

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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LORIANN MARGIOTTA, individually, as personal representative of the ESTATE OF ANTHONY A. TANTILLO, and as a shareholder or member of, and derivatively on behalf of and for the benefit of, TOJO REALTY, INC., NISSAN 112 SALES CORP., T TANTILLO REALTY, LLC, CARS UNLIMITED OF SUFFOLK, LLC, TRW PROPERTIES, LLC, RIVERHEAD AUTO MALL, LTD., 920 REALTY, LLC, and NORTH SHORE CHEVROLET, LLC and THOMAS TANTILLO, individually, as a shareholder or member of, and derivatively on behalf of and for the benefit of, TOJO REALTY, INC., NISSAN 112 SALES CORP., T TANTILLO REALTY, LLC, CARS UNLIMITED OF SUFFOLK, LLC, TRW PROPERTIES, LLC, RIVERHEAD AUTO MALL, LTD., 920 REALTY, LLC and NORTH SHORE CHEVROLET, LLC,

SUMMONS

Index No.:

Plaintiff(s),

- against -

RAYMOND TANTILLO, TOJO REALTY, INC., NISSAN 112 SALES CORP., T TANTILLO REALTY, LLC, CARS UNLIMITED OF SUFFOLK, LLC, TRW PROPERTIES, LLC, RIVERHEAD AUTO MALL, LTD., 920 REALTY, LLC and NORTH SHORE CHEVROLET, LLC,

Defendant(s).

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To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Melville, New York
September 11, 2013

LAZER, APTHEKER, ROSELLA
& YEDID, P.C.

By: *Russell L. Penzer*
RUSSELL L. PENZER

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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LORI ANN MARGIOTTA, individually, as personal representative of THE ESTATE OF ANTHONY A. TANTILLO, and as a shareholder or member of, and derivatively on behalf of and for the benefit of, TOJO REALTY, INC., NISSAN 112 SALES CORP., T TANTILLO REALTY, LLC, CARS UNLIMITED OF SUFFOLK, LLC, TRW PROPERTIES, LLC, RIVERHEAD AUTO MALL, LTD., 920 REALTY, LLC, and NORTH SHORE CHEVROLET, LLC and THOMAS TANTILLO, individually, as a shareholder or member of, and derivatively on behalf of and for the benefit of, TOJO REALTY, INC., NISSAN 112 SALES CORP., T TANTILLO REALTY, LLC, CARS UNLIMITED OF SUFFOLK, LLC, TRW PROPERTIES, LLC, RIVERHEAD AUTO MALL, LTD., 920 REALTY, LLC, and NORTH SHORE CHEVROLET, LLC,

Plaintiffs,

- against -

RAYMOND TANTILLO, TOJO REALTY, INC., NISSAN 112 SALES CORP., T TANTILLO REALTY, LLC, CARS UNLIMITED OF SUFFOLK, LLC, TRW PROPERTIES, LLC, RIVERHEAD AUTO MALL, LTD., 920 REALTY, LLC, and NORTH SHORE CHEVROLET, LLC,

Defendants.
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COMPLAINT

Index No.

Plaintiffs Lori Ann Margiotta, individually, as personal representative of The Estate of Anthony A. Tantillo (“The Estate”), and as a shareholder or member of, and derivatively on behalf or and for the benefit of, Tojo Realty, Inc., Nissan 112 Sales Corp., T Tantillo Realty, LLC, Cars Unlimited of Suffolk, LLC, TRW Properties, LLC, Riverhead Auto Mall, Ltd., 920 Realty, LLC, and North Shore Chevrolet, LLC (together the “Entity Defendants”) and Thomas Tantillo (Lori Ann Margiotta and Thomas Tantillo are hereinafter together referred to as

“Plaintiffs”), individually and as a shareholder or member of , and derivatively on behalf of and for the benefit of, the Entity Defendants, by their attorneys Lazer, Aptheker, Rosella & Yedid, P.C., complaining of the defendants, respectfully alleges as follows:

The Parties

1. Plaintiff Lori Ann Margiotta, an individual residing in Suffolk County, New York, is a shareholder, member, or otherwise has a legal or equitable interest in each of the Entity Defendants. On July 2, 2013, Lori Ann Margiotta was duly appointed as personal representative of The Estate of Anthony A. Tantillo by the Circuit Court for Palm Beach County, Florida, Probate Division, in an action currently pending under file number 502013CP002715XXXXSB. Additionally, Lori Ann Margiotta, as an heir to Anthony A. Tantillo and pursuant to Anthony A. Tantillo’s last will and testament, is a beneficiary of The Estate.

