

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY NEW YORK

-----X
FAVOURITE LIMITED, CLAUDIO GATELLI,
GRAZIANO SGHEDONI, ALBERTO BRENTEGANI,
SIRIO SRL, and OILE SRL, individually UPPER EAST
SIDE SUITES, LLC, a Delaware Limited Liability
Company,

Index No: 652857/2016

**SECOND AMENDED
COMPLAINT**

Plaintiffs,

-against-

BENEDETTO CICO, CARLA CICO and 151 EAST
HOUSTON ACQUISITION LLC, ABC CORPS. 1-20,
and JOHN DOES 1-20,

Defendants.

-----X

Plaintiffs Favourite Limited, a Limited Company organized under the laws of the Cayman Islands ("Favourite"), Claudio Gatelli, an individual ("Gatelli"), Graziano Sghedoni, an individual ("Sghedoni"), Alberto Brentegani, an individual ("Brentegani"), Sirio SRL, a limited liability company organized under the laws of Italy ("Sirio"), Oile SRL, a limited liability company organized under the laws of Italy ("Oile"), and Upper East Side Suites LLC ("UESS"), a Delaware limited liability company (collectively, the 'Plaintiffs'), for their Second Amended Complaint, allege upon personal knowledge, and, where indicated, information and belief, the following against Defendants Benedetto Cico, Carla Cico, and 151 East Houston Acquisition LLC, ABC Corps. 1 through 20, and John Does 1 through 20 (collectively, the "Defendants").

PRELIMINARY STATEMENT

1. Defendants used their prominent positions in Italy's business community to solicit investment of \$4.75 million from Plaintiffs and others to buy a building and operate a short-term rental business from it in New York City's upper east side neighborhood, promising substantial returns on the investment in the form of monthly distributions. Defendants were

- installed as the sole managers of the company.
2. What followed was a scheme of self-dealing, mismanagement, waste of assets, fraud, and forgery that resulted in the loss of every cent of the \$4.75 million invested.
 3. First, instead of obtaining all market rate financing for the purchase of the property, Defendants took some loans from themselves and their associates at above-market rates to the detriment of UESS and its investors.
 4. Then, Defendants managed the business to their benefit by diverting income to their separately-owned entities, distributing zero income to investors over 6 years all the while failing to report or disclose the books and finances to the investors. Next, after it became illegal to operate the building for short term rentals, instead of considering their fiduciary duties to safeguard the investment by immediately selling the building and distributing the proceeds to the investors, Defendants operated the business illegally, caused UESS to default on its mortgage, triggering liability for default interest at maximum rates, plus penalties, late fees, attorney's fees and other expenses. It was only after legal proceedings were commenced for foreclosure that Defendants finally placed the building for sale under distressed conditions for less than market value.
 5. Defendants then took what proceeds remained of the sale after payment of the damages for the mortgage default and used it to pay the damages from their mismanagement and waste.
 6. Defendants then embarked on a campaign of fraud and forgery, repeatedly lying to Plaintiffs about the sales price inflating it by 20%, secretly causing UESS to borrow \$1.8 million and pay over \$130,000 in interest on the secret loan, repeatedly lying to Plaintiffs that over \$3 million remained in UESS and forging several documents in the service of those lies, all the while refusing the investor's repeated requests to distribute the funds.
 7. Finally, Defendants took all of UESS's actual remaining assets and put them as a

downpayment on a contract, without a financing contingency, to buy a hotel known as 151 East Houston Street, without having the needed financing to close the transaction. When Defendants failed to obtain financing, they caused UESS to forfeit the downpayment, thereby losing its last remaining assets.

8. In sum, through the combination of intentional misconduct, self-dealing, fraud, gross negligence, and conduct no reasonably prudent businessperson would undertake, Defendants caused the loss of every dollar of the \$4.75 million invested in UESS.

THE PARTIES

9. Plaintiff Favourite is a Limited Company organized under the laws of the Cayman Islands with principal offices in Grand Cayman, Cayman Islands, British West Indies. At all times relevant hereto, Favourite is a Class A Member of UESS.
10. Plaintiffs Gatelli and Sghedoni are Italian citizens and residents of Italy. Gatelli and Sghedoni are Class A Members of UESS.
11. Plaintiff Brentegani is an Italian citizen and resident of Italy. Brentegani is a Class A Member of UESS.
12. Plaintiff Sirio is a Limited Liability Company organized under the laws of Italy with offices in Verona, Italy. Sirio is a Class A Member of UESS.
13. Plaintiff Oile Srl is a Limited Liability Company organized under the laws of Italy with offices in Grosseto, Italy. Sirio is a Class A Member of UESS.
14. Plaintiff Upper East Side Suites, LLC is a Delaware limited liability company that has applied for and expects to receive authorization to do business in New York. It currently has no operations other than this lawsuit. Pursuant to written consents executed by a majority in

interest of the members of UESS, it has been directed to prosecute this action against the Defendants.

