based on the defendant's proposal (at that time Government of Canada has not decided the proposals and proposals submitted by different suppliers

were under evaluation and review by her), the plaintiff requested the defendant to recheck and reassess his capability and confirmation to the plaintiff about manufacturing a system that entirely met Canadian Electrical Code (CSA) specification Class 1, Zone 2, Group IIA, IIB and Group D designation for an explosion proof system in an hazardous environment as this system was for Government of Canada and Government of Canada would not accept any system upon delivery which did not meet the mandatory technical specifications. The defendant informed the plaintiff that he is capable to manufacture the required system and that he understood the requirements and specifications and that the plaintiff need not to worry about it.

57 At multiple other occasions, the plaintiff informed the Defendant's staff to pay close attention to Canadian Electrical Code (CSA) specification Class 1, Zone 2, Group IIA, IIB and Group D designation for an explosion proof system in an hazardous environment. The Defendant's staff always informed the plaintiff that they understood the requirements and that the plaintiff need not to worry about it each time. The defendant's staff mentioned to the plaintiff that technical requirements are book-perfect for their machine.

58 Contrary to the defendant confirmation that he was capable to manufacture the required machine and had understood the requirements at the time of submitting proposal and afterward; practically the defendant; had no knowledge what was required of him; even did not know what that specific CSA Code had asked for; neither had quested into the requirements of CSA Code from experts and what this CSA Code was all about; had no ability to manufacture such system; and nor has capacity, capability and resources to build a such system.

- 59 From day one, the defendant knew that he will get a large lump sum down payment of US \$57,000.00 and after that he orchestrated all his efforts around it to obtain it.
- 60 Prior to awarding a contract to the defendant and his associated business entities, the plaintiff explicitly asked them if they had ability to offer the machine that had been offered by their employee in five to six weeks. Through their communication, actions, inactions and by the defendant Personal Continuing Guarantee, they affirmed their ability to offer the machine.
- 61 Defendant accepted a contract from the plaintiff knowing that he had no ability to deliver project on time as he had no project staff; inside technical and trade labor; functioning organizational set up; access to needed outside specialized technical and trade labor; manufacturing and storage facilities; access to needed parts, components and sub-systems; financial capability and means, and funds; and credit worthy history to borrow funds that were needed to initiate and complete project of this size, nature, urgency and firmed commitment.
- 62 At the time of acceptance of the project and /or prior to entering into the contract, the defendant was having extreme financial difficulties to sustain himself and his business entities and to even fund basic daily function of his business entities and he was aware of the situation at hand.
- 63 The salary checks that he had issued for salary of his project lead for the project in month of March 2012 and/or thereafter, were bounced due to insufficient funds from the Defendant's bank.
- 64 At the time of accepting the purchase order for metal chip briquetting system, the Project leader Charles Arnold had left the Defendant's employment.
- 65 At the time of acceptance of the project and/or prior to entering into the contract,

defendant was attempting to hand over his storage facility for weeks, which stored collateralized inventory and drawings, to the local bank against bank's credit facilities for the defendant's failure to sustain himself and his business entities financially.

66 Under severe financial constraints and difficulties, and eventually (even after multiple written requests) after the defendant failure to convince the local bank to take over and take control of the collateralized inventory, the defendant terminated the lease with storage facility, abandoned the facility voluntarily and advised the storage facility management in writing to dispose off the collateralized inventory of a local bank at his own pleasure and at his free wills and discretion.

67 With reference to the storage facility referred in Paragraph Number 66, **ironically, the same collateralized inventory that the defendant had abandoned had a partially finished machine that the defendant was hoping and planning to use to honor the plaintiff's time sensitive contract.** The defendant abandoned this storage facility with stored inventory and drawings, a couple of weeks after accepting the contract. The defendant used this partially finished machine to obtain Down Payment from the Plaintiff, which he abandoned while he abandoned the storage facility.

68 Prior to Defendant accepting the plaintiff's purchase contract, defendant's customers cancelled their purchase orders for briquetting systems due to defendant inability to manufacture these ordered briquetting systems, that were pending with the defendant for actions for months prior to cancellation, and of which the defendant had the first hand knowledge.

69 The partially finished machine that the defendant was intending and hoping to use to honor the Plaintiff's critical and time sensitive contract, the defendant had already

committed it as collateral to the local bank. And the defendant was in negotiation to handover this machine to the local bank for weeks, while he was discussing to enter into a contract with the plaintiff to provide a briquetting machine. For all practical purposes, there would not be a partially finished machine available and left to even honor the contract at the time of the Defendant entering into a contract with the plaintiff as the bank would have already taken control of the inventory had it agreed with the defendant to take control of the stored inventory at storage facility, which eventually happened when bank took control over inventory after defendant abandoning the storage facility.

70 Without having a partial finished machine at hand, there was practically no way for the defendant to finish the plaintiff's ordered machine in eight weeks and honor the contract.

71 At the time of entering into the contract with the plaintiff, the defendant was also having problems and serious issues with other banks and financial institutions and suppliers, which were known to him and it was also known to him that due to such severe issues and problems, he almost had no ability to take on project of this urgency and with negative potentials and risks. Time sensitivity and critical nature of the project was well documented in the contract document from day one. To ensure on time delivery of the project and to send a strong message for failure to perform the contract (in addition to other liabilities, damages, and losses, etc), contract imposed plenty of 5% of original metal chip briquetting system price per week if project was late after its committed delivery. It is a fine of US\$10750.00 per week.

72 While in contractual negotiations, Defendant informed the plaintiff that he had partially finished machine in his inventory that he shall use to build the Plaintiff's

ordered metal chip briquetting system, while he chosen to omit to state that this machine was a collateral to a debt and he was in process of handing over this machine to a local bank.

73 Prior to award of a contract, the defendant informed the plaintiff that he was the second largest shareholder in a local bank. However, he omitted to mention to the plaintiff that he was in litigation with others to assert his claim for very long and extended period and a case(s) was pending in the courts, which other were fiercely fighting.

74 Prior to award of a contract, the defendant informed the plaintiff that he had an existing large credit facility with a local bank that he owned. In addition to his ownership being in litigation and in question, Defendant used to have a large credit facility with a local bank namely "Land Community Bank" in the past, which became past due in 2011, long before when the plaintiff had entered in the possible contractual conversations with the defendant. The defendant was having serious issue with the bank and its management, was involved in litigation with the owner of the bank and was aware that he was making a statement which was not true at the time of making such statement and that the plaintiff will relied upon on this statement to enter in the contract and to pay down payment to the defendant.

75 Prior to award of a contract, the defendant informed the plaintiff in writing that they were continuing to build premier briquetting system in the market. At the time of making such statement, he was not building anything, rather he was in process of handing over his inventory and anything else he had that was associated with briquetting system manufacturing to a local bank against its collateralized Financial Debt Notes.