2. Plaintiff Thomas Tantillo, an individual residing in Palm Beach Gardens, Florida, is a shareholder, member, or otherwise has a legal or equitable interest in each of the Entity Defendants. Thomas Tantillo, as an heir to Anthony A. Tantillo and pursuant to Anthony A. Tantillo’s last will and testament, is a beneficiary of the Estate.

3. Defendant Raymond Tantillo is an individual residing in Setauket, New York. Upon information and belief, Raymond Tantillo is the son of Anthony A. Tantillo’s third wife and is a purported shareholder or member in some, or all, of the Entity Defendants. By virtue of this relationship, Raymond Tantillo forced his way into employment with the Entity Defendants.

4. Defendant Tojo Realty, Inc. (“Tojo”) is a corporation with its principal place of business in Suffolk County, New York. Tojo’s principal purpose and business is to own and hold commercial real property that serves as the location of a Nissan car dealership.

5. Defendant Nissan 112 Sales Corp. (“Nissan 112”) is a corporation with its principal place of business in Suffolk County, New York. Nissan 112’s principal purpose and business is to own and operate a Nissan car dealership franchise out of the commercial property owned and held by Tojo.

6. Defendant T Tantillo Realty, LLC (“T Tantillo Realty”) is a New York limited liability company with its principal place of business in Suffolk County, New York. T Tantillo Realty’s principal purpose and business is to own and hold commercial real property that serves as the location of Chevrolet, Mazda and Hyundai car dealerships.

7. Defendant Cars Unlimited of Suffolk, LLC (“Cars Unlimited”) is a New York limited liability company with its principal place of business in Suffolk County, New York. Cars Unlimited’s principal purpose and business is to own and operate Chevrolet, Mazda and Hyundai car dealership franchises out of the commercial property owned and held by T Tantillo Realty.

8. Defendant TRW Properties, LLC (“TRW”) is a New York limited liability company with its principal place of business in Suffolk County, New York. TRW’s principal purpose and business is to own and hold commercial real property that serves as the location of Nissan and Hyundai car dealerships.

9. Defendant Riverhead Auto Mall, Ltd. (“Riverhead Auto Mall”) is a corporation with its principal place of business in Suffolk County, New York. Riverhead Auto Mall’s

principal purpose and business is to own and operate Nissan and Hyundai car dealership franchises out of the commercial property owned and held by TRW.

10. Defendant 920 Realty, LLC (“920 Realty”) is a New York limited liability company with its principal place of business in Suffolk County, New York. 920 Realty’s principal purpose and business is to own and hold commercial real property that serves as the location of a Chevrolet car dealership.

11. Defendant North Shore Chevrolet, LLC (“North Shore Chevrolet”) is a limited liability company with its principal place of business in Suffolk County, New York. North Shore Chevrolet’s principal purpose and business is to own and operate Nissan and Hyundai car dealership franchises out of the commercial property owned and held by 920 Realty.

Background

12. Decedent, Anthony A. Tantillo, spent his life developing and managing several car dealerships on Long Island. These dealerships include Nissan 112, Cars Unlimited, Riverhead Auto Mall and North Shore Chevrolet.

13. For many years, Anthony A. Tantillo employed his natural children, Lori Ann Margiotta and Thomas Tantillo, through the Entity Defendants, and this employment represented Plaintiffs’ primary source of income.

14. Upon information and belief, for several years, Defendant Raymond Tantillo, has also been employed by some or all of the Entity Defendants. Raymond Tantillo occupied a position of trust and confidence with Anthony A. Tantillo by virtue of being Anthony A. Tantillo’s stepson, business associate and purported confidant.

