

SUPREME COURT OF NEW YORK
COUNTY OF NEW YORK

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THE LAUREL HILL ADVISORY GROUP,
LLC :

Plaintiff, : Index No. 651832/2011

- against - : Assigned to Part 45
Hon. Melvin L. Schweitzer

AMERICAN STOCK TRANSFER & TRUST :
COMPANY, LLC, LINK SHAREHOLDER
SERVICES, LLC, PHOENIX ADVISORY :
PARTNERS, LLC, MICHAEL SHARPE,
JOHN SIEMANN and DAVID WEEKS :

Defendants. :

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**ANSWER AND AFFIRMATIVE DEFENSES TO
AMENDED COMPLAINT ON BEHALF OF DEFENDANTS
AND AMENDED COUNTERCLAIMS ON BEHALF OF DEFENDANT SIEMANN**

Defendants American Stock Transfer & Trust Company, LLC ("AST"), LINK Shareholder Services, LLC ("LINK"), and Phoenix Advisory Partners, LLC ("Phoenix" and collectively with AST and LINK, the "AST Entities"), as well as individuals Michael Sharpe ("Sharpe"), John Siemann ("Siemann"), and David Weeks ("Weeks" and collectively with Sharpe and Siemann, "the Individual Defendants," and collectively with the AST Entities, "Defendants") answer the Amended Complaint commenced by Plaintiff The Laurel Hill Advisory Group, LLC ("Laurel Hill" or "Plaintiff") and state their affirmative defenses and defendant Siemann asserts counterclaims as follows:

RESPONSE TO "NATURE OF THE ACTION"

1. Defendants deny all the allegations in Paragraph 1 except they admit that the AST Entities are competitors of Laurel Hill and the Individual Defendants are each former employees of Laurel Hill.

2. Defendants deny all the allegations in Paragraph 2.

3. Defendants deny all the allegations in Paragraph 3.

RESPONSE TO "THE PARTIES, JURISDICTION AND VENUE"

4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4.

5. Defendants admit the allegations in Paragraph 5.

6. Defendants deny all the allegations in Paragraph 6 except admit that Defendant LINK is a New York limited liability company with its principal place of business in New York and LINK is part of the Link Group Network.

7. Defendants admit the allegations in Paragraph 7.

8. Defendants admit the allegations in Paragraph 8.

9. Defendants admit the allegations in the first three sentences of Paragraph 9 and deny the allegations in the fourth sentence of Paragraph 9.

10. Defendants admit the allegations in the first three sentences of Paragraph 10 and deny the allegations in the fourth sentence of Paragraph 10. Defendants deny the allegations in the fifth sentence of Paragraph 10 except admit that Weeks is currently employed by AST and/or LINK.

11. The allegations of Paragraph 11 contain conclusions of law as to which no response is required. To the extent an answer is deemed required, Defendants deny the allegations in Paragraph 11.

12. The allegations of Paragraph 12 contain conclusions of law as to which no response is required. To the extent an answer is deemed required, Defendants deny the allegations in Paragraph 12.

13. The allegations of Paragraph 13 contain conclusions of law as to which no response is required. To the extent an answer is deemed required, Defendants deny the allegations in Paragraph 13.

14. The allegations of Paragraph 14 contain conclusions of law as to which no response is required. To the extent an answer is deemed required, Defendants deny the allegations in Paragraph 14 except admit that Phoenix has its principal place of business in New York County.

RESPONSE TO FACTUAL BACKGROUND

15. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15.

16. Defendants admit the allegations in Paragraph 16.

17. Defendants admit the allegations in Paragraph 17.

18. Defendants admit the allegations in the first two sentences of Paragraph 18 and deny the allegations in the third sentence of Paragraph 18 except admit that the company offering the SHARP services is paid fees by the shareholders whose property it recovers. Defendants admit the allegations in the fourth sentence of Paragraph 18.

19. Defendants deny the allegations in the first, second and third sentences of Paragraph 19 and lack knowledge or information sufficient to form a belief as to the truth of the allegations in the fourth sentence of Paragraph 19.

20. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20.

21. Defendants deny all the allegations in Paragraph 21.

22. Defendants admit the allegations in the first sentence of Paragraph 22 and deny the allegations in the second sentence of Paragraph 22 except admit that Kies's resignation date was on or about March 19, 2010 and he joined AST as Executive Vice President. Defendants deny all the allegations in the third sentence of Paragraph 22 except admit that Weeks and Sharpe were the next two Laurel Hill employees to cease employment on or about April 30, 2010 and June 25, 2010, respectively.

23. Defendants admit the allegations in the first sentence of Paragraph 23 and deny the allegations in the second sentence of Paragraph 23.

24. Defendants admit the allegations in the first sentence of Paragraph 24 and deny the allegations in the second sentence of Paragraph 24.

25. Defendants deny the allegations in the first sentence of Paragraph 25. Defendants admit the allegations in the second sentence of Paragraph 25. Defendants deny the allegations in the third, fourth and fifth sentences of Paragraph 25.

26. Defendants deny the allegations in the first sentence of Paragraph 26. Defendants deny the allegations in the second sentence of Paragraph 26 except admit that Siemann told various employees if they joined Phoenix, they would receive their current Laurel Hill salary and be eligible for a signing bonus equal to one-half their annual salary. Defendants deny the allegations in the third sentence of Paragraph 26.

27. Defendants admit the allegations in Paragraph 27.

28. Defendants deny the allegations in Paragraph 28.

29. Defendants deny the allegations in the first and second sentences of Paragraph 29 except admit that Shareholders Services Association Inc. is a professional organization

supporting corporate issuers in effectively meeting their responsibilities for shareholder recordkeeping and service. Defendants admit the allegations in the third sentence of Paragraph

29. Defendants deny the remaining allegations in Paragraph 29.

30. Defendants deny all the allegations in Paragraph 30.

31. Defendants deny all the allegations in Paragraph 31.

32. Defendants deny all the allegations in Paragraph 32.

33. Defendants admit the allegations in the first sentence of Paragraph 33 and deny the allegations in the second sentence of Paragraph 33 except admit that on July 3, 2010, Cronin forwarded the RFQ to Siemann's Phoenix email address. Defendants admit the allegations in the third and fourth sentences of Paragraph 33.

34. Defendants admit the allegations in Paragraph 34.

35. Defendants admit the allegations in the first sentence of Paragraph 35 and deny the allegations in the second and third sentences of Paragraph 35.

36. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36.

37. Defendants deny all the allegations in Paragraph 37.

38. Defendants admit the allegations in the first sentence of Paragraph 38 and deny the allegations in the second sentence of Paragraph 38. Defendants admit the allegations in the third sentence of Paragraph 38.

39. Defendants admit the allegations in the first, second and third sentences of Paragraph 39 and deny the allegations in the fourth and fifth sentences of Paragraph 39.

40. Defendants deny the allegations in the first sentence of Paragraph 40 and admit the allegations in the second and third sentences of Paragraph 40.

41. Defendants admit the allegations in Paragraph 41.

42. Defendants admit the allegations in the first sentence of Paragraph 42 and deny the allegations in the second and third sentences of Paragraph 42.

43. Defendants deny all the allegations in Paragraph 43 and lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 43 relating to blackberries that had been stored in a closet mysteriously disappearing.

44. Defendants deny the allegations in the first sentence of Paragraph 44 except admit that Siemann was a primary contact with clients in Plaintiff's advisory and proxy solicitation business and that Siemann had a Gmail account into which Laurel Hill automatically forwarded his emails. Defendants deny the allegations in the second sentence of Paragraph 44 except admit that for months following his resignation from Laurel Hill, Siemann had access via his Gmail account to e-mails that were sent post-resignation to his Laurel Hill email address. Defendants deny the allegations in the third sentence of Paragraph 44. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the fourth sentence of Paragraph 44.

45. Defendants deny all the allegations in Paragraph 45.

46. Defendants deny the allegations in the first sentence of Paragraph 46 except admit that AST announced the establishment of LINK in or about September 2010. Defendants deny the allegations in the second sentence of Paragraph 46 except admit that from its inception, LINK has been headed by Kies.

47. Defendants deny the allegations in the first sentence of Paragraph 47. Defendants admit the allegations in the second sentence of Paragraph 47. Defendants deny the allegations in

the third sentence of Paragraph 47 except admit that Weeks had access to similar types of information. Defendants deny the allegations in the fourth sentence of Paragraph 47.

48. Defendants admit the allegations in the first sentence of Paragraph 48. Defendants deny the remaining allegations of Paragraph 48.