- 76 The defendant's staff also informed the plaintiff that they were building multiple machines for around the world. At the time of making such statements in reality, the defendant was attempting to negotiate with a local creditor to handover its storage facility with collateralized inventory.
- 77 The Defendant used his wife as witness to his Personal Continuing Guarantee that he offered to the Plaintiff.
- 78 At the time of giving Personal Continuing Guarantee, anything he was agreeing to in his Personal Continuing Guarantee was false and misrepresentation as he had no ability to guarantee performance of any party at his side as he had no resources nor his businesses entities had any resources, ability and capacity to build a machine that the plaintiff had ordered (and was ordering at the time of placement of order for which the defendant was offering Personal Continuing Guarantee).
- 79 The defendant was well aware of that the plaintiff had refused to send down payment check without first obtaining a signed "Personal Continuing Guarantee" document from him. The plaintiff insistence to receive a signed "Personal Continuing Guarantee" prior to sending a down payment check was a clear sign that the Plaintiff was relying upon the defendant "Personal Continuing Guarantee".
- 80 Defendant signing of "Personal Continuing Guarantee" was the pre-requisite for placing a purchase order with the Defendant.
- 81 After plaintiff's placing an order, Defendant asked the plaintiff to send down payment check while he had not sent required signed "Personal Continuing Guarantee" to the Plaintiff back. The plaintiff informed the defendant that without getting signed "Personal Continuing Guarantee" back from him, the plaintiff will not move forward with the purchase Contract. Upon hearing this, the defendant sent

signed "Personal Continuing Guarantee" with in no time.

82 After placing a purchase order, contractually, the plaintiff was required to send in Down Payment check in five business day to the Defendant. Upon receiving the purchase order, the defendant himself called the plaintiff and requested the plaintiff to send the down payment check right away stating that "that the project can be started right away without any delay and without wasting any time", while after receiving down payment, he never even started the project.

83 Not only the defendant made urgency statement to the plaintiff to get down payment right away to start the project immediately without any delay as stated in Paragraph Number 82, the defendant prepared FedEx's International Waybill document using his own FedEx's account and sent to the plaintiff and requested to the plaintiff to use the defendant's FedEx's account on the same day the day the plaintiff released a purchase order to the Defendant.

84 The defendant sent e-mails and made multiple telephone calls to expedite the placement of purchase order and to send the Down Payment urgently.

85 Defendant asked the plaintiff to send FedEx's shipment tracking number of the package in which down payment check was sent on April 19, 2012.

86 The plaintiff enquired about 5 Continent Distributing LLC incorporation status. Defendant sent State of Delaware's Certificate of Incorporation in no time.

87 The Defendant's project manager for Metal Chip Briquetting System requested the Defendant to handover paid the Plaintiff's Down Payment to him that he could purchase the needed components, hydraulic system, shredder and tip master and related parts and services but the defendant refused to hand over down payment that he had received from the plaintiff.

88 Not only the defendant cheated the plaintiff from US\$57,000.00 that the plaintiff had paid as Down payment, the defendant also caused the plaintiff to incurred additional expenses while he had no intention to perform his part in the contract from get go.

89 The Defendant caused the plaintiff to incur extra expenses in thousands of dollars by requiring the plaintiff to accompany with his representative to visit to Victoria, British Columbia, Canada on May 03, 2012 to one of the most restricted defence related sites of Department of National Defence, Government of Canada.

90 Upon the Defendant's request, using the plaintiff's ability as the registered supplier of the Government of Canada, the plaintiff obtained Security Clearance Certificate for the defendant's representative, and defendant's representative obtained access to highly restricted site of Government of Canada.

91 If the defendant had no intention to complete the project, which he did not had as his actions speak louder, he should not had sought to arrange a visit for his representative's visit to this restricted site, and by doing so, not only defendant cheated and defrauded the plaintiff and caused him financial injury, he committed fraud against the officials of Government of Canada.

92 It is important to note that at the time of defendant requesting to the Plaintiff to make arrangement for a visit to Department of National Defence's restricted site including applying for and obtaining classified Security Clearance and requesting the plaintiff to accompany with the defendant's representative to the site in Victoria, British Columbia (without Mr. Muhammad Farid's presence, the defendant representative could not visit the site):

(i) the defendant had not started the project even after three weeks of contract

award (entire project was supposed to be completed in eight weeks. The Plaintiff placed the Purchase Order on April 18, 2012. Visit to Department of National Defence took place on May 03, 2012.) **[Actually the defendant never started the project]**;

- (ii) as the defendant had not started the project at the time of May 03, 2012 visit, practically it was not possible any more for the defendant to complete project by June 13, 2013.
- (iii) the defendant had denied handover of the paid down payment of US\$57,000.00 to the Defendant's project manager to procure Hydraulic system, tip master and shredder prior to May 03, 2012 visit to Victoria, British Columbia, Canada.
- (iv) Defendant promised to pay all expenses for the site visit to the Plaintiff, which he never honored.
- (v) The defendant requested site visit as part of his proposal but he never took any step to honor the contract.

93 The defendant' Project Manager Mr. Charles Arnold requested the defendant and his management to provide necessary co-operation and much needed resources especially financial resources to start, complete and deliver the ordered Metal Chip Briquetting System and associated services multiple times, which the defendant refused to provide. Such requests for co-operations and financial resources were made again and again to the top management and the defendant but bore no fruit.

94 Prior to accepting the contract, the defendant advised his insurance broker to do anything to provide insurance coverage that the plaintiff needed as pre-requisite to award a contract to the defendant. The Plaintiff had very intensive and special

insurance requirements that directly came from Government of Canada.

95 Defendant chosen to hide his inability to honor contract and misled the Plaintiff through his actions and inactions.

96 Project Manager Mr. Charles Arnold asked the Defendant to be honest with Mr. Muhammad Farid but he chosen to be anything but honest. Mr. Charles Arnold's e-mail dated May 18, 2012 states as:

["Todd

I cannot provide Muhammad with answers to his schedule request until you say when the money is available to get started. It is shame that all the profit is now eliminated due to the penalties that are now over \$50,000 and counting.

You need to be honest with Muhammad and let him know you do not have the money.

Charles"].

97 Mr. Charles Arnold informed the defendant that he will not mislead the customer on May 18, 2012 and that the Defendant should tell Muhammad about status of the project but Mr. Arnold 's efforts went invain and Mr. Garamella still did not communicate with the Plaintiff about the status of the project. Mr. Arnold's e-mail states as:

["Todd,

I will not confirm anything further until I hear back from you regarding the status of this project. I will not mislead the customer in thinking the project is on schedule. Muhammad needs to be told that nothing has been done to his machine in the past five weeks.

Charles"]

98 On May 21, 2012, Mr. Charles Arnold wrote to Mr. Todd J. Garamella and John

Finn (Defendant's General Manager)

["John and Todd,

I sent you an e-mail saying that I would be around Thursday but I have not heard anything back.

Does Todd still plan on me overseeing Kaafronics? Is there any word on funding?

Does Todd plan to tell Muhammad how late the machine is going to be?

Thanks

Charles"]

99 On June 04, 2012, Mr. Charles Arnold wrote to Defendant Todd J. Garamella and John Finn (Defendant 's General Manager), which states:

[Once there is approx \$100,000.00 set aside for building this machine I can establish a schedule. Without a start date I cannot confirm delivery dates from vendors as their delivery times change with every project they bring in the door. Right now I can tell you that we are approx. 10 weeks out if started tomorrow.]