15. On May 16, 2013, Anthony A. Tantillo passed away.

16. On June 5, 2013, Lori Ann Margiotta and Thomas Tantillo filed a petition for administration of The Estate in the Circuit Court for Palm Beach County, Florida. On July 2, 2013, that court issued both Letters of Administration and an order admitting Anthony A. Tantillo's last will and testament ("The Will") to probate and appointing Lori Ann Margiotta as personal representative of The Estate.

17. Upon information and belief, at the time of his death, Anthony A. Tantillo was the majority/controlling shareholder or member of each of the Entity Defendants.

18. Since Anthony A. Tantillo's passing, Raymond Tantillo has seized *de facto* control of the Entity Defendants and has taken such action as to deplete the assets of the Entity Defendants for his own gain, unlawfully terminate Lori Ann Margiotta and Thomas Tantillo, and improperly seek to gain legal ownership of the Entity Defendants so as to cheat The Estate beneficiaries out of their interests in the Entity Defendants under The Will.

Raymond Tantillo's Actions With Respect to Nissan 112

19. The Will provides for, *inter alia*, the disposition of Anthony A. Tantillo's ownership interest in the Entity Defendants, including Nissan 112.

20. During the course of 2012, Anthony A. Tantillo's health deteriorated. An existing heart conditioned worsened, and the strain of maintaining the businesses compounded his physical ailments.

21. Anthony A. Tantillo's precarious health forced him to relocate to Florida, leaving him unable to attend to the day-to-day operations of his dealerships.

22. His declining health was only compounded by a tumultuous marriage to Roseanne Tantillo, the mother of Raymond Tantillo. By 2012, Anthony A. Tantillo and Roseanne Tantillo's marriage was irrevocably broken.

23. The language in the Will is clear that Roseanne Tantillo would get the smallest amount allowable by law of the Estate. Knowing this, Roseanne repeatedly pressured Anthony A. Tantillo for a divorce, hoping to wrest away much of Anthony A. Tantillo's wealth.

24. Upon information and belief, in December 2012, Raymond Tantillo, seeking to capitalize on Anthony A. Tantillo's declining health, imposed himself upon the dealerships, including Nissan 112.

25. In Anthony A. Tantillo's absence, Raymond Tantillo hired employees of ill repute and began implementing unethical policies relating to warranties and other vehicle fees

26. Furthermore, Raymond Tantillo abused his confidential relationship with Anthony A. Tantillo to unduly influence the latter to execute "Stock Gifting Agreements" with respect to Nissan 112 and Tojo.

27. The Stock Gifting Agreements purport to give Raymond Tantillo a 49% ownership share in each of Nissan 112 and Tojo. The Stock Gifting Agreements further contemplate a transfer to Raymond Tantillo of an additional 2% ownership in each of Nissan 112 and Tojo upon the death of Anthony A. Tantillo.

28. These Stock Gifting Agreements, made only seven (7) months after the execution of the Will, were not witnessed or notarized. Furthermore, they were made at the express request of Raymond Tantillo.

29. Anthony A. Tantillo did not file a gift tax return for the tax year 2012.

30. Notwithstanding the purported Stock Gifting Agreements, the 2012 tax returns for Nissan 112 and Tojo reflect Anthony A. Tantillo as the 99.33% and 98.63% shareholder, respectively.

31. After Anthony A. Tantillo's passing, Raymond Tantillo improperly seized control of Nissan 112 and Tojo, and he has taken action to effect a transfer of ownership of Nissan 112, despite having no authority to do so.

32. On July 9, 2013, Raymond Tantillo's counsel, Bellavia Blatt Andron & Crossett, P.C., sent Margiotta and T. Tantillo notices of a "transfer of ownership and management of Nissan 112 Sales Corp." and advised that Lori Ann Margiotta and Thomas Tantillo would be removed from the company's payroll.

33. As personal representative of The Estate, only Lori Ann Margiotta has the legal authority to transfer the late Anthony A. Tantillo's ownership interests in Nissan 112 and Tojo. Transfer or distribution of such business interests by Lori Ann Margiotta to the Estate beneficiaries is not appropriate until all creditors' claims have been addressed and until The Estate's tax liability has been ascertained and satisfied.