49. Defendants admit the allegations in the first, second, third, fourth and fifth sentences of Paragraph 49 and deny the allegations in the sixth sentence of Paragraph 49 except admit that no data remained on the hard drives of the laptops returned by Weeks and Sharpe.

50. Defendants deny all the allegations of Paragraph 50 and further state that Exhibit A speaks for itself.

51. Defendants deny the allegations in the first sentence of Paragraph 51. Defendants deny the allegations in the second sentence of Paragraph 51 except admit that LINK launched its own SHARP project for Equity Office in or about July 2010 and lack knowledge or information sufficient to form a belief as to the truth of when Laurel Hill learned of this project. Defendants deny the allegations in the third, fourth and fifth sentences of Paragraph 51.

52. Defendants deny the allegations in Paragraph 52 and lack knowledge or information sufficient to form a belief as to the truth of the allegations relating to what Equity Office advised Laurel Hill.

53. Defendants deny the allegations in Paragraph 53 except admit that K-Tron advised AST that Laurel Hill was managing its SHARP project and AST should cease all escheatments for remaining shareholders until further notice.

54. Defendants deny the allegations in the first sentence of Paragraph 54 except admit that LINK advised certain clients that LINK was the new "preferred vendor" of AST for SHARP work. Defendants deny the allegations in the second, third and fourth sentences of Paragraph 54.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the fifth sentence of Paragraph 54. Defendants deny the allegations in the sixth and seventh sentences of Paragraph 54.

55. Defendants deny the allegations in the first sentence of Paragraph 55 except admit that Plaintiff contacted Kies in December 2010 to request a call.

56. Defendants admit the allegations in Paragraph 56.

57. Defendants deny the allegations in the first sentence of Paragraph 57. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second and third sentences of Paragraph 57. Defendants deny the allegations in the fourth sentence of Paragraph 57.

58. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 58. Defendants deny the allegations in the second and third sentences of Paragraph 58.

59. Defendants admit the allegations in the first sentence of Paragraph 59. Defendants deny the allegations in the second sentence of Paragraph 59 except admit that such entities include National Oilwell Varco, Inc. Defendants deny the allegations in the third, fourth and fifth sentences of Paragraph 59 and further state that Exhibit B speaks for itself.

60. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 60. Defendants deny the allegations in the second sentence of Paragraph 60.

FIRST CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

(Against Defendants AST, LINK, Weeks and Sharpe)

61. In response to Paragraph 61, Defendants repeat and reallege each and every allegation contained in each preceding numbered paragraph of this Answer as if fully set forth herein.

62. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62.

63. Defendants deny all the allegations of Paragraph 63.

64. Defendants deny all the allegations in Paragraph 64.

65. Defendants deny all the allegations in Paragraph 65.

66. The allegations of Paragraph 66 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 66.

SECOND CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS ADVANTAGE

(Against Defendant Siemann)

67. In response to Paragraph 67, Defendants repeat and reallege each and every allegation contained in each preceding numbered paragraph of this Answer as if fully set forth herein.

68. Defendants deny the allegations in the first sentence of Paragraph 68. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 68.

69. Defendants deny all the allegations in Paragraph 69.

70. The allegations of Paragraph 70 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 70.

THIRD CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY, INCLUDING DUTY OF LOYALTY

(Against Defendants Weeks, Sharpe and Siemann)

71. In response to Paragraph 71, Defendants repeat and reallege each and every allegation contained in each preceding numbered paragraph of this Answer as if fully set forth herein.

72. Defendants deny the allegations in the first sentence of Paragraph 72. The allegations in the second and third sentences of Paragraph 72 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in the second and third sentences of Paragraph 72.

73. Defendants deny all the allegations in Paragraph 73.

74. The allegations of Paragraph 74 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 74.

75. The allegations of Paragraph 75 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 75.

FOURTH CAUSE OF ACTION

VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT 18 U.S.C. § 1030 ET SEQ.

(Against Defendants Weeks and Sharpe)

76. In response to Paragraph 76, Defendants repeat and reallege each and every allegation contained in each preceding numbered paragraph of this Answer as if fully set forth herein.

77. The allegations of Paragraph 77 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 77.

78. Defendants deny all the allegations in Paragraph 78.

79. Defendants deny all the allegations in Paragraph 79.

80. The allegations of Paragraph 80 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 80.

81. The allegations of Paragraph 81 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 81.

82. The allegations of Paragraph 82 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 82.

83. The allegations of Paragraph 83 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 83.

FIFTH CAUSE OF ACTION

CONVERSION

(Against Defendants AST, LINK, Weeks and Sharpe)

84. In response to Paragraph 84, Defendants repeat and reallege each and every allegation contained in each preceding numbered paragraph of this Answer as if fully set forth herein.

85. Defendants deny all the allegations in Paragraph 85.

86. Defendants deny all the allegations in Paragraph 86.

87. Defendants deny all the allegations in Paragraph 87.

88. The allegations of Paragraph 88 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 88.

89. The allegations of Paragraph 89 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 89.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(Against All Defendants)

90. In response to Paragraph 90, Defendants repeat and reallege each and every allegation contained in each preceding numbered paragraph of this Answer as if fully set forth herein.

91. Defendants deny all the allegations in Paragraph 91.

92. Defendants deny all the allegations in Paragraph 92.

93. The allegations of Paragraph 93 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 93.

SEVENTH CAUSE OF ACTION

UNJUST ENRICHMENT

(Against All Defendants)

94. In response to Paragraph 94, Defendants repeat and reallege each and every allegation contained in each preceding numbered paragraph of this Answer as if fully set forth herein.

95. Defendants deny all the allegations in Paragraph 95.

96. The allegations of Paragraph 96 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 96.

97. The allegations of Paragraph 97 contain conclusions of law as to which no response is required. To the extent an answer is deemed to be required, Defendants deny all the allegations in Paragraph 97.

A. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph A.

B. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph B.

C. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph C.

D. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph D.

E. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph E.

F. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph F.

G. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph G.

H. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph H.

I. Defendants deny that Plaintiff is entitled to any of the relief requested in Paragraph I.

GENERAL DENIAL

98. Defendants deny each and every allegation, statement, matter and thing in the Amended Complaint not expressly admitted or qualified herein.

AFFIRMATIVE DEFENSES

Without assuming the burden of proof on any matters where that burden rests on Plaintiff, to the extent applicable to themselves, Defendants assert the following affirmative defenses with respect to the claims Plaintiff purports to assert in the Amended Complaint.

FIRST AFFIRMATIVE DEFENSE **(Failure to State a Claim)**

99. Plaintiff's claims are barred, in whole or in part, because Plaintiff has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE **(Failure to Plead With Particularity)**

100. Plaintiff's claims should be dismissed because they are not pled with the particularity required by CPLR 3016.

THIRD AFFIRMATIVE DEFENSE **(Unclean Hands)**

101. Plaintiff's claims are barred, in whole or in part, by the equitable doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE **(Fraud)**

102. Plaintiff's claims are barred, in whole or in part, because Plaintiff has committed fraud in connection with its dealings with the Defendants.

FIFTH AFFIRMATIVE DEFENSE **(Waiver and/or Estoppel)**

103. Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver and/or estoppel.

SIXTH AFFIRMATIVE DEFENSE
(Latches)

104. Plaintiff's claims are barred, in whole or in part, by the equitable doctrine of latches.

SEVENTH AFFIRMATIVE DEFENSE
(Real Party in Interest)

105. Recovery against the Defendants is barred because any losses allegedly suffered by Plaintiff were caused by the acts or failure to act of a person or entities other than the Defendants.

EIGHTH AFFIRMATIVE DEFENSE
(No Breach of Duty)

106. Plaintiff's claims are barred, in whole or in part, because the Defendants did not breach duties, if any, owed to Plaintiff.

NINTH AFFIRMATIVE DEFENSE
(No Damages Suffered)

107. Plaintiff's claims are barred, in whole or in part, because Plaintiff has not suffered any damages or injuries caused by the conduct of the Defendants.

TENTH AFFIRMATIVE DEFENSE
(Good Faith)

108. Plaintiff's claims are barred, in whole or in part, because the Defendants at all times acted reasonably and in good faith.

ELEVENTH AFFIRMATIVE DEFENSE
(Failure to Mitigate Damages; Setoff)

109. Plaintiff has failed to mitigate any alleged damages. Any alleged damages against Siemann should be offset because Siemann is part owner of Plaintiff.