15. Defendant Benedetto Cico is a resident of California, residing at 201 Stuyvesant Drive, San Anselmo, CA 94960. Benedetto Cico is a Class B Member of UESS and was a manager of UESS until November 24, 2015 during which time he managed a building located at 44-46 East End Avenue, New York, New York. Mr. Cico has committed unlawful acts inside and outside New York having effect in New York, regularly conducted business in New York and throughout the United States through USABOUND, UESS, and upon information and belief, is actively using UESS money to fund an acquisition of a property through 151 East Houston Acquisition LLC, a New York Limited Liability Company.
16. Defendant Carla Cico is a resident of the country of Italy, residing at Strada Castellana, 30/a, 37128 Verona, Italy. Carla Cico is a Class B Member of UESS and was a Manager of UESS until November 24, 2015 during which time she managed a building located at 44-46 East End Avenue, New York, New York. Ms. Cico also has committed unlawful acts inside and outside New York having effect in New York, regularly conducted business in New York and throughout the United States through USABOUND, UESS, and upon information and belief, is actively using UESS money to fund an acquisition of a property through 151 East Houston Acquisition LLC, a New York Limited Liability Company.
17. Defendant 151 East Houston Acquisition LLC is a Limited Liability Company organized under the laws of the State of New York with principal offices in New York, New York.
18. The true names and capacities of Defendants John Does 1 through 20 are not known to Plaintiffs, who consequently sue these defendants by their fictitious names. Upon information and belief, Defendants John Does 1 through 20 are the Defendants' agents, co-

conspirators, and affiliates, who assisted and participated in the Defendants' improper and unlawful acts. Plaintiffs will seek leave to amend this First Amended Complaint to state the true names and capacities of fictitiously named Defendants John Does 1 through 20 when they have been ascertained.

19. The true names and capacities of Defendants ABC Corps. 1 through 20 are not known to Plaintiffs, who consequently sue these defendants by their fictitious names. Upon information and belief, Defendants ABC Corps. 1 through 20 are the Defendants' agents, co-conspirators, and affiliates, who assisted and participated in the Defendants' improper and unlawful acts. Plaintiffs will seek leave to amend this First Amended Complaint to state the true names and capacities of fictitiously named Defendants ABC Corps. 1 through 20 when they have been ascertained.
20. By virtue of action taken by written consent in June 2018, members owning over 50% of the membership interests of UESS have executed written consents directing the company to bring this lawsuit against the Defendants.

JURISDICTION AND VENUE

21. Jurisdiction in this action is based on New York's Civil Practice Law and Rules ("CPLR") Sections 301 and 302.
22. The amount in controversy exceeds the jurisdictional minimum of this Court.
23. Venue for this action is proper in the County of New York pursuant to CPLR Section 503.

INTRODUCTION AND SUMMARY

24. UESS was formed to acquire, develop, manage, and eventually sell a specific property in New York City located at 44-46 East End Avenue, New York, New York 10028 (the

"Property").

25. Plaintiffs Favourite, Gatelli, Sghedoni, Sirio, Brentegani, and Oile are some of the members in UESS. At the urging of Benedetto and Carla Cico, they together invested \$1,625,000 in the company.
26. Defendants Benedetto Cico and his sister Carla Cico were at all relevant times the Managers of UESS, owing the fiduciary duties of care, loyalty and candor to the company and its investors, including the Plaintiffs. Benedetto Cico and Carla Cico were duty bound to managing the company, in accordance with law and the Operating Agreement, to deal prudently with the assets of the company so as to preserve and increase their value, to place the interests of the investors ahead of their own in doing so, and to report fully, accurately, and timely all material information to the members.
27. In violation of their fiduciary duties, the Operating Agreement, and the law, the Cicos used the Property as a short-term vacation rental location for their own personal gain through their separately-owned company, USABOUND, without the fully informed consent of the UESS investor members, including the Plaintiffs. Upon information and belief, little to no income from this short-term rental business went to UESS; it was all retained by the Benedetto Cico, Carla Cico, and/or their entities.
28. In violation of their fiduciary duties, the Operating Agreement, and the law, the Cicos used UESS funds intended to manage the Property on wholly unrelated items such as expensive skin care products, alcohol, helicopter tours of the Grand Canyon, car repairs in California, restaurant bills throughout the United States, and hotels in Las Vegas, Miami, California, and Italy.
29. In violation of their fiduciary duties, the Operating Agreement, and the law, the Cicos

continued to run a short-term rental operation in the Property after it became clear to them that such operation was illegal under New York law.