34. As, upon information and belief, 100% of the ownership interest in Nissan 112 and Tojo are property of The Estate, any purported "transfer of ownership and management" and any effort by Raymond Tantillo to remove key employees from the payroll is unauthorized and unlawful in addition to being completely premature. The precatory language in The Will regarding management of these entities may not be binding upon Lori Ann Margiotta, as personal representative, and should not be effective in any event during the period of the estate administration.

35. During Raymond Tantillo's tenure at Nissan 112, he has severely impaired the reputation of the dealership. Nissan 112 has an "F" rating from the Better Business Bureau. On a popular consumer affairs website, Nissan 112 has one (1) star out of a possible five (5), with a

bevy of customer complaints citing the unethical conduct of Raymond Tantillo and employees he has hired.

36. Most shockingly, Raymond Tantillo's conduct at Nissan 112 has resulted in a sexual harassment action pending in the United States District Court for the Eastern District of New York, which action was filed in August 2013. The complaint, from a former employee of Nissan 112, alleges multiple instances of lewd and deplorable conduct against Raymond Tantillo. Moreover, the complaint indicates that Raymond Tantillo has been harassing *many* of Nissan 112's female employees, resulting in the loss of at least one valued employee.

37. The conduct of Raymond Tantillo with respect to Nissan 112 constitutes ultra vires and otherwise unauthorized activity, self-dealing, mismanagement, waste and diversion of assets. As evidenced by the sexual harassment claim against Raymond Tantillo, every day that he remains involved with any of the Entity Defendants, including Nissan 112, only further exposes the Entity Defendants and, by proxy, the Estate, to liability.

Raymond Tantillo's Actions With Respect to North Shore Chevrolet

38. In 2010, Anthony A. Tantillo formed North Shore Chevrolet.

39. In forming this dealership, Anthony A. Tantillo provided not only his lifetime of experience in the auto dealership business, but also at least \$1.3 million in working capital. Upon information and belief, Anthony A. Tantillo was the sole source of capital contributions, whether monetary or otherwise, for North Shore Chevrolet.

40. Upon information and belief, the corporate documents for North Shore Chevrolet and 920 Realty, however, do not properly reflect the ownership of those entities.

41. Although these entities were certainly Anthony A. Tantillo's companies, whether determined by capital contribution or intended/*de facto* control, Raymond Tantillo and

Howard Greenberg, Esq. (the corporate attorney for these entities and Raymond Tantillo's longtime friend), deceived Anthony A. Tantillo into structuring the corporation such that Raymond Tantillo appeared to hold a majority interest in the companies. As part of this deception, Howard Greenberg drafted several "side agreements" providing that the ownership interest in North Shore Chevrolet and 920 Realty were to be held in trust by Raymond Tantillo for the benefit of Anthony A. Tantillo.

42. Upon information and belief, pursuant to these "side agreements," Anthony A. Tantillo was at all times the equitable owner of North Shore Chevrolet and 920 Realty.

Misconduct in Raymond Tantillo's Management of the Dealerships

43. Upon information and belief, both prior to and since the death of Anthony A. Tantillo, Raymond Tantillo has misappropriated and converted funds from the Entity Defendants.

44. Upon information and belief, since Anthony A. Tantillo's death, Raymond Tantillo has elevated his unlawful conduct, fleecing assets of the Estate, both related and unrelated to the Entity Defendants, including assets located in New York.

45. Among other things, Raymond Tantillo has, upon information and belief, engaged in certain illegal acts involving the manipulation of leasing and other dealer fees and involving the overcharging of dealer extras, such as extended warranties. A review of the Better Business Bureau review of Riverhead Auto Mall reflects one such recent dispute arising from Raymond Tantillo's overcharging of an extended warranty. Upon information and belief, Raymond Tantillo has secreted the ill-gotten proceeds of these overcharges to offshore accounts. Raymond Tantillo has also used corporate funds to pay for certain personal expenses.

46. On June 12, 2013, Thomas Tantillo sent notices to each of the Entity Defendants pursuant New York Business Corporation Law § 624 demanding access to the Entity Defendants' books and records.

47. Notwithstanding that as shareholders and owners of the Entity Defendants, Plaintiffs are entitled to access to company books and records, and that in her role as personal representative, Lori Ann Margiotta is charged with marshalling and preserving the assets of the Estate, Defendant Raymond Tantillo has taken sole possession and control over the Entity Defendants and has entirely locked Plaintiffs out of the Entity Defendants and deprived them off all access to the Entity Defendants' management, books and records.