100 Defendant had knowledge about the liabilities, losses and damages that he had caused to the plaintiff, and possibilities of losses and damages from the time of submitting his proposal to the plaintiff that he may cause to the plaintiff. The plaintiff communicated through different media "fax, e-mail and courier mail", mechanism "in writing, voice message, telephonic conversations, in person and through different layers of management "owner and Chief Executive Officer "Mr. Todd Garamella", General Manager, Project Manager "Charles Arnold" and office staff" of the defendant about these losses, liabilities and damages. The Plaintiff informed the defendant about possible extent, nature, severity, surety and practicality of happening of these losses and damages. The defendant and his

management were explicitly informed in writing that a default in defendant' part would ruin the plaintiff and Mr. Muhammad Farid personally, would cause plaintiff million of dollars worth liability, losses and damages. The defendant intentionally and maliciously chosen to not act to avoid these losses and/or to mitigate these possible losses and damages and benefited from it.

101 The defendant's management was also informed about drastic effects lack of performance will have upon the plaintiff in personal meeting during Mr. Muhammad Farid's visit to Victoria, British Columbia on May 03, 2012.

102 As principal managing owner and executive, Mr. Todd J. Garamella himself accepted the contract and contract' terms and was and is fully aware of what was going on with project and what was expected of him contractually. Defendant has the first hand knowledge of his wrong doing, and the losses and damages that he had caused to the plaintiff as Plaintiff had informed him about these losses in writing in very detail multiple times. Mr. Muhammad Farid "Plaintiff" was in direct communication with the senior management of the defendant and defendant Todd J. Garamella and the plaintiff wrote six letters to the defendant informing about possible losses, damages and liabilities that he created against the plaintiff for his failure to perform the contract. Not only this, Defendant's actions and inactions directly caused these losses and damages and/or increased intensity and severity of these losses and damages. Face-to-face meeting with his staff and numerous telephone calls were additional that were made to communicate losses, damages and liabilities that the defendant had caused.

103 Not only the plaintiff informed defendant himself about possible losses and damages that the plaintiff will suffer and liabilities that the plaintiff will incur to

Government of Canada if the project was not completed on time, his own staff also communicated the same to the defendant multiple times. Mr. Arnold informed the defendant multiple times to tell the truth to Muhammad Farid about project not being started and that they do not have funds to start and finish the project and that the project would be substantially late if and when it is started but defendant and their top management chosen not to tell the truth about project to plaintiff.

104 Defendant had and/or should have knowledge of Plaintiff's possible losses due to his Default and for not using down payment for the specified and agreed upon use of the down payment and specifically under the circumstance the plaintiff agreed to arrange for down payment and how he had arranged to pay substantial amount as down payment.

105 Defendant intentionally mislead the plaintiff through his actions and inactions about the project, which were very well concealed, thought over and went over for extended period of time and from the start of the process of proposal.

106 The defendant never disclosed to the plaintiff that project was never even started and why project was never started.

107 Had the defendant told the plaintiff about the true status of the project, the plaintiff would be in position to assist him to avoid default as it was in the best interest of the plaintiff to avoid such disaster and financial loss.

108 Had the Defendant told the plaintiff about the true status of the project, this would have allowed plaintiff to take other steps which would be necessary to mitigate his losses. The Defendant chosen to let the Plaintiff get hurt intentionally, malicious and knowingly to gain financial benefits of, at least, US\$57,000.00.

109 Defendant had and/or should have knowledge about Plaintiff's poor financial

conditions, plaintiff's use of borrowed money to pay down payment and devastating negative impact upon the Plaintiff of Defendant's actions and inactions.

110 The plaintiff "Mr. Muhammad Farid" is a sole proprietorship. Mr. Farid borrowed down payment for the project from his brother, and his brother made these funds available to Mr. Farid that he had obtained by re-mortgaging and re-financing his house.

111 Mr. Farid informed the defendant's project manager multiple times that the down payment that he was paying and/or had paid to the defendant was obtained by re-mortgaging his family member's home and Defendant needed to complete project on time that he (Mr. Farid) could pay back the borrowed money to his brother to avoid any default at his family member's home mortgage.

112 After default, the defendant never returned the down-payment back to the plaintiff and the plaintiff had no money for a few months to pay back loaned money to his brother.

113 Mr. Farid's and his brother families live (both families have minor children) in this house.

114 The possible threat of default in his brother house caused huge stress and strain on both families and the plaintiff's relationship with his brother.

115 In the later part of 2012, Mr. Farid paid the borrowed amount to his brother. Mr. Farid was left with no money after paying back loan and his entire family was living hand to mouth and struggling every day for basic necessities of life, which made very hard for him to sustain his family especially he had three minor children in his family with age ranging from 2-years old, 3.5-years old and 4.5 years old. This entire situation was made the worst as he had almost no income in 2011 (Gross

Income \$4,483.0) and his expenses in 2010 were multiple times higher than his total income (even though total income included cashing out of his retirement account to sustain his family) due to multiple emergencies in family.

116 In 2012 at the time, the plaintiff paid down payment to the defendant, of defendant's default, and defendant failure to return down payment later on, the plaintiff did not have enough money with him to buy life saving medicine for himself, which he took regularly and stopped taking his medicine due to lack of money, which substantially increased risk to his life.

117 This entire situation (defendant's default; defendants failure to return down payment of US\$57,000.00; losses and damages caused due to defendants' default; plaintiff's facing and incurring huge possible liability in his contract with Government of Canada; incurring legal cost while he have no means to support his family and spending substantial time away from the business to prosecute intentional wrong doing of the defendant and enforce the contract and much more) caused and continue to cause unbearable stress, which is affecting Mr. Farid's works, his family life, his business, his life, performance of the company and his well being. The plaintiff has provided information about such loss, and stress and strain in writing to the Defendant and he did not care to look at what could happen with Mr. Farid and his family and what was happening with Mr. Farid, his children and other member of family. Defendant chosen to do nothing to mitigate the losses and stress and benefited from it.

118 This entire stress, strain and extreme uncertainty would have been substantially reduced even after contract default by the defendant if the defendant had just returned the paid down payment. But the defendant intentionally and maliciously

chosen to do nothing even after multiple requests for payment of down payment back.

119 To make the plaintiff's misery the worst, rather than taking responsibility for his actions and inactions, after knowing all damages, losses and liabilities that the Defendant had caused to the plaintiff, the defendant filed for chapter 7 bankruptcy to wash away liabilities and losses that he had caused to the plaintiff intentionally, knowingly and maliciously and left the plaintiff to bear all losses, liabilities, while the plaintiff has no money to feed his children.

120 On and around June 26, 2012, Defendant called the plaintiff and informed Plaintiff that he would not be able to deliver the project on time stating that one of his stores had been ceased by a bank [Note: Defendant had been in default already at this point and time, and had been declared in default on June 15, 2012.]. He promised to call the plaintiff back with a new delivery date to build a new machine against existing contract within a couple of days and ever since, the plaintiff is waiting to hear back from him even after writing him more than half dozen e-mails/letters, making numerous telephone calls, and more than (12) months had passed. Defendant never called the plaintiff as he had promised.

121 The defendant misrepresented and lied about seizure of the store to the Plaintiff on June 26, 2012. Actually the defendant abandoned the store facility voluntarily in May, 2012. At the time of defendant making a call, the local bank has already taken control of the collateralized inventory after the defendant abandoning of the storage facility.

122 From start to finish, Defendant did not deal with plaintiff in good faith. He lied. He concealed information. He disregards the plaintiff's rights. He misled the plaintiff.