30. In violation of their fiduciary duties, the Operating Agreement, and the law, the Cicos then failed to place the Property on the market for immediate sale and instead permitted the Property to become encumbered by legal violations.
31. In violation of their fiduciary duties, the Operating Agreement, and the law, the Cicos permitted UESS to default on its mortgage, causing it to incur extremely high default interest, lender's legal fees and numerous other expenses, ultimately resulting in the forced distress sale of the Property in May 2013 at a steep discount and subject to unreasonably excessive expenses.
32. In violation of their fiduciary duties, the Operating Agreement, and the law, the Cicos concealed all of this from the UESS investor members, including the Plaintiffs.
33. From the purchase of the Property in 2007 to the sale of the Property in May 2013, the Plaintiffs did not receive any income or distributions from UESS nor any return on their investments.
34. Following the distress sale of the Property at a severe discount and the disbursement of unreasonably excessive expenses brought on by the Cicos' concealed mismanagement, waste, and self-dealing, the Cicos absconded with all of UESS's remaining assets.
35. They diverted all of UESS's remaining funds into Defendant 151 East Houston Acquisition LLC, a company owned by the Cicos, for the stated purpose of buying a new building, a hotel located at 151 East Houston Street ("Houston Property").
36. These actions were prohibited by the UESS Operating Agreement and the Cicos took these actions without the consent of the members of UESS, including Plaintiffs and, indeed, over their repeated objection.

37. On information and belief, the Cicos entered into agreements, and caused UESS to enter into agreements to become partners with unknown persons or entities, to enter into a contract without a financing contingency for the purchase of the Houston Property without the needed financing in place, and to contract with the owner of the Houston Property for unnecessary services, all resulting in defaults under those contracts when Defendants failed to obtain financing to close the transaction, and the consequent forfeiture of all remaining assets of UESS, and all in violation of the Cicos' fiduciary duties, the Operating Agreement, and the law.
38. Between May 2013 and November 2015, in violation of their fiduciary duties, the Operating Agreement, and the law, the Cicos purposefully and continually lied to the Plaintiffs about the whereabouts of UESS funds, committed forgery and fraud, and ultimately left UESS with no remaining assets.
39. In particular, as a non-exclusive example, in response to requests from investors for distribution of UESS's remaining funds, including Plaintiffs, the Cicos first sent documents purporting to show wire transfers in the investors' favor, which wire transfers, however, were never completed, and the investors received no funds. Additionally, in October 2015, the Cicos sent to investors, including Plaintiffs, a letter purportedly signed by an officer of Citadele Bank, a bank in Riga, Latvia, stating that the wires to the investors were in the process of being sent. However, the investors never received any money, and they later confirmed that the signature on that letter was forged, and Citadele Bank had no knowledge about the letter.
40. On information and belief, it was Defendants that forged the letter as part of their long-running lies to the effect that UESS had assets and that they would be distributed to the investors, when in fact, Defendants had lost every dollar that UESS had ever owned.

41. In November 2015, the UESS members, including Plaintiffs, voted to remove the Cicos as managers, but by then the harm had been done. Due to the Cicos' corporate waste, self-dealing, mismanagement, fraud, and forgery, UESS went from being capitalized with \$4.75 million in funds which were invested in a valuable property on Manhattan's Upper East Side to having no assets whatsoever, resulting in the loss of Plaintiffs' entire investment in UESS.
42. Following the removal of the Cicos as managers, UESS attempted to access the one known bank account in its name, which Defendants represented held almost \$3,750,000 in February 2015. The account had been closed. Further attempts to track down UESS's funds revealed that the Cicos had committed forgery in order to misrepresent the location of UESS's funds.
43. Plaintiffs seek full recovery of all damages caused by Defendants' actions, including but not limited to the return of all funds, property, and assets belonging to UESS, an accounting of the assets of UESS through today, and damages to the Plaintiffs and UESS for Defendants' fraud, breaches of fiduciary duty, violation of contractual and legal obligations, and conversion; together with punitive damages, attorneys' fees, costs, and interest.