TWELFTH AFFIRMATIVE DEFENSE
(No Entitlement to Punitives)

110. Plaintiff's claim for punitive damages is barred because Defendants' actions with respect to Plaintiff have in all respects been lawful, were undertaken in good faith, lacked ill will or reckless disregard of Plaintiff's rights, and do not demonstrate willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to the consequences. Any award of punitive damages in this matter would violate the Due Process Clause of the United States Constitution and the corresponding provision of the New York State Constitution.

THIRTEENTH AFFIRMATIVE DEFENSE
(Statute of Limitations)

111. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

FOURTEENTH AFFIRMATIVE DEFENSE
(Reservation of Additional Defenses)

112. Defendants presently have insufficient knowledge or information upon which to form a belief as to whether there may be additional affirmative defenses available to them and therefore each expressly reserves the right to amend and/or supplement their respective answers, defenses and all other pleadings and reserves the right to assert any and all additional defenses under any applicable law in the event that discovery indicates that such defenses would be appropriate.

WHEREFORE, Defendants demand judgment:

- (A) Dismissing, with prejudice, the Amended Complaint in its entirety;
- (B) Awarding to them their costs and expenses of this action, including attorney fees and disbursements; and

(C) Awarding to them such other relief as the Court deems just and proper.

COUNTERCLAIMS

Counterclaimant John Siemann ("Siemann"), by his undersigned counsel, for his counterclaims alleges upon knowledge with respect to himself and his own acts and upon the basis of facts alleged by Plaintiff in the Amended Complaint or upon information and belief as to all other matters, as follows:

The Parties

113. Counterclaim plaintiff and defendant Siemann is a resident of the state of New Jersey.

114. Counterclaim defendant Dr. William J. Catacosinos ("Dr. Catacosinos") is a resident of the State of New York.

115. Counterclaim defendant William W. ("Billy") Catacosinos is the son of Dr. Catacosinos, brother of James Catacosinos and a resident of the State of New York.

116. Counterclaim defendant James ("Jaime") Catacosinos is the son of Dr. Catacosinos, brother of Billy Catacosinos and a resident of the State of New York.

Background

117. Plaintiff Laurel Hill was organized to do business and filed a certificate of formation under the Delaware Limited Liability Company Act (the "LLC Act") as a Delaware limited liability company on July 12, 2007. The three controlling majority membership owners, Dr. Catacosinos and his sons Billy and Jamie Catacosinos (collectively, the "Catacosinos Majority Members" or "Majority Members"), and defendant Siemann along with Tom Kies ("Kies"), Glenn Keeling ("Keeling"), Tom Cronin ("Cronin"), and Jon Einsidler ("Einsidler")

(collectively, the "Minority Members") reached an oral agreement with respect to their various ownership interests and other key provisions (the "Oral LLC Agreement").

118. Dr. Catacosinos and his sons had either limited or nonexistent previous work experience in Laurel Hill's two lines of business, the corporate governance/proxy solicitation business and asset recovery business. (Upon information and belief, Billy Catacosinos worked in the industry from approximately 1987-1993, during which period Dr. Catacosinos delivered a significant amount of business to his son's then-current employer, and again from approximately 1999-2004, at which time he received payments as an independent contractor again based on his father's connections.) To start Laurel Hill, the Catacosinos Majority Members hired many experienced and successful employees who, at the time, were in the corporate governance/proxy solicitation business and asset recovery business with another proxy solicitation firm. Indeed, over 90% of the employees hired to start Laurel Hill came from this single firm, which had at that time, and still has today, a significant presence in the marketplace for these businesses. The former employees of this competitor included each of defendants Michael Sharpe ("Sharpe"), Siemann and David Weeks ("Weeks"), each of the Minority Members (including Siemann), and various other individuals who became employed at Laurel Hill.

119. The Catacosinos Majority Members made numerous representations and agreements to induce these individuals, including Siemann, to leave their prior employer and start Laurel Hill. Significantly, the Oral LLC Agreement embodied the essential business agreements by which Laurel Hill would be founded, including ownership of Laurel Hill, membership contributions, financing and the role Dr. Catacosinos would play in the business. The Minority Members, including Siemann, relied on those representations and agreements when they left their prior employment and joined Laurel Hill.

120. After Laurel Hill was founded, the Catacosinos Majority Members were not true to their word. Rather, they were true to their patriarch's public reputation for greed, deceit and self-dealing.

121. The Catacosinos Majority Members violated the Oral LLC Agreement and their fiduciary duties to enrich themselves at the expense of Laurel Hill, the Minority Members and Laurel Hill's employees, including defendants Sharpe, Siemann and Weeks. The Catacosinos Majority Members' pattern of deception began by inducing and encouraging Sharpe, Siemann, Weeks and others to leave their prior employment to start Laurel Hill and continued when the Catacosinos Majority Members induced and encouraged them to, as applicable, remain members and employees of Laurel Hill while making disgraceful secret payments to the family coffers.

122. These acts, combined with the Catacosinos Majority Members' dereliction of duty, acts of self-dealing, corporate waste and breach of the fiduciary duties they owed to Laurel Hill and the Minority Members, including the duties of care, loyalty, good faith, disclosure, and oversight, ultimately forced Sharpe, Siemann and Weeks, the other Minority Members and various other former employees to leave Laurel Hill.

The Oral LLC Agreement Establishing Laurel Hill

123. While the Catacosinos Majority Members and the Minority Members colloquially referred to themselves as partners, they were each members of Laurel Hill, a Delaware limited liability company. To the knowledge of the Minority Members, no limited liability company agreement had been reduced to writing and certainly none was shared with the Minority Members despite Dr. Catacosinos's numerous promises to the contrary that he would distribute a written draft of a limited liability agreement to the Minority Members, which could then be finalized and executed.

124. In the absence of a written limited liability company agreement, the relationship of the parties would be governed by the Oral LLC Agreement and any terms which had not been addressed would then be governed by the LLC Act.

125. The Oral LLC Agreement contained two essential components upon which the Catacosinos Majority Members and the Minority Members agreed. Pursuant to the LLC Act, the Oral LLC Agreement also contained an implied covenant of good faith and fair dealing.

126. The first essential Oral LLC Agreement component was that each member of Laurel Hill was allotted ownership of his membership interest in Laurel Hill in return for his contribution. In return for a collective 40% ownership stake in Laurel Hill, the Minority Members agreed to contribute their services to set up and establish Laurel Hill. In this respect, the Minority Members would use the industry expertise, experience and contacts they developed over the course of their lengthy careers to build a new business from scratch. Factoring into their contribution to start Laurel Hill, the Minority Members each took a significant decrease in the total compensation that each would have otherwise received by remaining with their prior employer.

127. The breakdown of the Minority Members' collective 40% membership interest ownership in Laurel Hill is as follows: Siemann owns 10%; Kies and Keeling each own 12%; and Cronin and Einsidler each own 3%. In addition to their status as members in Laurel Hill, the Minority Members were also treated as employees of Laurel Hill and received salaries from Laurel Hill.

128. In return for a 60% ownership stake in Laurel Hill, the Catacosinos Majority Members agreed to contribute (a) sufficient cash funding to set up and establish Laurel Hill, and

(b) administrative and logistic support to set up, establish and operate Laurel Hill through Dr. Catacosinos's existing personal investment firm, Laurel Hill Capital Partners ("LHCP").

129. Upon information and belief, the injections of cash provided to Laurel Hill by the Catacosinos Majority Members were provided exclusively by Dr. Catacosinos and totaled approximately \$4.5 million: (a) the first was in an amount of \$3 million and was provided at Laurel Hill's inception, and (b) the second was in an amount of \$1.5 million and was provided in the second year of Laurel Hill's operations.

130. The oral agreement between the Catacosinos Majority Members and the Minority Members was that the Catacosinos Majority Members would receive an amount equal to their cash investment in Laurel Hill's equity from Laurel Hill's profits before any other distributions of profits were made. Once they received this amount, the Catacosinos Majority Members would retain their 60% share in Laurel Hill's profit distributions going forward and each of the Minority Members would share in 40% of Laurel Hill's profit distributions on a pro rata basis equal to his membership interest ownership.

131. As part of their contribution, the Catacosinos Majority Members agreed that LHCP would provide Laurel Hill with administrative and logistic support, including professional services and office support required to set up, establish and operate Laurel Hill, including office space along with legal, payroll, accounting and secretarial services. In connection with the accounting support the Catacosinos Majority Members promised the Minority Members, the Catacosinos Majority Members agreed to provide detailed monthly financial statements for Laurel Hill to the Minority Members. Aside from receiving their collective 60% ownership share in Laurel Hill, the Catacosinos Majority Members were not to be otherwise compensated

for causing LHCP to provide these services and Laurel Hill was not be otherwise charged or liable for LHCP's provision of these services.