Not only this, if he did not have intention to act on contract, why visit Government of Canada's one of the highest security site and force the plaintiff to spend thousands of dollars as out of pocket expenses and waste his valuable time for the site visit and by keeping Mr. Farid engage in fruitless efforts. Irony is the Defendant did all this knowingly to mislead the plaintiff and to benefit from it.

123 When Defendant was expecting a substantial down payment of US \$57,000.00 from the Plaintiff, defendant was all over Mr. Farid. He wrote to Mr. Farid multiple times. He called Mr. Farid multiple times in a day. Until receiving down payment check, he was perfect professional and gentleman who seemed to be very co-operative and caring. But after eating away down payment check, he transferred himself to a **cold-blooded** professional who is less than ethical and dishonest individual who did not give a damn what would and could happen with the plaintiff and his family even after knowing everything. After receiving down payment, he disappeared from the map as he even never exited, which was elective, intentional and malicious. He deliberately ignored the plaintiff's constant communication.

124 After having so much information about possible Plaintiff's losses and damages; severity and far-reaching negative impacts of such losses and damages on the plaintiff; plaintiff full co-operation and willingness to work with defendant; Plaintiff's inability to bear any financial loss; well knowing that the plaintiff had paid down payment through funds that had been obtained by re-mortgaging of a family member's home; and time sensitive nature of the project; defendant's actions and attitude toward the project were totally reckless indifference to what would happen to the project and how much losses and damages the plaintiff would suffer. The defendant chosen to not act, do nothing, and mitigate any losses and damages that

the plaintiff may and/or shall suffer for the defendant' default and due to lock of his actions and inactions even after plaintiff bringing situations at hand multiple times to his attention. It was in Defendant' capacity to mitigate such losses, with very minimal efforts, which he chosen not to exercise maliciously and knowingly and let the plaintiff get injured economically and financially and put the plaintiff through hell of stress and uncertainty while himself gain financial and economically benefits.

125 Courts providing a relief of discharge to the dishonest defendant for the plaintiff's debt and the contractual liabilities that the defendant had intentionally and maliciously caused for financial benefits would be like rewarding the wrong doer and a crook, and would be punishing and destroying an honest hard working impecunious plaintiff. Defendant intentionally, knowingly and maliciously preyed on an impecunious plaintiff through malicious and willful ill acts of misrepresentation, fraud, pretense and dishonesty.

126 Any evidence, acts and facts discovered in process of this litigation.

IX COUNTS

COUNT-1

- 127 The plaintiff re-alleges each allegation in paragraph 1 through 126.
- 128 Through the above, the defendant has engaged in acts amounting to those recognized as non-dischargeable in 11 U.S.C § 523 (a) (2)(A).

COUNT-2

- 129 The plaintiff re-alleges each allegation in paragraph 1 through 126.
- 130 Through the above, the defendant has engaged in acts amounting to those recognized as non-dischargeable in 11 U.S.C § 523 (a) (2)(B).

COUNT-3

- 131 The plaintiff re-alleges each allegation in paragraph 1 through 126.
- 132 Through the above, the defendant has engaged in acts amounting to those recognized as non-dischargeable in 11 U.S.C § 523 (a) (3).

COUNT-4

- 133 The plaintiff re-alleges each allegation in paragraph 1 through 126.
- 134 Through the above, the defendant has engaged in acts amounting to those recognized as non-dischargeable in 11 U.S.C § 523 (a) (4).

COUNT-5

- 135 The plaintiff re-alleges each allegation in paragraph 1 through 126.
- 136 Through the above, the defendant has engaged in acts amounting to those recognized as non-dischargeable in 11 U.S.C § 523 (a) (6).

X RELIEF SOUGHT

Wherefore, the plaintiff respectfully request that the Court:

137 Grant judgment in favor of the Plaintiff and against the Defendant by rendering all debts, liabilities, damages, losses, and costs that had incurred and/or shall incur in contractual relationship between the plaintiff and the defendant non-dischargeable Pursuant to 11 U.S.C. §523(a)(2)(A), and/or 11 U.S.C. §523(a)(2)(B) and/or 11 U.S.C. §523(a)(3) and/or 11 U.S.C. §523(a)(6).

138 Hold the debt of US\$57,000.00 non-dischargeable Pursuant to 11 U.S.C. §523(a)(2)(A), and/or 11 U.S.C. §523(a)(2)(B) and/or 11 U.S.C. §523(a)(3) and/or 11 U.S.C. §523(a)(6);

139 That Plaintiff be awarded reasonable fees, courts' fees and costs, attorney(ies) fees and cost, and fees and costs of these proceedings and other associated proceedings at the highest allowable scale, and interest;

140 That plaintiff be awarded all other general and equitable relief as the law, the equity and the facts may warrant and/or the Court deems just and equitable.

141 Grant any other relief necessary to protect the interests of the plaintiff.

142 Permitting the Plaintiff to amend its complaint as additional acts and claims are discovered during the prosecution of this lawsuit

June 11, 2013

Humbly pray,

For Muhammad Farid, a sole proprietorship,
(D/B/A Kaaftronics)

Muhammad Farid
1911 Rossland Road East
Whitby, Ontario, L1N-3P4, Canada
Ph#: 905-743-9496; Fax No. 905-743-9497

B104 (FORM 104) (08/07)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
--	--

PLAINTIFFS (Name and Address, if Pro Se Telephone No.) Muhammad Farid, a sole proprietorship D/B/A Kaaftronics 1911 Rossland Rd. East, Whitby, ON, L1N 3P4	DEFENDANTS (Name and Address) Todd Jonathon Garamella aka Todd J. Garamella
--	--

ATTORNEYS (Firm Name, Address, and Telephone No.) Canada ph # 905-743-9496	ATTORNEYS (Firm Name, Address and Telephone No., If Known) 5011 Green Farms Road Edina, MN, USA, 55436
---	---

PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee
--	--

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

complaint for Non-chargeability of Debt pursuant to 11 USC § 523 and miscellaneous

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

- FRBP 7001(1) – Recovery of Money/Property**
- 11-Recovery of money/property - §542 turnover of property
 - 12-Recovery of money/property - §547 preference
 - 13-Recovery of money/property - §548 fraudulent transfer
 - 14-Recovery of money/property - other
- FRBP 7001(2) – Validity, Priority or Extent of Lien**
- 21-Validity, priority or extent of lien or other interest in property
- FRBP 7001(3) – Approval of Sale of Property**
- 31-Approval of sale of property of estate and of a co-owner - §363(h)
- FRBP 7001(4) – Objection/Revocation of Discharge**
- 41-Objection / revocation of discharge - §727(c),(d),(e)
- FRBP 7001(5) – Revocation of Confirmation**
- 51-Revocation of confirmation
- FRBP 7001(6) – Dischargeability**
- 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
 - 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
 - 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny
- (continued next column)

- FRBP 7001(6) – Dischargeability (continued)**
- 61-Dischargeability - §523(a)(5), domestic support
 - 68-Dischargeability - §523(a)(6), willful and malicious injury
 - 63-Dischargeability - §523(a)(8), student loan
 - 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
 - 65-Dischargeability - other
- FRBP 7001(7) – Injunctive Relief**
- 71-Injunctive relief – imposition of stay
 - 72-Injunctive relief – other
- FRBP 7001(8) Subordination of Claim or Interest**
- 81-Subordination of claim or interest
- FRBP 7001(9) Declaratory Judgment**
- 91-Declaratory judgment
- FRBP 7001(10) Determination of Removed Action**
- 01-Determination of removed claim or cause
- Other**
- SS-SIPA Case – 15 U.S.C. §§78aaa *et seq.*
 - 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

RECEIVED
 13 JUN 12 AM 10:19
 U.S. BANKRUPTCY COURT
 MINNEAPOLIS, MN

<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$

Other Relief Sought

Exhibit H

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bky. No. 12-44067-NCD
Chapter 7

Todd Jonathon Garamella,

Debtor.