GENERAL ALLEGATIONS

44. In or about July of 2007, the individual Plaintiffs were provided with a written Executive Summary for an investment opportunity in UESS, a newly-formed Delaware limited liability company.
45. The Executive Summary was distributed to potential and actual investors as a placement memorandum containing the representations and disclosures on which the investors were to rely in making their investments.
46. The Executive Summary stated that UESS was formed for the sole purpose of acquiring a

five-story residential building in New York City (the "Property" as defined above), with plans to rent the units in that building as short-term accommodations for leisure and corporate travelers from key international markets such as Italy, France, Spain and Scandinavia.

47. The purpose of the investment and its business plan to achieve its purpose, as expressly stated in the Executive Summary, was to generate monthly income for UESS' investor members, to benefit from the increase in the value of the Property in the medium to long term, and to eventually sell the Property at a profit, which was to be distributed to the investors according to their percentage interests in UESS.
48. Prior to the Plaintiffs' investment in UESS, Defendants Benedetto and Carla Cico represented that Plaintiffs would see annual returns of up to 20% on their investment.
49. Prior to the Plaintiffs' investment in UESS, Defendants Benedetto and Carla Cico misrepresented the role that their other business ventures would play. For example, they revealed only a limited conflict of interest with their own, separate company, USABOUND. While Defendants Benedetto and Carla Cico disclosed that their own company, USABOUND, would administer solicitation of short-term rentals at the Property, they intentionally concealed the extent of the conflict of interest between their management of UESS and their interests in USABOUND. It has become apparent, however, that Defendants Benedetto and Carla Cico prioritized USABOUND over the interests of UESS and its investor, including Plaintiffs. Both before the investments were made, and during the period they managed UESS, Defendants secretly intended to, and did, divert into their own, separately owned entities the funds rightfully due UESS.
50. Defendants Benedetto and Carla Cico used their international business contacts to solicit

investors, and used Carla's reputation to lend credibility to the investment as an incentive to the Plaintiffs' participation.

51. Each Plaintiff (other than UESS) acquired Class A Membership Interests in UESS (Plaintiffs' "Membership Interests") by investment of amounts totaling \$1,625,000.
52. Through capital contributions from the Plaintiffs and other investors totaling, upon information and belief, \$4,750,000, and a mortgage loan to cover the remaining balance of the purchase price, UESS purchased the Property in December 2007.
53. Defendants Benedetto Cico and Carla Cico were Class B Members of UESS and were appointed as Managers, but did not make any capital contribution for their membership interests.
54. The Cicos represented that for each \$250,000.00 investment, Plaintiffs would receive a 5.4% Membership Interest in UESS.
55. The UESS Operating Agreement (the "Operating Agreement") sets forth the sole purpose of UESS, as well as the rights, obligations, and duties of the Managers and various Members.
56. Additionally, under applicable law, as the sole Managers of UESS, Carla and Benedetto Cico owed UESS and the members of UESS, including Plaintiffs, fiduciary duties of care, candor, and loyalty.
57. Pursuant to Section 1.2 of the Operating Agreement, UESS was authorized to acquire, hold, manage, operate, finance, develop, maintain, and sell the Property. No other business purpose was authorized.
58. Pursuant to Section 4.1 of the Operating Agreement, Defendants Benedetto Cico and Carla Cico were required to make periodic distributions, not less often than once per year, of any cash available to the Members. Class A Members, including Plaintiffs, are entitled to

priority in distributions over Class B Members, such as Benedetto Cico and Carla Cico.