132. The second essential Oral LLC Agreement component was that Dr. Catacosinos would hold the position of Chief Executive Officer of Laurel Hill as a figurehead only and Laurel Hill's day-to-day operations would be managed by the Minority Members. Dr. Catacosinos agreed that his role as Chief Executive Officer of Laurel Hill would be limited to ensuring that LHCP was providing the administrative and logistic support it was required to as part of the Oral LLC Agreement and providing Laurel Hill with his general business connections to grow the business. Aside from receiving his portion of the collective Catacosinos Majority Members' 60% ownership share in Laurel Hill, Dr. Catacosinos was not to be otherwise compensated for serving as Chief Executive Officer and Laurel Hill was not to be otherwise charged or liable for Dr. Catacosinos serving in this role. Along these same lines, there was no agreement to pay Billy or Jaime Catacosinos any amounts other than in connection with their respective ownership interests in Laurel Hill.

133. Thus, the Catacosinos Majority Members and the Minority Members had agreement with respect to the essential elements comprising the Oral LLC Agreement.

134. In connection with entering into the Oral LLC Agreement, the Minority Members explained to the Catacosinos Majority Members that because each Minority Member had almost a full career behind him, their objective was to build Laurel Hill into a profitable business so that it could be sold and provide them with financial security as they neared retirement. On this basis, it was agreed that if Laurel Hill was sold and any equity investment amounts contributed by the Catacosinos Majority Members had not yet been recovered, the proceeds from the sale would first be used to pay such amounts back and then any additional amounts would be distributed

among all Laurel Hill members on a pro rata basis equal to each individual's membership interest ownership. If no equity investment amounts contributed by the Catacosinos Majority Members were outstanding at the time of the sale, the proceeds would be distributed among all Laurel Hill members on a pro rata basis equal to each individual's membership interest ownership.

135. While the Minority Members honored and fulfilled each of their promises, the Catacosinos Majority Members would breach each one of their promises that formed the core of the Oral LLC Agreement.

The Undisclosed Written LLC Agreement

136. Unbeknownst to the Minority Members, and contrary to the repeated representations of Dr. Catacosinos, there may have been a written operating agreement and later an amended and restated version of the operating agreement (collectively the "Undisclosed Written LLC Agreement") throughout the time the Minority Members were members of Laurel Hill and had been asking for a written agreement from Dr. Catacosinos.

137. The initial operating agreement is dated July 12, 2007 and the amended and restated operating agreement is dated August 28, 2007. The Undisclosed Written LLC Agreement appears to pre-date both Siemann's start date with Laurel Hill and the offer of 10% equity in Laurel Hill to him by Dr. Catacosinos.

138. Pursuant to Article 31 of the CPLR, Defendants requested copies of all documents concerning the creation, establishment and/or development of any of the Laurel Hill Entities, documents concerning the limited liability company agreement establishing Laurel Hill or any of the other Laurel Hill Entities, and any purported modifications to any such agreement, as well as documents concerning any ownership or equity interests in any of the Laurel Hill Entities. Laurel Hill refused to produce any responsive documents.

139. In the absolute height of hypocrisy, counter-claim defendant Laurel Hill only revealed the existence of the Undisclosed Written LLC Agreement years after it was purportedly drafted, years after it had been requested directly by the Minority Members, months after it had been requested in discovery in this case and only then in an effort to dismiss Siemann's claims against Laurel Hill in this action. However, the Undisclosed Written LLC Agreement only serves to support Siemann's claims.

140. Assuming the validity of the Undisclosed Written LLC Agreement, the following sections are of significance in understanding Siemann's membership interest in the Company:

3.2 Admission of Additional Members. The Manager is authorized to admit additional Members for such Contributions and upon such terms and conditions as he shall deem to be in the best interest of the Company. In the event any additional Members are admitted to the Company pursuant to this Paragraph "3.2", the Membership Interest in the Company of the then existing Members (as shown on Schedule "A" hereto) shall be reduced pro rata in an aggregate amount equal to the aggregate Membership Interest in the Company acquired by the new Member or Members. To accomplish the purposes of this Paragraph, the Manager is authorized to do all things necessary to effectuate the admission of such additional Members (including the recomputation and revision of Schedule "A" hereto), each of whom shall become a signatory hereto upon executing a Certification Signature Page, whereby each such additional Member shall be deemed to have adopted and to have agreed to be bound by all of the provisions of this Agreement. The original copy of this Agreement, and any duly executed Certification Signature Pages, taken together, shall constitute a single instrument.

3.4 Withdrawal. No Member shall have the right to withdraw from the Company except as expressly permitted by the terms of this Agreement. Any attempt by a Member to withdraw from the Company in violation of this Agreement shall be ineffective. The Company shall have no obligation to pay to any Member withdrawing from the Company in violation of this Paragraph "3.4" the fair value of such Member's Membership Interest as of the date of withdrawal.

141. As noted in Section 3.2 above, Dr. Catacosinos, as Manager, had the authority "to admit additional Members for such Contributions and upon such terms and conditions as he shall deem to be in the best interest of the Company."

142. The Majority Members had little to no previous work experience in Laurel Hill's two lines of business. Dr. Catacosinos offered Siemann equity in Laurel Hill to induce him to leave his prior employer and help build up Laurel Hill's proxy solicitation business, as that was in the best interest of Laurel Hill. Therefore, upon accepting the offer of a 10% stake in Laurel Hill, Siemann became a member of Laurel Hill, if not pursuant to the Oral LLC Agreement as he believed, then under the Undisclosed Written LLC Agreement.

143. Additionally, there is no provision in the Undisclosed Written LLC Agreement that allows a member to be withdrawn by virtue of no longer working for Laurel Hill. Indeed, Siemann, as a Minority Member, is not permitted to withdraw from Laurel Hill, as set forth in Section 3.4 of the Undisclosed Written LLC Agreement.

144. In fact, Section 4.4 of the Undisclosed Written LLC Agreement, reproduced below, goes one step further, permitting members to "directly or indirectly, own, manage, operate, control, be employed by, participate in" other businesses, "regardless of whether the activities of such other business may conflict with, may be competitive with, or may be similar to" Laurel Hill's business. The language of the Undisclosed Written LLC Agreement, which Plaintiff argues governs, expressly precludes many of the claims Plaintiff is pursuing against Siemann.

4.4 Outside Interests. A Member or a Manager may, directly or indirectly, own, manage, operate, control, be employed by, participate in, be financially interested in or represent, or render any advice or services to any other business, regardless of whether the activities of such other business may conflict with, may be competitive with, or may be similar to that of the Company.

The Minority Members Were Held Out And Treated As Members

145. The Minority Members, including Siemann, were treated as and routinely held out as partners (a/k/a members) of Laurel Hill to clients, potential clients, referral sources and other

third parties. Siemann frequently attended conferences and meetings, on behalf of Laurel Hill, as a partner and signed letters to clients as a partner.

146. Laurel Hill printed business cards identifying Siemann and the other Minority Members as "Partners." The automatic signature blocks for their respective Laurel Hill email accounts, created by or on behalf of Laurel Hill, also identified them as "Partners."

147. The Majority Members knew that Siemann and the other Minority Members considered themselves to be and held themselves out to the public as partners/members of Laurel Hill.

148. Siemann also attended partnership meetings with the Majority Members where the issues discussed were those of concern to the members of the LLC. He received financial information, including financial statements about Laurel Hill, even if they did not include the level of detail he and others should have been provided. Siemann was involved in discussions related to the ownership structure of Laurel Hill, including what should be done with the equity interest assigned to Kies after his departure.

149. Siemann was, without any question, a member of Laurel Hill.

The Minority Members Uphold Their End Of The Bargain

150. Putting the issue of which agreement – the Oral LLC Agreement or the Undisclosed Written LLC Agreement – aside, in short order, Siemann and the other Minority Members succeeded in setting up and establishing Laurel Hill as a viable new business. They did so in reliance on the fact that they were indeed members of Laurel Hill. For example, using the industry expertise, experience and contacts they developed over the course of their respective careers, the Minority Members built Laurel Hill from nothing into a business that by its second full year of operations generated millions of dollars in profits.