Todd Garamella,

Adv. No. _____

Plaintiff,

vs.

Kevin Johnson and Johnson Holdings, Inc.,

Defendants.

NOTICE OF REMOVAL OF
CIVIL ACTION

TO: Clerk of the Bankruptcy Court, District of Minnesota:

Timothy D. Moratzka, Trustee for the Bankruptcy Estate of Todd Jonathon Garamella, (“Trustee”), by and through his undersigned attorneys, respectively shows the Court:

1. On June 27, 2012, the case entitled *Todd Garamella vs. Kevin Johnson and Johnson Holdings, Inc.*, Tenth Judicial District, County of Isanti, State of Minnesota, (“State Court Action”) was commenced by service on defendants.

2. The Defendants have not answered and the Trustee filed the Complaint and Affidavit of Service in the State Court on or about October 5, 2012.

3. On July 11, 2012, Debtor filed a petition under Chapter 7 to commence this case.

4. The present Trustee was appointed on July 11, 2012.

5. The State Court Action was therefore pending when the present case was commenced, pursuant to Rule 9027(a)(2) of the Bankruptcy Rules.
6. Debtor is named as Plaintiff in the State Court Action.
7. Debtor's claims against defendants are property of the estate, and have not been claimed as exempt by Debtor.
8. Copies of the pleadings and affidavits of service are attached hereto and incorporated herein by reference.
9. This Court has jurisdiction over this action under 28 U.S.C. §§ 1334 and 1452. This action should be removed to the United States Bankruptcy Court because it consists of claims which are related to the case under Title 11. It is a core proceeding as it deals with the administration of assets and claims of the estate by the Trustee.
10. Plaintiff's Complaint in the State Court Action includes claims for fraud, securities fraud, breach of fiduciary duty, buyout, breach of contract, promissory estoppel, and unjust enrichment. The outcome of these claims will affect the handling and administration of the case, and are the property of the estate.
11. As the United States Bankruptcy Court has jurisdiction pursuant to 28 U.S.C. §§ 1334 and 1452, and since any claims in the State Court Action are property of the estate under 11 U.S.C. § 541 and recovery on such claims will affect the administration of the case, this action may be removed to United States Bankruptcy Court by Timothy D. Moratzka, Trustee, pursuant to Bankruptcy Rules 9027 and Local Bankruptcy Rule 1070-1.

WHEREFORE, Trustee, as successor to Plaintiff Todd Garamella, prays that the above-entitled action be removed from the District Court, Tenth Judicial District, County of Isanti, State of Minnesota, to the United States Bankruptcy Court for the District of Minnesota.

Dated: October 5, 2012

MACKALL, CROUNSE & MOORE, PLC

By/e/ Mychal A. Bruggeman
Mychal A. Bruggeman (#345489)
1400 AT&T Tower
901 Marquette Ave
Minneapolis, MN 55402
(612) 305-1400
mab@mcmlaw.com

2851284.1-MAB

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bky. No. 12-44067-NCD
Chapter 7

Todd Jonathon Garamella,

Debtor.

Todd Garamella,

Adv. No. _____

Plaintiff,

Vs.

Kevin Johnson and Johnson Holdings, Inc.,

Defendants.

NOTICE OF FILING - REMOVAL OF A CIVIL ACTION

TO: The Court Administrator, Isanti County, Minnesota:

PLEASE TAKE NOTICE that on October 5, 2012, Timothy D. Moratzka, Trustee for the Bankruptcy Estate of Todd J. Garamella, Bankruptcy No. 12-44067-NCD, filed the attached Notice of Removal of a Civil Action with the Clerk of the United States Bankruptcy Court, District of Minnesota. Please be advised that pursuant to 28 U.S.C. §§ 1334 and 1452, and Bankruptcy Rule 9027, the filing of said Notice of Removal of a Civil Action with this Court shall effect the removal of the action, *Todd Garamella vs. Kevin Johnson and Johnson Holdings, Inc.*, Tenth Judicial District, County of Isanti, State of Minnesota, to the United States Bankruptcy Court and this Court shall proceed no further unless and until the case is remanded.

Dated: 10/5/2012

MACKALL, CROUNSE & MOORE, PLC

By: Mychal A. Bruggeman

Mychal A. Bruggeman (#345489)

1400 AT&T Tower

901 Marquette Ave

Minneapolis, MN 55402

(612) 305-1400

mab@mcmlaw.com

2851290.1-MAB

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ISANTI

TENTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Todd Garamella,

Plaintiff,

SUMMONS

v.

Kevin Johnson and Johnson Holdings, Inc.,

Defendant.

THIS SUMMONS IS DIRECTED TO KEVIN JOHNSON.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.

2. **YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this summons a written response called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at:

Anthony Ostlund Baer & Louwagie P.A.
3600 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS. If you do not answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond.

A default judgment can then be entered against you for the relief requested in the Complaint.

5. LEGAL ASSISTANCE. You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.

6. ALTERNATIVE DISPUTE RESOLUTION. The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

**ANTHONY OSTLUND BAER &
LOUWAGIE P.A**

Dated: June 26, 2012

By: 
Norman J. Baer (#0163715)
Philip J. Kaplan (#0389351)
90 South Seventh Street, Suite 3600
Minneapolis, MN 55402
Telephone: 612-349-6969

ATTORNEYS FOR PLAINTIFF

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ISANTI

TENTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Todd Garamella,

Plaintiff,

SUMMONS

v.

Kevin Johnson and Johnson Holdings, Inc.,

Defendant.

THIS SUMMONS IS DIRECTED TO JOHNSON HOLDINGS, INC.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.

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**ANTHONY OSTLUND BAER &
LOUWAGIE P.A**

Dated: June 26, 2012

By: Norman J. Baer
Norman J. Baer (#0163715)
Philip J. Kaplan (#0389351)
90 South Seventh Street, Suite 3600
Minneapolis, MN 55402
Telephone: 612-349-6969

ATTORNEYS FOR PLAINTIFF

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ISANTI

TENTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Todd Garamella,

Plaintiff,

COMPLAINT

v.

Kevin Johnson and Johnson Holdings, Inc.,

Defendant.

Plaintiff Todd Garamella ("Garamella"), for his Complaint against Defendants Kevin Johnson ("Johnson") and Johnson Holdings, Inc. ("Johnson Holdings"), states and alleges as follows

PARTIES

1. Garamella is an individual residing at 5041 Green Farms Road, Edina, MN 55436.
2. Johnson is an individual residing at 4624 Greenhaven Drive, St. Paul, MN 55127.
3. Johnson Holdings is a Minnesota corporation with a registered address of 711 6th Avenue E, Isanti, MN 55040.