59. Section 4.1 requires such distributions upon the occurrence of Cash Available for Distribution as well as a Capital Event.
60. On information and belief, during the operation of UESS by Defendants there was, or should have been but for Defendants diversion of funds rightfully due UESS, Cash Available for Distribution, which Defendants failed to distribute to the investors, including Plaintiffs.
61. The sale of the Property was a Capital Event, triggering the distribution obligation under Section 4.1, which Defendants failed to perform.
62. Plaintiffs never received a single distribution from UESS.
63. Pursuant to Section 5.2 of the Operating Agreement, Defendants Benedetto Cico and Carla Cico were prohibited from encumbering, or approving or consenting to the encumbering of, any assets of the Company for anything other than a Company purpose without approval of UESS's Members.
64. Pursuant to Section 5.2 of the Operating Agreement, Defendants Benedetto Cico and Carla Cico were prohibited from doing, approving or consenting to any act in contravention of the Operating Agreement without approval of UESS's Members.
65. Pursuant to Section 5.2 of the Operating Agreement, Defendants Benedetto Cico and Carla Cico were prohibited from doing, approving or consenting to any act which would make it impossible for the Company to carry on the ordinary business of the Company without approval of UESS's Members.
66. These provisions of the Operating Agreement prohibit the Defendants from carry on illegal business operations at the Property.
67. Defendants carrying on of the short-term rental business after it be came illegal amounted to

a breach of these provisions of the Operating Agreement.

68. Pursuant to Section 5.5 of the Operating Agreement, Defendants Benedetto Cico and Carla Cico were prohibited from admitting additional Members to UESS without the approval of UESS's existing Members.
69. Pursuant to Section 5.5 of the Operating Agreement, Defendants Benedetto Cico and Carla Cico were prohibited from approving any transaction between themselves and any of their Affiliates -including but not limited to their travel company, USABOUND, and their subsequently formed real estate investment vehicle, 151 East Houston Acquisition LLC - without the approval of a majority in interest of UESS's Members.
70. Specifically, pursuant to Section 5.7 of the Operating Agreement, Defendants Benedetto Cico and Carla Cico were required to submit the contract embodying any such transaction to the investors for approval.
71. No such contracts were ever submitted to the investors for approval, despite the fact that such contracts existed and that Defendants did business with UESS directly or through their entities. Specifically,
- a. Carla Cico issued one or more loans to UESS;
 - b. USABOUND, wholly owned by one or more Defendants, did business with UESS;
 - c. Defendant 151 East Houston Acquisition LLC, wholly owned by one or more Defendants, did business with UESS;
72. The failure of Defendants to submit any of these contract to the investors for approval was a material breach of Section 5.5 of the Operating Agreement.
73. Pursuant to Section 5.12 of the Operating Agreement, Defendants Benedetto and Carla Cico

had the fiduciary responsibility for the safeguarding and use of all funds, property, and assets of UESS. Pursuant to the Operating Agreement, Defendants Benedetto and Carla Cico were prohibited from employing or permitting another to employ such funds, property, or assets in any manner except for the benefit of UESS.

74. Defendants conduct set forth above and below breached this obligation by failing to safeguard the assets of UESS and use them solely for the benefit of UESS.
75. Defendants Benedetto and Carla Cico are required to give full and complete information of any material nature regarding legal process or papers concerning the business of the Company pursuant to Sections 5.13 and 5.20 of the Operating Agreement.
76. On information and belief, Defendants failed to inform the investor members of material legal developments concerning the business of UESS, thereby preventing the investor members from taking timely decisions and action to protect UESS their investment therein.
77. Pursuant to Section 6.1 of the Operating Agreement, Defendants Benedetto and Carla Cico were responsible for maintaining UESS's books and records at UESS's principal place of business, which is located at 201 Stuyvesant Drive, San Anselmo, California 94960. All members have the right to access, inspect and copy the books and records of UESS.
78. Pursuant to Section 6.2 of the Operating Agreement, Defendants Benedetto and Carla Cico, as managers of UESS, were required to deliver UESS's financial statements for the prior fiscal year upon the request of any Member within 90 days after the end of each fiscal year. UESS 's fiscal year ends on December 31st.
79. Defendants Benedetto and Carla Cico were also obligated to deliver to every Member all tax information needed to prepare federal income tax returns within 90 days after the end of the fiscal year.
80. Pursuant to Section 6.3 of the Operating Agreement, before filing any tax return,

Defendants Benedetto and Carla Cico were required to notify each Member that the return is ready to be filed and must give each Member the opportunity to review the proposed return.

Defendants Benedetto and Carla Cico were required to provide a copy of the filed tax return to each of the Members.