151. The Minority Members also expanded the scope of Laurel Hill's business activities. The Minority Members caused Laurel Hill to successfully establish a Canadian subsidiary, The Laurel Hill Advisory Group Company, and a subsidiary that is a U.S. broker-dealer entity, Laurel Hill Securities, LLC. These subsidiaries are owned by Laurel Hill and are therefore owned by Laurel Hill's members.

152. Accordingly, the Minority Members satisfied the promises they made to the Catacosinos Majority Members in connection with the establishment of Laurel Hill as a functioning business entity and under the Oral LLC Agreement which they believed to be operative.

**The Catacosinos Majority Members Breach
The Oral LLC Agreement And Their Fiduciary Duties**

153. Whereas Dr. Catacosinos initially honored his agreement to allow Laurel Hill's day-to-day operations to be managed by the Minority Members for approximately its first 15 months of existence during the 2007-2008 time period, in the 2009-2010 time period, he began to wield an iron fist over operational matters. It is now clear that Dr. Catacosinos's increased presence and the majority of his business management decisions were purely to promote the Catacosinos Majority Members' own self-interest and economic benefit over and at the expense of Laurel Hill and the Minority Members.

154. As set forth below, the Catacosinos Majority Members' actions constitute self-dealing, corporate waste and breach of the fiduciary duties they owed to Laurel Hill and the Minority Members, including the duties of care, loyalty, good faith, disclosure, and oversight.

155. For example, at some point in time, in breach of the Oral LLC Agreement and, if applicable, the Undisclosed Written LLC Agreement, the Catacosinos Majority Members started charging Laurel Hill with expenses incurred by LHCP. Upon information and belief, these

expenses included salaries of Billy and Jaime Catacosinos, Kathy Marion (who served in a senior administrative role), Doreen Hammill (who served as Dr. Catacosinos's personal secretary), and other additional office staff. In addition to breaching the Oral LLC Agreement and, if applicable, the Undisclosed Written Agreement, the Catacosinos Majority Members committed self-dealing, corporate waste and breach of their fiduciary duties by moving the expenses of LHCP to Laurel Hill and by paying salaries, salary increases and perks to Billy and Jaime Catacosinos and others to which they were not entitled and which were significantly in excess of market pay standards.

156. On information and belief, once the Catacosinos Majority Members started charging Laurel Hill for the personnel they assigned to LHCP, such individuals continued to work for LHCP, as well as Dr. Catacosinos in his personal capacity and other ventures he oversaw.

157. Among other expenses improperly charged to Laurel Hill in breach of the Oral LLC Agreement and, if applicable, the Undisclosed Written Agreement, and their fiduciary duties, the Catacosinos Majority Members began charging Laurel Hill for the office space occupied by LHCP and eventually decided to purchase additional office space in Long Island and expand their offices at the expense of Laurel Hill. On information and belief, the Catacosinos Majority Members charged Laurel Hill approximately \$750,000 per year in improper costs related to office space and other expenses incurred by LHCP, including salaries and benefits to Jamie Catacosinos, Billy Catacosinos, Kathy Marion, and Doreen Hammill.

158. The burdening of Laurel Hill's payroll with Billy and Jamie Catacosinos was replete with misconduct. The Catacosinos Majority Members moved Billy and Jaime from the payroll of LHCP to Laurel Hill so Dr. Catacosinos would not have to bear the burden of paying their allowances from LHCP and would instead be able to charge the Minority Members. Given

their limited or nonexistent work experience, respectively, Billy and Jamie Catacosinos received vastly inflated salaries and salary increases from Laurel Hill. Indeed, considering their lack of productive work experience, the Catacosinos Majority Members violated the fiduciary duty of care they owed to Laurel Hill and the Minority Members by hiring Billy and Jaime into the positions in which they were hired. Neither son added any value to Laurel Hill's business and the Minority Members viewed the sons' positions with Laurel Hill as babysitting in an attempt to keep them out of trouble. Moreover, it was self-dealing, wasteful and in breach of their fiduciary duties for the Catacosinos Majority Members to approve Laurel Hill's reimbursement for expenses submitted by Billy and Jamie Catacosinos. For example, Jamie Catacosinos expensed lavish monthly trips to Canada in which he caused Laurel Hill to incur significant travel, accommodation, meal and entertainment expenses. The Catacosinos Majority Members also caused Laurel Hill to hire family friends for various important roles within Laurel Hill even though these individuals had no or limited relevant work experience.

159. Without fail, Billy and Jamie Catacosinos affirmed every decision made by their father with respect to Laurel Hill thereby purporting to allow the Catacosinos Majority Members to exert a controlling majority interest in Laurel Hill's management and governance.

The Catacosinos Majority Members Continue To Flagrantly Breach The Oral LLC Agreement And Their Fiduciary Duties

160. One of the most egregious examples of the Catacosinos Majority Members' misconduct and breach of their fiduciary duties was when they ordered a preferred equity return to be distributed to themselves. After approximately two and a half years of operation, in a meeting in which the Catacosinos Majority Members presented the fourth quarter 2009 financials to the Minority Members, Einsidler questioned Dr. Catacosinos about a \$581,000 line item entitled "Preferred Return." Dr. Catacosinos announced, "I've decided to charge you interest

now that the company is profitable." The Minority Members (including Siemann) never agreed to a preferred rate of return, and imposing one violates both the Oral LLC Agreement and, if applicable, the Undisclosed Written LLC Agreement.

161. Even more incredulously, the Catacosinos Majority Members then told the Minority Members that Laurel Hill would not be paying this preferred equity return out of Laurel Hill's total profits. Rather, the Catacosinos Majority Members first decreed that 60% of Laurel Hill's profits would be distributed to the Catacosinos Majority Members. Then they ordered their preferred equity return to be paid out of the Minority Members' 40% share of the profits. Again, the Minority Members (including Siemann) never agreed to this arrangement and the Majority Members breached the Oral LLC Agreement and their own Undisclosed Written LLC Agreement.

162. To make matters even worse, the Catacosinos Majority Members later told the Minority Members that Laurel Hill would follow this payment dynamic to satisfy the obligation to pay an amount equal to the cash investment made by the Catacosinos Majority Members to set up and establish Laurel Hill. In breach of the Oral LLC Agreement and even - if applicable - the Undisclosed Written Agreement, rather than having the Catacosinos Majority Members' equity investment paid back directly from Laurel Hill's total net operating profits, the Catacosinos Majority Members ordered that any equity investment repayment would be paid exclusively out of the Minority Members' 40% share of the profits, after payment of the preferred equity return.

163. The effect of this unlawfully instituted oppressive payment structure was crushing to the Minority Members. Even disregarding the effect of the Catacosinos Majority Members' preferred equity returns, rather than allowing the Minority Members to participate in Laurel Hill's profit distributions once Laurel Hill generated \$4.5 million in profits for distribution to pay

back the Catacosinos Majority Members' \$4.5 million cash equity investment, Laurel Hill would have to generate \$11.25 million in profits before the \$4.5 million equity investment would be repaid. The preferred return would only drive this number to be much higher. Each of the Catacosinos Majority Members actively participated in making and purporting to affirm and allow these distributions to be paid to them in breach of the Oral LLC Agreement which required that all profits would first be distributed to pay the equity investment back, and – if applicable – in breach of the Undisclosed Written Agreement which provided for distributions of available cash annually and on a pro rata basis without any right to a preferred return.

164. For at least both 2009 and 2010, the Catacosinos Majority Members misappropriated Laurel Hill profits in this fashion. The effect of this thievery was not only to steal the profits owed to the Minority Members under the Oral LLC Agreement, but to effectively preclude the Catacosinos Majority Members' equity investment from ever being paid back thereby denying the Minority Members the benefit of bargain contained in the Oral LLC Agreement and the ability to be rewarded for their hard work in setting up and establishing Laurel Hill as a profitable new business.