FACTUAL BACKGROUND

Johnson Holdings

4. Johnson Holdings is a bank holding company that owns 100% of the stock in East Central Holding Company, which owns 100% of the stock of Landmark Community Bank, N.A. (the "Bank").
5. Johnson Holdings is a closely-held corporation with 13 shareholders.

6. Johnson is the controlling shareholder of Johnson Holdings. Johnson owns the most shares and is the Chairman of the Board and President of the company. Moreover, many of the other shareholders and board-members are Johnsons' family members and friends, who typically follow his lead with respect to Johnson Holdings and the Bank's business.

Garamella's Relationship With Johnson and the Bank

7. Garamella has a longstanding business relationship with Johnson and the Bank. Garamella is in the business of acquiring distressed companies and making them profitable. Since 1988, the businesses Garamella has acquired have borrowed millions of dollars from the Bank. The Bank has made substantial profits as a result.

8. Garamella's primary contact at the Bank was Johnson. Over the years, Garamella and Johnson became friends. Garamella viewed Johnson as a close friend and ally whom Garamella could trust.

Johnson Induces Garamella to Invest in Johnson Holdings

9. In 2009, Johnson approached Garamella about Garamella investing in Johnson Holdings. For the next several months, Johnson and Garamella discussed the terms of Garamella's possible investment.

10. Johnson represented that, in exchange for buying Johnson Holdings stock, Garamella would be entitled to at least 8% interest on his investment, plus any growth in value of the stock. Johnson also told Garamella that Johnson Holdings would issue him stock certificates and send him a subscription agreement if he invested.

11. Garamella told Johnson that a specific condition to Garamella investing in Johnson Holdings was that he be made a director of the Bank.

12. Johnson promised Garamella that, if Garamella invested in Johnson Holdings, he would serve on the Bank's board of directors. Johnson told Garamella that the Bank was struggling because of the economic downturn. According to Johnson, the current board of directors was too passive, but Garamella could help shake things up because of his background with distressed companies.

13. Based on Johnson's representations and promises, Garamella ultimately agreed to invest in Johnson Holdings and serve on the Bank's board.

14. In September 2010, Garamella paid \$100,000 for an approximately 12% ownership interest in Johnson Holdings. Garamella later made another \$100,000 investment in Johnson Holdings that increased his ownership interest to over 18%.

15. Despite Johnson's promises, Johnson Holdings did not give Garamella any share certificates until December 2011 and did not give Garamella any subscription agreement until the spring of 2012. (The subscription agreement that Johnson Holdings eventually provided was unsigned.) However, Garamella trusted Johnson. Garamella invested in Johnson Holdings in reliance on Johnson's representations to him and under the presumption that Johnson had not withheld any material information about Garamella's investment.

Johnson Purports to Dilute Garamella's Ownership Interest

16. In December 2010, Johnson demanded that Garamella help Johnson Holdings make a quarterly loan payment to State Bank of Fargo. Johnson Holdings has approximately \$2.6 million in outstanding loans to State Bank of Fargo. Johnson told Garamella that he was required to contribute to Johnson Holdings' loan payments in proportion to his ownership share.

17. Johnson never told Garamella about this supposed requirement before Garamella invested in Johnson Holdings. Johnson also failed to explain why he believed the shareholders

would be responsible for making Johnson Holdings' loan payments. Johnson simply told Garamella that because he owned part of the company, he had to pay part of the company's loan payments.

18. In an effort to help Johnson Holdings and Johnson, Garamella paid a portion of Johnson Holdings' quarterly loan payments to State Bank of Fargo in December 2010 and March 2011.

19. However, when Johnson demanded another payment in June 2011, Garamella declined. Garamella informed Johnson that the shareholders are not obligated to participate in paying off Johnson Holdings' debt.

20. After Garamella refused to advance additional money for Johnson Holdings' quarterly loan payments, Johnson's son sent Garamella a spreadsheet that purported to list each shareholder's contributions and ownership percentages. The spreadsheet showed that shareholders (including Johnson) who allegedly participated in making Johnson Holdings' loan payments had received an increased percentage of Johnson Holdings' shares. Shareholders (including Garamella) who did not participate in the loan payments had seen a corresponding decrease in their ownership percentage.

21. There is no legal basis for Johnson to demand additional capital from Garamella or dilute Garamella's ownership percentage if Garamella declines.

22. Even if there were a legal basis for Johnson's actions, Johnson never disclosed it to Garamella.

23. Before Garamella invested in Johnson Holdings, Johnson did not tell Garamella that he would be required to participate in making quarterly loan payments and, if he did not, his ownership percentage would decline.

24. Since June 2011, Johnson's son has sent Garamella additional spreadsheets that purport to show Johnson Holdings' shareholders' ownership percentages. According to the spreadsheets, Garamella's ownership percentage in Johnson Holdings has dropped from over 18% to approximately 12% as a result of his refusal to participate in Johnson Holdings' loan payments. At the same time, Johnson's ownership percentage has supposedly increased from just over 20% to just under 37%.

The Bank Declares Default on Loans to Garamella-Owned Entities

25. In November 2011, a third party offered to buy equipment from a Garamella-owned business for \$650,000. Because the Bank had a lien on the equipment, Garamella requested that the Bank release the lien and allow the sale to take place. The Bank agreed and released its lien. Garamella's business subsequently sold the equipment. Garamella directed that all net proceeds from the sale go directly to the Bank to pay down outstanding loans to Garamella-owned businesses.

26. About two weeks later, the Bank sent Garamella a letter stating that his businesses' loans were in default. The Bank then took all the money from Garamella's business and personal checking accounts and used it to pay down Garamella's businesses' loans. The Bank also cancelled payment on outstanding checks that Garamella's businesses had written to third parties.

27. The Bank has never disclosed the basis for its assertion that Garamella's businesses defaulted on their loans. The Bank has simply stated that the loans are in default without explanation.

28. Upon information and belief, the Bank declared the loans in default and emptied Garamella's checking accounts at Johnson's direction and/or with Johnson's approval.

29. Upon information and belief, Johnson directed and/or approved these actions in retaliation for Garamella's refusal to advance additional capital to Johnson Holdings and/or for other nefarious reasons.

Garamella Discovers that His Shares Are Restricted

30. In December 2011, Garamella demanded that Johnson Holdings deliver his share certificates, which Johnson had promised to provide in September 2010. Johnson Holdings finally delivered the share certificates.

31. The backs of the share certificates provide certain terms and conditions, including a restriction on the transfer of shares.

32. Before Garamella invested in Johnson Holdings, Johnson never told Garamella that this restriction existed.

33. The restriction is material term because, among other reasons, Garamella had planned to set up a trust for his wife and children and wanted to put his Johnson Holdings shares in the trust. However, the transfer restriction prevents Garamella from doing that.

The Bank and Johnson Holdings Prevent Garamella from Serving on the Boards of Directors

34. Shortly after he made his first investment in Johnson Holdings, Garamella was elected to the boards of directors for the Bank and Johnson Holdings. He also served on the Bank's Credit Committee and Appraisal Committee.

35. From October 2010 through January 2012, Garamella attended monthly board meetings and participated in making decisions for the Bank and Johnson Holdings. The Bank gave Garamella access to an internet website that had information he needed to help direct the Bank, such as information about the Bank's finances and loan performance and classification.