48. Raymond Tantillo has completely disregarded the notices sent by Thomas Tantillo.

49. Defendants' failure to permit inspection of the Entity Defendants' books and records violates New York Business Corporation Law § 624 and New York Limited Liability Company Law § 1102.

FIRST CAUSE OF ACTION
DERIVATIVE CLAIM FOR AN ACCOUNTING OF THE INCOME AND EXPENSES
OF THE ENTITY DEFENDANTS

50. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "49" above as though fully set forth herein.

51. The conduct of Raymond Tantillo with respect to the Entity Defendants constitutes ultra vires activity, unauthorized activity, self-dealing, mismanagement, waste and diversion of assets.

52. Raymond Tantillo's wrongdoing relates to many transactions covering a period of several years, and an accounting is appropriate to secure justice.

53. Plaintiffs have no adequate remedy at law.

54. Plaintiffs have not sent demands pursuant to New York Business Corporation Law §626(c) for the Entity Defendants to commence an action as such demands would be futile. Raymond Tantillo, who has taken sole control of the Entity Defendants, has patently breached his fiduciary duty to the Entity Defendants.

55. By reason of the foregoing, Plaintiffs are entitled to an accounting of the income and expenses of the Entity Defendants, showing the application and funds for the periods during which Plaintiffs have been a shareholder or member of the Entity Defendants.

SECOND CAUSE OF ACTION
DERIVATIVE CLAIM FOR AN INJUNCTION

56. Plaintiffs repeat and reallege each and every allegation contained in paragraphs “1” through “55” above as though fully set forth herein.

57. The conduct of Raymond Tantillo with respect to the Entity Defendants constitutes ultra vires activity, unauthorized activity, self-dealing, mismanagement, waste and diversion of assets.

58. As a result of Raymond Tantillo’s misappropriation of the assets of the Entity Defendants and termination of key staff, the Entity Defendants are suffering irreparable harm.

59. Raymond Tantillo’s wrongful seizure of control of the Entity Defendants threatens the continued viability of the Entity Defendants. During his stewardship all of the Entity Defendants, with the exception of North Shore Chevrolet (which is not managed by Raymond Tantillo), have garnered “F” ratings from the Better Business Bureau.

60. Additionally, Raymond Tantillo’s refusal to grant Plaintiffs’ access to the Entity Defendants’ books and records constitutes and ongoing violation of law.

61. Plaintiffs have no adequate remedy at law.

62. Plaintiffs have not sent demands pursuant to New York Business Corporation Law §626(c) for the Entity Defendants to commence an action as such demands would be futile. Raymond Tantillo, who has taken sole control of the Entity Defendants, has patently breached his fiduciary duty to the Entity Defendants.

63. By reason of the foregoing, Plaintiffs are entitled to an injunction, enjoining Raymond Tantillo from exercising any possession or control over any of the assets of the Entity Defendants, from dissipating, in any manner, such assets, from exercising any management control over the Entity Defendants, including without limitation removing any employees or consultants from the Entity Defendants' payroll, and directing that Defendants provide Plaintiffs with access to the Entity Defendants' corporate books and records.

THIRD CAUSE OF ACTION
CLAIM FOR AN INJUNCTION ON BEHALF OF THE ESTATE

64. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "63" above as though fully set forth herein.

65. Raymond's Tantillo's conduct in wrongfully exercising management and control over the Entity Defendants, in dissipating the assets of the Estate, including the assets of the Entity Defendants, and in denying Plaintiffs access to the Entity Defendants' books and records has impeded the efficient administration of The Estate.

66. Lori Ann Margiotta, as personal representative, has no adequate remedy at law.

67. By reason of the foregoing, The Estate is entitled to an injunction enjoining Raymond Tantillo from exercising any possession or control over any of the assets of the Estate, including the assets of the Entity Defendants, from dissipating, in any manner, such assets, from exercising any management control over the Entity Defendants, including without limitation removing any employees or consultants from the Entity Defendants' payroll, and

directing that Defendants provide Plaintiffs with access to the Entity Defendants' corporate books and records.