165. To no avail, the Minority Members raised multiple objections to these unilateral, unlawful and improper actions by the Catacosinos Majority Members. First, the preferred equity charge was in breach of the Oral LLC Agreement as well as –if applicable – the Undisclosed Written Agreement and was never previously mentioned by the Catacosinos Majority Members to the Minority Members, let alone agreed to by them. Indeed, Section 3.5 of the Undisclosed Written LLC Agreement states that "members shall not be entitled to receive any interest on their Contributions to the Company." Second, the preferred equity charge was outlandishly high and equivalent to approximately a 13% annual rate of return on the Catacosinos Majority Members'

cash equity investment. Third, the actions of the Catacosinos Majority Members to breach the Oral LLC Agreement as well as –if applicable – the Undisclosed Written Agreement and purport to require that their equity investment be paid back solely out of the Minority Members' proceeds were fundamentally unfair, especially given all the time that had elapsed during which the Minority Members toiled to set up and establish Laurel Hill based on the promises in the Oral LLC Agreement, including the fact that they (including Siemann) were in fact members of Laurel Hill. Fourth, it would now take exponentially longer in order for the Minority Members to realize their share of Laurel Hill's profits because they had to pay back the Catacosinos Majority Members' equity investment out of the Minority Members' 40% share of the profits after the Minority Members paid the preferred equity return out of their 40% share of the profits. Fifth, because the Catacosinos Majority Members had instituted these unilateral, unlawful and improper actions, it was apparent that they would not hesitate to breach the Oral LLC Agreement and their fiduciary duties by "changing the rules" to the detriment of Minority Members in the future. The fact that Laurel Hill is now attempting to rely on the Undisclosed Written Agreement only confirms this view.

166. Yet another example of the Catacosinos Majority Members' outrageous conduct which flagrantly breached the Oral LLC Agreement and –if applicable – the Undisclosed Written Agreement and the Minority Members' rights was when the Catacosinos Majority Members ordered that the Minority Members' collective 40% share of Laurel Hill's membership interests would be reduced to 37.5% because the Catacosinos Majority Members purported to give 1.5% to Kathy Marion and 1% to Doreen Hammill. Upon the death of Doreen Hammill, the Catacosinos Majority Members purported to give the 1% they assigned to Doreen Hammill to Kathy Marion.

167. The Minority Members did not consent and objected to the purported assignments of their membership interests by the Catacosinos Majority Members. The Minority Members told the Catacosinos Majority Members that they should not be permitted to assign membership interests away from the Minority Members. Rather, the Minority Members said that if the Catacosinos Majority Members wanted to assign membership interests, they should do so from their own allocation. The Catacosinos Majority Members replied that because these individuals were working in operations, the Catacosinos Majority Members would grant them membership interests from the Minority Members' allocation.

168. In response to these and other objections about the Catacosinos Majority Members' mismanagement of Laurel Hill, including objections lodged at partnership meetings, the Catacosinos Majority Members routinely told the Minority Members that "this is how it is" and "if you don't like it, you can leave."

169. As time passed, it became clear to the Minority Members that the Catacosinos Majority Members were orchestrating a scheme whereby the Minority Members would never be able to pay the Catacosinos Majority Members' cash equity investment back (and therefore never be able to share in any profit distributions) and would instead reap the majority of Laurel Hill's revenues directly for themselves by requiring Laurel Hill to pay costs associated with LHCP, funneling money to Billy and Jamie Catacosinos and paying preferred equity returns. In furtherance of this scheme, the Catacosinos Majority Members required Laurel Hill to maintain excessive cash reserves rather than allowing their cash equity investment to be paid down. At one point, Laurel Hill had a cash reserve surplus of approximately \$2 million in the bank. When the Minority Members requested this surplus be used to pay down the equity investment, Dr. Catacosinos refused and said that Laurel Hill needed this amount as a "cushion." Section 6.1 of

the Undisclosed Written LLC Agreement prohibits the retention of excess cash by providing that "[a]ll Distributions of Available Cash shall be made at such times as the Manager shall in his sole discretion determine, but no less frequently than annually." Even so, rather than keeping this amount as a cushion, though, the Catacosinos Majority Members improperly used it to pay preferred equity returns, costs associated with LHCP and personal costs and expenses of Billy and Jaime Catacosinos.

170. In breach of the Oral LLC Agreement and their fiduciary duties, the Catacosinos Majority Members also refused to provide the Minority Members with monthly detailed financial statements. In the rare instances when the Catacosinos Majority Members provided financial statements, they routinely obfuscated expenses by failing to show individual line items. The Catacosinos Majority Members lumped groups of expenses together in an attempt to hide their mismanagement and theft of Laurel Hill monies from the Minority Members.

The Catacosinos Majority Members Shun AST's Overture To Buy Laurel Hill

171. Defendant American Stock Transfer & Trust Company, LLC ("AST") was an integral part of Laurel Hill's overall profitability and success in the asset recovery business. Among other things, in connection with its stock transfer agent business, AST referred a significant amount of clients and projects to Laurel Hill, in addition to other asset recovery firms. Upon information and belief, AST referrals were the main sources of Laurel Hill revenues.

172. In 2009, AST began giving serious consideration to going into the asset recovery business for itself, rather than referring asset recovery work to outside businesses such as Laurel Hill. In this regard, AST considered its options in acquiring existing asset recovery firms, including Laurel Hill.

173. In January 2010, AST and Laurel Hill had a lunch meeting in which AST discussed its interest in acquiring Laurel Hill and proposed that AST acquire Laurel Hill. At that meeting, Dr. Catacosinos rejected AST's indication of interest out of hand and told AST that the Catacosinos Majority Members were not interested in selling Laurel Hill. Rather, Dr. Catacosinos thanked AST for its continued business referrals and indicated that the Catacosinos Majority Members wished to grow Laurel Hill and would consider selling to AST when Laurel Hill was a much larger business, at which time they hoped to be able to command a significantly higher purchase price from AST.

174. Before rejecting AST's overture to purchase Laurel Hill, the Catacosinos Majority Members did not even inquire about the potential terms of the sale, including the amount of money that AST was willing to pay for Laurel Hill. Failing to consider AST's interest and inquire about its proposed purchase price was in direct breach of the Catacosinos Majority Members' fiduciary duties to Laurel Hill and the Minority Members. After the AST meeting, the Minority Members expressed their disappointment and concern that the Catacosinos Majority Members failed to explore the potential sale and unilaterally turned it down without consulting them. The Minority Members warned the Catacosinos Majority Members that if the AST deal was not consummated, AST would likely discontinue its business referrals to Laurel Hill, resulting in a dramatic decline in Laurel Hill revenues. The Catacosinos Majority Members disregarded this warning and shunned AST's expression of interest in buying Laurel Hill.

175. Immediately after the AST meeting, one of the Minority Members told Dr. Catacosinos that because Laurel Hill was a partnership, Dr. Catacosinos was obligated to consider and address the concerns of the Minority Members. Dr. Catacosinos replied, "this is not a partnership, it's a dictatorship." Dr. Catacosinos made his view explicit: he considered himself

a dictator and treated the Minority Members without any regard to their lawful rights, as if they were his subjects.

176. Not long after this conversation, the Catacosinos Majority Members called a meeting with the Minority Members for the purported purpose of discussing AST's interest in purchasing Laurel Hill. This meeting was a complete farce as the Catacosinos Majority Members had already clearly determined that no such sale would occur.

177. During this meeting, each of the Minority Members strongly expressed his desire to pursue the acquisition by AST. Among other things, the Minority Members indicated that Laurel Hill had a fantastic year in 2009 due to some extremely profitable one-time asset recovery jobs. The Minority Members further indicated to the Catacosinos Majority Members that the time was right to sell because the magnitude of profits associated with these one-time asset recovery jobs was unlikely to repeat itself. Moreover, the Minority Members argued to the Catacosinos Majority Members that AST's referrals, which generated the lion's share of Laurel Hill's profits, would cease if AST purchased a Laurel Hill competitor or entered the asset recovery business for itself.

178. At this meeting, the Catacosinos Majority Members expressed a complete unwillingness to explore a potential sale of Laurel Hill to AST. Poignantly, Jaime Catacosinos asked the group, if a sale to AST went through, "What about me? What will I do?" Billy Catacosinos also opposed consideration of a sale. With these words and actions, the Catacosinos boys exemplified the Catacosinos Majority Members' abject unwillingness to sell Laurel Hill. When the Catacosinos Majority Members failed to consider the arguments advanced by the Minority Members or inquire about the price AST was willing to pay for Laurel Hill, it became apparent that the Majority Member's goal was for Laurel Hill to provide the Catacosinos children

employment in the hope that it would keep them out of trouble, not to build a business which could be sold.