36. In February or March 2012, Garamella's discovered that he no longer had access to this information. Garamella received no prior notice that his access was going to be denied.

37. By denying Garamella access to this information, Johnson Holdings and the Bank have prevented Garamella from performing his responsibilities as a director and participating in Johnson Holdings' and the Bank's decision-making.

38. Upon information, the Bank and Johnson Holdings shut off Garamella's access to information and interfered with his service on the boards of directors at Johnson's direction and/or with Johnson's approval.

Johnson Holdings' Failure to Pay Money Owed to Garamella

39. Johnson Holdings has failed to pay substantial amounts of money that it owes Garamella.

40. First, Johnson Holdings agreed that it would compensate Garamella for his work on the board of directors by paying him \$500 for each board meeting he attended. In breach of this agreement, Johnson Holdings has never paid Garamella for the monthly board meetings he attended.

41. Second, Johnson Holdings initially agreed to pay Garamella 8% interest on his investment. Johnson Holdings later agreed to pay Garamella 12% interest on his investment. In breach of these agreements, Johnson Holdings has made no interest payments to Garamella.

42. Third, Garamella has demanded that Johnson Holdings return his \$200,000 investment and the money he advanced to help Johnson Holdings make quarterly loan payments to State Bank of Fargo. Despite Garamella's demands, Johnson Holdings has not repaid Garamella.

COUNT ONE
Common Law Fraud in the Omission

(Against All Defendants)

43. Garamella incorporates by reference all of the above paragraphs.

44. Before Garamella invested in Johnson Holdings, Johnson (in his individual capacity and on behalf of Johnson Holdings) never disclosed that Garamella's shares would be restricted, that Johnson would demand that Garamella contribute to Johnson Holdings' quarterly loan payments to State Bank of Fargo, or that, if Garamella refused to make such contributions, his ownership percentage would be diluted.

45. These facts were and are material.

46. Johnson (in his individual capacity and on behalf of Johnson Holdings) had a duty to disclose these facts to Garamella because (a) disclosing them was necessary to prevent Johnson's representations to Garamella from being misleading, and (b) Johnson, as a fellow shareholder in a close corporation, Johnson Holdings, owed a fiduciary duty to disclose material facts to Garamella.

47. Johnson (in his individual capacity and on behalf of Johnson Holdings) knew he omitted these facts in his discussions with Garamella.

48. Johnson (in his individual capacity and on behalf of Johnson Holdings) intended for Garamella to rely on the non-existence of these facts and invest in Johnson Holdings as a result.

49. Garamella reasonably relied on the non-existence of these facts and invested in Johnson Holdings as a result.

50. Accordingly, Johnson and Johnson Holdings are liable for fraud in the omission.

51. Garamella is entitled to rescind his investment in Johnson Holdings and be repaid in full. In the alternative, Garamella is entitled to damages caused by Johnson and Johnson Holdings' fraudulent omissions.

COUNT TWO
Securities Fraud Under Minn. Stat. Ch. 80A
(Against All Defendants)

52. Garamella incorporates by reference all of the above paragraphs.

53. The shares of Johnson Holdings that were sold to Garamella are securities for the purposes of Minn. Stat. Ch. 80A.

54. In connection with the sale of Johnson Holdings shares to Garamella, Johnson (in his individual capacity and on behalf of Johnson Holdings) failed to disclose that Garamella's shares would be restricted, that Johnson would demand that Garamella contribute to Johnson Holdings' quarterly loan payments to State Bank of Fargo, or that, if Garamella refused to make such contributions, his ownership percentage would be diluted.

55. These facts were and are material.

56. It was necessary for Johnson (in his individual capacity and on behalf of Johnson Holdings) to disclose these facts to Garamella to make Johnson's representations to Garamella not misleading.

57. Garamella did not know these facts when he bought Johnson Holdings shares.

58. Johnson (in his individual capacity and on behalf of Johnson Holdings) knew or should have known that he omitted these facts in his discussions with Garamella.

59. Johnson (in his individual capacity and on behalf of Johnson Holdings) intended for Garamella to rely on the non-existence of these facts and invest in Johnson Holdings as a result.

60. Garamella reasonably relied on the non-existence of these facts and invested in Johnson Holdings as a result.

61. Accordingly, Johnson and Johnson Holdings are liable for securities fraud under Minn. Stat. Ch. 80A, specifically Minn. Stat. §§ 80A.68 and 80A.76.

62. Garamella is entitled to rescind his investment in Johnson Holdings and be repaid in full. In the alternative, Garamella is entitled to damages caused by Johnson and Johnson Holdings' fraudulent omissions.

63. Garamella is also entitled to attorneys' fees under Minn. Stat. § 80A.76.

COUNT THREE
Breach of Fiduciary Duty
(Against Johnson)

64. Garamella incorporates by reference all of the above paragraphs.

65. As a controlling shareholder of a closely-held Minnesota corporation (Johnson Holdings), Johnson owes a fiduciary duty to act with the highest standards of integrity and honesty towards Garamella, to honor his reasonable expectations as a shareholder, and to exercise control over Johnson Holdings in fair and equitable manner.

66. As detailed above, Johnson has breached his fiduciary duties to Johnson by, among other things, withholding and failing to disclose material information to Garamella, trying to dilute Garamella's interest in Johnson Holdings, precluding Garamella from participating on the board of directors, and shutting Garamella out of the board's activities.

67. Johnson's breaches have directly and proximately caused damages to Garamella.

COUNT FOUR
Buyout Under Minn. Stat. § 302A.751
(Against All Defendants)

68. Garamella incorporates by reference all of the above paragraphs.

69. Under Minn. Stat. § 302A.751, the Court may order equitable relief, including a buyout, whenever those in control of a corporation have acted fraudulently, illegally or in an unfairly prejudicial manner towards one or more other shareholders of the company. When ordering relief in the context of a closely-held corporation, like Johnson Holdings, the Court must consider the duty that all shareholders owe one another to act honestly, fairly and reasonably in the operation of the company and the reasonable expectations of all shareholders.

70. As detailed above, Defendants have acted in a fraudulent, illegal and/or unfairly prejudicial manner towards Garamella.

71. As detailed above, Johnson has violated his duties to act honestly, fairly and reasonably towards Garamella in the operation of Johnson Holdings.

72. As a result of Defendants' actions, Garamella is entitled to equitable relief, including but not limited to a buyout of Garamella's shares. Garamella is also entitled to an award of reasonable expenses, including attorneys' fees and disbursements, pursuant to Minn. Stat. § 302A.751, because Defendants have acted arbitrarily, vexatiously, or otherwise not in good faith.

COUNT FIVE
Breach of Contract – Directorship Position
(Against Johnson Holdings)

73. Garamella incorporates by reference all of the above paragraphs.

74. Johnson Holdings entered into a valid contract with Garamella, in which Johnson Holdings agreed to allow Garamella to serve on Johnson Holdings and the Bank's boards of directors if Garamella invested in Johnson Holdings.

75. Johnson Holdings has breached this contract by denying Garamella access to information he needs to serve on the boards of directors.

76. Because Garamella's service on the boards of directors was a specific condition to his investment in Johnson Holdings, the failure of that condition makes his investment rescindable.