FOURTH CAUSE OF ACTION
CLAIM FOR A CONSTRUCTIVE TRUST

68. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "67" above as though fully set forth herein.

69. Pursuant to the "side agreements" between Raymond Tantillo and Anthony A. Tantillo, Raymond Tantillo promised to hold ownership of North Shore Chevrolet and 920 Realty in trust for Anthony A. Tantillo.

70. Upon information and belief, Anthony A. Tantillo relied on this promise and the representations of Raymond Tantillo and Howard Greenberg when forming the entities and providing the over \$1.3 million in capital contributions to the business.

71. Raymond Tantillo will be unjustly enriched if he is permitted to retain ownership of Anthony A. Tantillo's equitable interest in North Shore Chevrolet and 920 Realty.

72. Lori Ann Margiotta, as personal representative, has no adequate remedy at law.

73. By reason of the foregoing, the Estate is entitled to a constructive trust over Raymond Tantillo's interest in North Shore Chevrolet and 920 Realty.

FIFTH CAUSE OF ACTION
DERIVATIVE CLAIM FOR BREACH OF FIDUCIARY DUTY

74. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "73" above as though fully set forth herein.

75. Following Anthony A. Tantillo's passing, Raymond Tantillo seized *de facto* control of the Entity Defendants.

76. In seizing control of the Entity Defendants, Raymond Tantillo began, albeit improperly, to act as an officer of the Entity Defendants.

77. As a purported officer, Raymond Tantillo owed the Entity Defendants certain fiduciary duties, including a duty of care and a duty of loyalty.

78. In using his position in the Entity Defendants to conduct improper and illegal activities with respect to the sale and lease of vehicles to consumers and in using corporate funds to pay for his personal expenses, Raymond Tantillo has breached his fiduciary duties.

79. Plaintiffs have not sent demands pursuant to New York Business Corporation Law §626(c) for the Entity Defendants to commence an action as such demands would be futile. Raymond Tantillo, who has taken sole control of the Entity Defendants, has patently breached his fiduciary duty to the Entity Defendants.

80. By reason of the foregoing, the Defendant Entities have been harmed by Raymond Tantillo's improper conduct in an amount to be determined at trial, but believed to be in excess of \$1,000,000.00.

SIXTH CAUSE OF ACTION
DERIVATIVE CLAIM FOR CONVERSION

81. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "80" above as though fully set forth herein.

82. Following Anthony A. Tantillo's passing, Raymond Tantillo seized *de facto* control of the Entity Defendants.

83. In seizing control of the Entity Defendants, Raymond Tantillo began, albeit improperly, to act as an officer of the Entity Defendants.

84. Acting a purported officer, Raymond Tantillo converted assets of the Entity Defendants for his own personal use.

85. Plaintiffs have not sent demands pursuant to New York Business Corporation Law §626(c) for the Entity Defendants to commence an action as such demands would be futile. Raymond Tantillo, who has taken sole control of the Entity Defendants, has patently breached his fiduciary duty to the Entity Defendants.

86. By reason of the foregoing, the Defendant Entities have been harmed by Raymond Tantillo's conversion of corporate assets in an amount to be determined at trial, but believed to be in excess of \$1,000,000.00.

SEVENTH CAUSE OF ACTION
FRAUD AND UNDUE INFLUENCE

87. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "86" above as though fully set forth herein.

88. Upon information and belief, in or around early 2010, when forming North Shore Chevrolet, Raymond Tantillo and Howard Greenberg misrepresented to Anthony A. Tantillo that, because of Anthony A. Tantillo's advanced age, only Raymond Tantillo could maintain the dealer relationship with General Motors, which owns Chevrolet.

89. Upon information and belief, Raymond Tantillo and Howard Greenberg further represented to Anthony A. Tantillo that the member of the LLC tasked with maintaining the dealer relationship with General Motors must own at least a 51% interest in the LLC.

90. These purported restrictions to Anthony A. Tantillo maintaining a dealer relationship were false. He could have maintained the dealer relationship, as he always had.

91. Upon information and belief, Anthony A. Tantillo reasonably relied on Raymond Tantillo and Howard Greenberg's representations as to the alleged necessity for Raymond Tantillo to appear to hold a 51% ownership interest in North Shore Chevrolet.