179. After Kies left Laurel Hill in March 2010, the Catacosinos Majority Members purported to reassign Kies's ownership interest in Laurel Hill to the Catacosinos Majority Members without any compensation to Kies. The Minority Members argued that such reassignment was improper and unfair. Rather, the Minority Members argued that if any reassignment of Kies's equity was to be made, after payment to Kies or otherwise, his equity should be reassigned to the Minority Members. Reassignment of Kies's equity to the Minority Members would be more equitable than reassignment to the Catacosinos Majority Members because, among other things, the Catacosinos Majority Members had already purported to reassign the Minority Members' equity to Kathy Marion and Doreen Hammill without their consent. The result of such action was the purported reduction of the equity allocation the Minority Members were promised and being assigned Kies's equity would make up for this reduction. The reassignment of Kies's equity to the Catacosinos Majority Members was also unfair because of the oppressive payment mechanics the Catacosinos Majority Members had instituted whereby the only profits attributed to the Minority Members' aggregate ownership interests could be used to pay the preferred equity return and to repay the cash equity investment made by the Catacosinos Majority Members. Absent Kies's equity, the Minority Members' aggregate ownership interests were purportedly reduced by the Catacosinos Majority Members, which would have further delayed the ability to repay the Catacosinos Majority Members under their improper and unilaterally imposed conditions. Further, the Minority Members argued that if they were reassigned Kies's equity, they could make further equity grants to Laurel Hill

employees who were not Minority Members, thereby rewarding such individuals for their past hard work and providing an incentive for future performance.

180. The Catacosinos Majority Members rejected the Minority Members' arguments and purported to take Kies's interest for themselves. In any event, because there was no agreement with respect to forfeiture and redistribution of equity interest ownership in Laurel Hill under the Oral LLC Agreement, the LLC Act governs and each Minority Member, including Kies, continues to retain his equity interest in Laurel Hill. Likewise, if the Undisclosed Written LLC Agreement governs, Kies also retained his interest as there is no provision to the contrary and, under Section 3.4 of the Undisclosed Written LLC Agreement, he was not permitted to, and indeed could not, withdraw as a member of Laurel Hill. Thus, after Kies resigned from Laurel Hill, he informed the Catacosinos Majority Members that he continued to own his Laurel Hill interest and he would consider selling his ownership interest in Laurel Hill. The Catacosinos Majority Members failed to make any offer to purchase Kies's equity.

181. Neither Siemann nor any of the other Minority Members has received any profit distributions from Laurel Hill based on the membership interests each still maintains. Indeed, since resigning from employment with Laurel Hill, none of the Minority Members has received any financial reports, tax statements or other correspondence from Laurel Hill relating to his membership interest in Laurel Hill.

182. In light of the Catacosinos Majority Members' conduct and their web of lies and betrayals, Sharpe and Weeks as well as Siemann and each of the other Minority Members were forced to leave Laurel Hill.

183. After waiting more than a year after Sharpe, Siemann and Weeks left Laurel Hill, it instituted the present action against them and the other defendants.

184. On February 27, 2012, pursuant to the Defendants' Joint Motion To Dismiss Plaintiff's First, Second, Third, Fourth, Sixth, Seventh, Eighth, Ninth, Tenth And Eleventh Causes Of Action, the Court dismissed Plaintiff's first, fourth, sixth, eighth, ninth, and tenth causes of action in their entirety, Plaintiff's second cause of action against AST and Phoenix and Plaintiff's seventh cause of action against Siemann and Phoenix. On March 21, 2012, Plaintiff filed its Amended Complaint.

Count I

DECLARATORY JUDGMENT CONFIRMING SIEMANN OWNS 10% OF LAUREL HILL AND THE ORAL LLC AGREEMENT IS APPLICABLE

(By Siemann Against Laurel Hill And The Catacosinos Majority Members)

185. The allegations of Paragraphs 1 - 184 of this pleading are incorporated by reference as if fully set forth herein.

186. The totality of conduct and actions alleged and ascribed to Laurel Hill and the Catacosinos Majority Members indicates that an actual controversy has arisen and now exists between such parties and Siemann concerning their respective rights and obligations relating to the Oral LLC Agreement. Among other things, a judicial declaration is necessary and appropriate at this time under the circumstances in order that Siemann, Laurel Hill and the Catacosinos Majority Members may ascertain their respective rights and obligations in relation to the Oral LLC Agreement and Laurel Hill, including with respect to the following:

- a) pursuant to the Oral LLC Agreement, Siemann owns 10% of Laurel Hill;
- b) Siemann holds all rights and benefits in relation to his 10% allocation of membership interest ownership in Laurel Hill under the Oral LLC Agreement;
- c) Siemann is entitled to an accounting of Laurel Hill's finances and expenditures, including any and all equity investment repayment amounts paid by the Catacosinos Majority Members and any and all amounts paid to or on behalf of the Catacosinos Majority Members or any other entity or person controlled by the Catacosinos Majority Members; and

- d) Siemann is entitled to any pro rata share of any judgments which may be awarded to Laurel Hill as a result of this pending action.

187. On account of these alleged actions and conduct, Siemann is entitled to a declaratory judgment.

Count II

(In the alternative to Count I)

DECLARATORY JUDGMENT THAT SIEMANN OWNS 10% OF LAUREL HILL AND THE UNDISCLOSED WRITTEN LLC AGREEMENT IS APPLICABLE

(By Siemann Against Laurel Hill And The Catacosinos Majority Members)

188. The allegations of Paragraphs 1 - 184 of this pleading are incorporated by reference as if fully set forth herein.

189. The totality of conduct and actions alleged and ascribed to Laurel Hill and the Catacosinos Majority Members indicates that an actual controversy has arisen and now exists between such parties and Siemann concerning their respective rights and obligations relating to the Undisclosed Written Agreement. Among other things, a judicial declaration is necessary and appropriate at this time under the circumstances in order that Siemann, Laurel Hill and the Catacosinos Majority Members may ascertain their respective rights and obligations in relation to the Undisclosed Written Agreement and Laurel Hill, including with respect to the following:

- a) Siemann holds all rights and benefits in relation to his 10% allocation of membership interest ownership in Laurel Hill;
- b) Siemann is entitled to an accounting of Laurel Hill's finances and expenditures, including any and all equity investment repayment amounts paid by the Catacosinos Majority Members and any and all amounts paid to or on behalf of the Catacosinos Majority Members or any other entity or person controlled by the Catacosinos Majority Members; and
- c) Siemann is entitled to any pro rata share of any judgments which may be awarded to Laurel Hill as a result of this pending action.

On account of these alleged actions and conduct, Siemann is entitled to a declaratory judgment.

Count III

BREACH OF ORAL LLC AGREEMENT

(By Siemann Against The Catacosinos Majority Members)

190. The allegations of Paragraphs 1-184 of this pleading are incorporated by reference as if fully set forth herein.

191. The totality of conduct and actions alleged and ascribed to the Catacosinos Majority Members indicates that the Catacosinos Majority Members have breached and are breaching their obligations, covenants and commitments under the Oral LLC Agreement, including the express terms of the Oral LLC Agreement and its implied covenant of good faith and fair dealing. Among other things, such breaches include:

- a) purporting to assign portions of Siemann's ownership interests in Laurel Hill to other individuals, including Kathy Marion and Doreen Hammill;
- b) purporting to reassign Kies's and other Minority Members' ownership interests in Laurel Hill to the Catacosinos Majority Members;
- c) failing to provide administrative and logistic support for Laurel Hill through LHCP according to the Oral LLC Agreement;
- d) failing to allow the Minority Members to manage Laurel Hill's day-to-day operations according to the Oral LLC Agreement;
- e) failing to provide Siemann with his right to a distribution of Laurel Hill's profits according to the Oral LLC Agreement;
- f) failing to cause Laurel Hill to repay their equity investment according to the Oral LLC Agreement; and
- g) failing to honor the Oral LLC Agreement by charging the Minority Members a preferred equity return.

192. On account of these alleged actions and conduct, Siemann has been and will continue to be damaged in the manners alleged and described herein and by reason of the foregoing is entitled to an award of damages in an amount that will be proved at trial that is far in excess of the jurisdictional minimum of this Court.

Count IV

(In the alternative to Count III)

BREACH OF THE UNDISCLOSED WRITTEN LLC AGREEMENT

(By Siemann Against The Catacosinos Majority Members)

193. The allegations of Paragraphs 1-184 of this pleading are incorporated by reference as if fully set forth herein.

194. The totality of conduct and actions alleged and ascribed to the Catacosinos Majority Members indicates that the Catacosinos Majority Members have breached and are breaching their obligations, covenants and commitments under the Undisclosed Written LLC Agreement, including the express terms of the Undisclosed Written LLC Agreement. Among other things, such breaches include:

- a) purporting to assign portions of Siemann's ownership interests in Laurel Hill to other individuals, including Kathy Marion and Doreen Hammill;
- b) purporting to reassign Kies's and other Minority Members' ownership interests in Laurel Hill to the Catacosinos Majority Members;
- c) failing to provide Siemann with his right to a distribution of Laurel Hill's profits;
- d) failing to honor the Undisclosed Written LLC Agreement by charging the Minority Members a preferred equity return; and
- e) by failing to make distributions of available cash no less frequently than once a year

195. On account of these alleged actions and conduct, Siemann has been and will continue to be damaged in the manners alleged and described herein and by reason of the foregoing is entitled to an award of damages in an amount that will be proved at trial that is far in excess of the jurisdictional minimum of this Court.