77. Garamella is entitled to rescind his investment in Johnson Holdings and be repaid in full. In the alternative, Garamella is entitled to damages caused by Johnson Holdings' breach of contract.

COUNT SIX
Promissory Estoppel – Directorship Position
(Against Johnson Holdings)

78. Garamella incorporates by reference all of the above paragraphs.

79. Johnson Holdings made a clear and definite promise that it would allow Garamella to serve on Johnson Holdings and the Bank's boards of directors if Garamella invested in Johnson Holdings.

80. Johnson Holdings intended for Garamella to rely on that promise.

81. Garamella relied on Johnson Holdings' promise.

82. Johnson Holdings' promise to allow Garamella to serve on Johnson Holdings and the Bank's boards of directors must be enforced to prevent injustice.

83. Because Johnson Holdings broke its promise, Garamella is entitled to rescind his investment in Johnson Holdings and be repaid in full. In the alternative, Garamella is entitled to damages caused by Johnson Holdings' broken promise.

COUNT SEVEN
Breach of Contract – Interest
(Against Johnson Holdings)

84. Garamella incorporates by reference all of the above paragraphs.

85. Johnson Holdings entered into a valid contract with Garamella to pay Garamella interest on his investment in Johnson Holdings.

86. Johnson Holdings has breached this contract by failing to pay interest to Garamella.

87. Johnson Holdings' breach has damaged Garamella.

88. Garamella is entitled to recover damages from Johnson Holdings for the breach of its agreement to pay interest on Garamella's investment.

COUNT EIGHT
Promissory Estoppel – Interest
(Against Johnson Holdings)

89. Garamella incorporates by reference all of the above paragraphs.

90. Johnson Holdings made a clear and definite promise to pay Garamella interest if he invested in Johnson Holdings.

91. Johnson Holdings intended for Garamella to rely on that promise.

92. Garamella relied on Johnson Holdings' promise.

93. Johnson Holdings' promise to pay interest to Garamella must be enforced to prevent injustice.

94. Garamella is entitled to recover interest on his investment in Johnson Holdings in the amount Johnson Holdings promised.

COUNT NINE
Breach of Contract – Directors' Fees
(Against Johnson Holdings)

95. Garamella incorporates by reference all of the above paragraphs.

96. Johnson Holdings entered into a valid contract with Garamella to pay Garamella fees for attending Johnson Holdings board of directors meetings.

97. Johnson Holdings has breached this contract by failing to pay the agreed upon fees to Garamella.

98. Johnson Holdings' breach has damaged Garamella.

99. Garamella is entitled to recover damages from Johnson Holdings for the breach of its agreement to pay directors' fees to Garamella.

COUNT TEN
Promissory Estoppel – Directors' Fees
(Against Johnson Holdings)

100. Garamella incorporates by reference all of the above paragraphs.

101. Johnson Holdings made a clear and definite promise to pay Garamella fees for attending Johnson Holdings board of directors meetings.

102. Johnson Holdings intended for Garamella to rely on that promise.

103. Garamella relied on Johnson Holdings' promise.

104. Johnson Holdings' promise to pay directors fees to Garamella must be enforced to prevent injustice.

105. Garamella is entitled to recover the directors fees Johnson Holdings promised.

COUNT ELEVEN
Unjust Enrichment/Money Had and Received – Loan Payments to State Bank of Fargo
(Against Johnson Holdings)

106. Garamella incorporates by reference all of the above paragraphs.

107. Johnson Holdings has received benefits that, under the circumstances, it would be legally, equitably, or morally wrong for Johnson Holdings to keep, including but not limited to money that Garamella advanced to Johnson Holdings to make quarterly loan payments to State Bank of Fargo.

108. Johnson Holdings has been unjustly enriched at Garamella's expense.

109. As a result of Johnson Holdings' unjust enrichment, Garamella is entitled to recover damages from Johnson Holdings.

COUNT TWELVE
Unjust Enrichment – Dilution of Ownership Percentage
(Against Johnson)

110. Garamella incorporates by reference all of the above paragraphs.

111. Johnson has received benefits that, under the circumstances, it would be legally, equitably, or morally wrong for Johnson to keep, including but not limited to an increase in his ownership percentage in Johnson Holdings that resulted from an unjust decrease in Garamella's ownership percentage in Johnson Holdings.

112. Johnson has been unjustly enriched at Garamella's expense.

113. As a result of Johnson's unjust enrichment, Garamella is entitled to recover damages from Johnson.

PRAYER FOR RELIEF

WHEREFORE, Garamella requests the following relief:

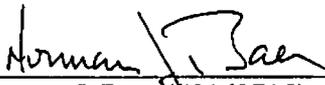
1. On Count One of the Complaint, a judgment for Plaintiff and against all Defendants; and an order rescinding Plaintiff's investment in Johnson Holdings and requiring Defendants to repay Plaintiff the amount of his investment, or, in the alternative, an award of damages to Plaintiff;
2. On Count Two of the Complaint, a judgment for Plaintiff and against all Defendants; an order rescinding Plaintiff's investment in Johnson Holdings and requiring Defendants to repay Plaintiff the amount of his investment, or, in the alternative, an award of damages to Plaintiff; and an award of costs and attorneys' fees to Plaintiff under Minn. Stat. § 80A.76;

3. On Count Three of the Complaint, a judgment for Plaintiff and against Johnson; and an award of damages to Plaintiff;
4. On Count Four of the Complaint, a judgment for Plaintiff and against all Defendants; an order directing Defendants to buy Plaintiff's interest in Johnson Holdings upon a price and terms to be set by the Court; and an award of costs and attorneys' fees to Plaintiff under Minn. Stat. § 302A.751;
5. On Count Five of the Complaint, a judgment for Plaintiff and against Johnson Holdings; and an order rescinding Plaintiff's investment in Johnson Holdings and requiring Johnson Holdings to repay Plaintiff the amount of his investment, or, in the alternative, an award of damages to Plaintiff;
6. On Count Six of the Complaint, a judgment for Plaintiff and against Johnson Holdings; and an order rescinding Plaintiff's investment in Johnson Holdings and requiring Johnson Holdings to repay Plaintiff the amount of his investment, or, in the alternative, an award of damages to Plaintiff;
7. On Count Seven of the Complaint, a judgment for Plaintiff and against Johnson Holdings; and an award of damages to Plaintiff;
8. On Count Eight of the Complaint, a judgment for Plaintiff and against Johnson Holdings; and an award of damages to Plaintiff;
9. On Count Nine of the Complaint, a judgment for Plaintiff and against Johnson Holdings; and an award of damages to Plaintiff;
10. On Count Ten of the Complaint, a judgment for Plaintiff and against Johnson Holdings; and an award of damages to Plaintiff;

11. On Count Eleven of the Complaint, a judgment for Plaintiff and against Johnson Holdings; and an award of damages to Plaintiff;
12. On Count Twelve of the Complaint, a judgment for Plaintiff and against Johnson; and an award of damages to Plaintiff;
13. Such other and further equitable relief the Court deems just and reasonable

**ANTHONY OSTLUND BAER &
LOUWAGIE P.A**

Dated: June 26, 2012

By: 

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ATTORNEYS FOR PLAINTIFF

ACKNOWLEDGEMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, to the parties against whom the allegations in the Summons and Complaint are asserted.