92. Upon information and belief, Anthony A. Tantillo reasonably relied on the representations of Raymond Tantillo, his family member, and Harry Greenberg, an attorney.

93. By virtue of Raymond Tantillo's fraud, he purports to have acquired a majority ownership interest in North Shore Chevrolet.

94. As a result of Raymond Tantillo's fraud, the Estate and, concomitantly, Plaintiffs, have been deprived of the benefit of the majority ownership interest in North Shore Chevrolet.

95. By reason of the foregoing, the Defendant Entities have been harmed by Raymond Tantillo's fraud in an amount to be determined at trial, but believed to be in excess of \$1,000,000.00.

EIGHTH CAUSE OF ACTION
DECLARATORY JUDGMENT

96. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "95" above as though fully set forth herein.

97. The purported Stock Gifting Agreements transferring 49% ownership shares of Tojo and Nissan 112 to Raymond Tantillo were executed by Anthony A. Tantillo at the sole behest and undue influence of Raymond Tantillo.

98. Upon information and belief, Raymond Tantillo unilaterally authorized an attorney to prepare the Stock Gifting Agreements.

99. As the son of Anthony A. Tantillo's third wife, Raymond Tantillo abused his confidential relationship with Anthony A. Tantillo by convincing him that it was necessary to execute the Stock Gifting Agreements.

100. Furthermore, the purported execution of the Stock Gifting Agreements was not witnessed or notarized.

101. At the time of the execution of the purported Stock Gifting Agreements, Anthony A. Tantillo was in a weakened state of health and was unable to resist Raymond Tantillo's insistence that Anthony A. Tantillo execute the agreements.

102. As a result of Defendants' foregoing conduct, Plaintiff respectfully requests a declaration from the Court that the Stock Gifting Agreements are void.

103. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs demand judgment:

- (a) On the First Cause of Action, that Defendants be required to account to Plaintiffs and the Entity Defendants' shareholders and members for all damages sustained by them, and for all profits, gains and benefits derived by Raymond Tantillo as a result of the acts and transactions complained of herein, and that a judgment be entered in favor of Plaintiffs and against Raymond Tantillo in a sum to be determined at trial, plus interest and costs disbursements and counsel fees;
- (b) On the Second Cause of Action, for an injunction, enjoining Raymond Tantillo from exercising any possession or control over any of the assets of the Entity Defendants, from dissipating, in any manner, such assets, from exercising any management control over the Entity Defendants, including without limitation removing any employees or consultants from the Entity Defendants' payroll, and directing that Defendants provide Plaintiffs with access to the Entity Defendants' corporate books and records;

- (c) On the Third Cause of Action, for an injunction, enjoining Raymond Tantillo from exercising any possession or control over any of the assets of the Estate, including the assets of the Entity Defendants, from dissipating, in any manner, such assets, from exercising any management control over the Entity Defendants, including without limitation removing any employees or consultants from the Entity Defendants' payroll, and directing that Defendants provide Plaintiffs with access to the Entity Defendants' corporate books and records;
- (d) On the Fourth Cause of Action, for a constructive trust over Raymond Tantillo's interests in North Shore Chevrolet, LLC and 920 Realty, LLC and in favor of The Estate of Anthony A. Tantillo;
- (e) On the Fifth Cause of Action in favor of Plaintiffs and against Raymond Tantillo in a sum to be determined at trial, plus interest and costs disbursements and counsel fees;
- (f) On the Sixth Cause of Action in favor of Plaintiffs and against Raymond Tantillo in a sum to be determined at trial, plus interest and costs disbursements and counsel fees;
- (g) On the Seventh Cause of Action, in favor of Plaintiffs and against Raymond Tantillo in a sum to be determined at trial, plus interest and costs disbursements and counsel fees;
- (h) On the Eighth Cause of Action, in favor of Plaintiffs and against Raymond Tantillo for a declaration that the Stock Gifting Agreements are void; and

- (i) Granting Plaintiffs such other and further relief as may be just and proper, including costs, disbursements and reasonable attorneys' fees.

Dated: Melville, New York
September 11, 2013

LAZER, APTHEKER, ROSELLA
& YEDID, P.C.

By: 
RUSSELL L. PENZER

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