Count V

(In the alternative to Counts III and IV)

PARTNERSHIP BY ESTOPPEL

(By Siemann Against The Catacosinos Majority Members)

196. The allegations of Paragraphs 1-184 of this pleading are incorporated by reference as if fully set forth herein.

197. In the event that the LLC agreements, whether oral or written, are not applicable to Siemann, Plaintiff is estopped from denying that Siemann was and remains a member of Laurel Hill.

198. The totality of conduct and actions alleged and ascribed to the Catacosinos Majority Members indicates that the Catacosinos Majority Members intentionally misrepresented to Siemann that he would be given 10% equity in Laurel Hill and made a partner in the reasonable expectation that Siemann would leave his prior employer and establish Laurel Hill.

199. Siemann reasonably relied on the representations of the Catacosinos Majority Members and left his prior employer because he believed that he would in fact get a stake in Laurel Hill and help grow the business.

200. On account of these alleged actions and conduct, Siemann has been and will continue to be damaged in the manners alleged and described herein and by reason of the foregoing is entitled to an award of damages in an amount that will be proved at trial that is far in excess of the jurisdictional minimum of this Court.

Count VI

FRAUD

(By Siemann Against The Catacosinos Majority Members)

201. The allegations of Paragraphs 1-184 of this pleading are incorporated by reference as if fully set forth herein.

202. The Majority Members knowingly misrepresented the existence of the Undisclosed Written LLC Agreement, fraudulently denied the creation of the Oral LLC Agreement, and misrepresented Siemann's status as a member in Laurel Hill. The Majority Members were aware that Siemann considered himself to be a partner, and held himself out to be a partner to third parties.

203. The Catacosinos Majority Members hoped that Siemann would rely on their misrepresentation, leave his prior employer and use his industry knowledge and experience to establish Laurel Hill.

204. Siemann understandably relied on the fact that the Majority Members told him he would be a partner and would receive 10% equity in Laurel Hill.

205. On account of these alleged actions and conduct, Siemann has been and will continue to be damaged in the manners alleged and described herein and by reason of the foregoing is entitled to an award of damages in an amount that will be proved at trial that is far in excess of the jurisdictional minimum of this Court.

Count VII

BREACH OF FIDUCIARY DUTY

(By Siemann Against The Catacosinos Majority Members)

206. The allegations of Paragraphs 1-184 of this pleading are incorporated by reference as if fully set forth herein.

207. By reason of the Catacosinos Majority Members' position as controlling members of Laurel Hill, by reason of Dr. Catacosinos's position as Chief Executive Officer of Laurel Hill, and by reason of Billy and Jamie Catacosinos's position as employees of Laurel Hill, the Catacosinos Majority Members, Siemann and Laurel Hill shared a relationship whereby Laurel Hill and Siemann reposed trust and confidence in the Catacosinos Majority Members and the Catacosinos Majority Members accepted that repose of trust and confidence.

208. By reason of the Catacosinos Majority Members' position as controlling members of Laurel Hill, by reason of Dr. Catacosinos's position as Chief Executive Officer of Laurel Hill, and by reason of Billy and Jamie Catacosinos's position as employees of Laurel Hill, the Catacosinos Majority Members owed Laurel Hill and Siemann undivided fiduciary duties of care, loyalty, good faith, independence, candor, disclosure and oversight and were required to act in good faith and exercise ordinary care and diligence in the exercise of their fiduciary obligations toward Laurel Hill and the Minority Members.

209. The Catacosinos Majority Members' conduct as set forth above breached the fiduciary obligations that they owed to Laurel Hill and Siemann by, among other things:

- a) failing to act in the best interests of Laurel Hill, its Minority Members and employees;
- b) failing to act in good faith and with the candor required of controlling members, required of a corporate officer with respect to Dr. Catacosinos, and required of employees with respect to Billy and Jamie Catacosinos;

- c) failing to act with ordinary care, prudence and oversight in the conduct of Laurel Hill's business;
- d) taking actions, omitting to take actions and encouraging or permitting others to engage in actions and omissions that benefited themselves at the expense of the interests of Laurel Hill's Minority Members and employees;
- e) misappropriating and diverting Laurel Hill's resources for the personal benefit of the Catacosinos Majority Members;
- f) charging Laurel Hill for personal costs and expenses of the Catacosinos Majority Members;
- g) wasting Laurel Hill's assets;
- h) withholding and failing to disclose material information from Laurel Hill's Minority Members, including with respect to personnel, finances, expenses, and charges;
- i) causing or permitting Laurel Hill to operate without adequate financial controls and in the midst of a web of interrelationships that created conflicts of interest;
- j) causing or permitting violations or evasions of appropriate financial controls at Laurel Hill and submitting false and/or misleading reports to the Minority Members;
- k) conferring benefits upon themselves for transactions in which Laurel Hill received little or no consideration or that were so one-sided that no business person of ordinary, sound judgment could conclude that Laurel Hill had received adequate consideration;
- l) creating false or misleading impressions of matters regarding the business of Laurel Hill;
- m) failing to impose basic financial controls to track and control expenses incurred by Billy and Jamie Catacosinos and charged to Laurel Hill;
- n) causing or permitting actions to be taken that harmed important business relationships of Laurel Hill, including those with its members, employees, clients and vendors;
- o) failing to consider the sale of Laurel Hill to AST, including failing to inquire about the price AST would pay to purchase Laurel Hill and the consequences if such purchase was not consummated;
- p) running the partnership as a dictatorship and disregarding the lawful rights and legitimate concerns of the Minority Members;
- q) with respect to Dr. Catacosinos, aiding and abetting Billy and Jamie Catacosinos in breaching their fiduciary duties;
- r) with respect to Jamie Catacosinos, aiding and abetting Dr. Catacosinos and Billy Catacosinos in breaching their fiduciary duties; and
- s) with respect to Billy Catacosinos, aiding and abetting Dr. Catacosinos and Jaime Catacosinos in breaching their fiduciary duties.

210. The conduct of the Catacosinos Majority Members as set forth above was intentional, willful, knowing, wanton, reckless, malicious, deceptive, fraudulent, in bad faith and grossly negligent and in total disregard of the fiduciary duties which they owed to Laurel Hill and Siemann.

211. As a direct and proximate result of the Catacosinos Majority Members' breaches of fiduciary duty, Siemann has been damaged in an amount that will be proved at trial that is far in excess of the jurisdictional minimum of this Court.

WHEREFORE, Defendant Siemann prays for judgment in his favor and against Laurel Hill and the Catacosinos Majority Members granting him the following relief:

- (A) Dismissal of Plaintiff's Amended Complaint with prejudice;
- (B) Awarding him a declaratory judgment, an accounting, and a constructive trust against Laurel Hill and the Catacosinos Majority Members on Count I (Declaratory Judgment) or Count II (Declaratory Judgment);
- (C) Awarding him compensatory damages, an accounting, a constructive trust, and lost profits against the Catacosinos Majority Members on Count III (Breach Of Oral LLC Agreement), Count IV (Breach of the Undisclosed Written LLC Agreement) or Count V (Partnership by Estoppel);
- (D) Awarding him compensatory damages, lost profits, punitive damages, an accounting, and a constructive trust against the Catacosinos Majority Members, and causing the Catacosinos Majority Members to forfeit any and all salary, perks and other compensation paid to them for the period they breached their fiduciary duties, on Count VI (Fraud);
- (E) Awarding him compensatory damages, lost profits, punitive damages, an accounting, and a constructive trust against the Catacosinos Majority Members, and causing the Catacosinos Majority Members to forfeit any and all salary, perks and other compensation paid to them for the period they breached their fiduciary duties, on Count VII (Breach Of Fiduciary Duty);

(F) Awarding him costs of this litigation, including attorneys' fees, and interest at the legal rate; and

(G) Awarding him such other, further and different relief as this court deems just and equitable.

DATED: New York, New York
May 21, 2012

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