81. Pursuant to Section 6.9 of the Operating Agreement, all leases, deeds, contracts, title matters, surveys, records and financial information relating to the ownership and development of the Property must be maintained by the Managers and accessible to all Members.
82. Pursuant to Section 8.1 of the Operating Agreement, UESS must be dissolved upon the occurrence of any event which makes it unlawful for the business of UESS to be carried on.
83. Defendants solicited investment and repeated represented to the investors orally and in writing that the business of UESS was that of short-term rentals and indeed, on information and belief, from 2008 through 2012 that was the business of UESS.
84. Plaintiffs relied on those representations in understanding the terms of the Operating Agreement, which they understood to be limited to management of the Property as a short-term rental operation.
85. In about 2012, New York passed what Defendants have reported to investors as the “anti-air-b-n-b” law prohibiting the operation of the Property as a short term rental operation, making such operation illegal.
86. That law triggered the obligation under Section 8.1 of the Operating Agreement to dissolve UESS due to the event that made its business unlawful.
87. Pursuant to Section 8.1 of the Operating Agreement, UESS must be dissolved upon a sale of the Property and the distribution of its proceeds.
88. The Operating Agreement does not permit the purchase of any other properties because

under the express terms of the Operating Agreement's paragraph 1.3, the UESS's sole purpose is to purchase, manage, and sell the Property and related assets. Purchase of any property or assets unrelated to the Property is unauthorized.

89. Thus, once the Property was sold, the Operating Agreement permitted UESS to engage in no further conduct other than to distribute the proceeds of the sale, which, once completed, would trigger the dissolution obligation under Section 8.1

90. On information and belief, Defendants Carla and Benedetto Cico committed UESS funds as the down-payment under the contract to purchase the Property prior to having secured sufficient funds to close the transaction and, as a result, caused UESS to be short of funds to close the purchase of the Property within the time permitted under the contract of sale, forcing UESS to take out additional loans ("Shortfall Loans") from persons and/or entities connected to the Cicos, including Molto Bene LLC and Defendant Carla Cico on terms still not fully known to Plaintiffs but, which, on information and belief, were taken at 10% annual interest at a time when interest rates were a small fraction of that rate.

91. The Cicos failed to disclose these additional loans or their terms, keeping them secret from Plaintiffs.

92. The borrowing, servicing, repayment, failure to refinance, of those additional secret loans were a waste of UESS assets caused by the Cicos' imprudent and unreasonable contract commitment, in violation of the fiduciary duties of care and candor they owed to UESS and to Plaintiffs.

93. On information and belief, UESS did not receive all of the investment funds Defendants claim that it received, including some or all of the purported investment funds from relatives of Benedetto Cico, adding to the undisclosed need for the high-interest Shortfall Loans.

94. Following the Plaintiffs' acquisition of their Membership Interests in UESS, Defendants Benedetto and Carla Cico failed provide information about important decisions regarding UESS's business and failed to provide true and full financial statements or tax information despite repeated requests by the Plaintiffs to do so.
95. In each year that UESS operated, Defendants Benedetto and Carla Cico failed to notify Plaintiffs that UESS's tax return was ready to be filed and failed to provide Plaintiffs with the opportunity to review the prepared returns in contravention of the Section 6.2 Operating Agreement and fiduciary obligations.
96. Despite repeated demands, Defendants Benedetto and Carla Cico have refused to provide up to date and current information regarding UESS' s tax filings and financial status. Despite representing that UESS had at least \$3.75M cash or cash equivalent, Benedetto and Carla Cico refuse to provide any information about where those funds were maintained.
97. Further, upon information and belief, following the Plaintiffs' acquisition of their Membership Interests in UESS, Defendants Benedetto and Carla Cico failed to seek and obtain member consent for a number of events and transactions that require the consent of UESS's members, including, but not limited to, causing UESS to enter into business transactions and understandings with USABOUND and 151 East Houston Acquisition LLC, to the benefit of the Cicos and to the detriment of UESS investors.
98. Plaintiffs never received any distribution or profits in respect of their investment and Membership Interests in UESS.
99. Upon information and belief, cash was available for distribution, but rather than distributing anything to Class A Members, Defendants Benedetto and Carla Cico used those funds to benefit themselves and/or their separately owned businesses, including but not limited to

USABOUND and 151 East Houston Acquisition LLC, as well as other real estate investment vehicles they had created in which Plaintiffs have no interest.

100. Due to the Defendants' fraudulent concealment of the financial and transactional information of UESS, it was not until 2015 that the Plaintiffs' learned of the troubling facts relating to Defendant Benedetto and Carla Cico's unlawful and self-interested conduct detrimental to UESS and to the Plaintiffs' Membership Interests.
101. Following the acquisition of the Property, Defendants Benedetto and Carla Cico marketed short-term rentals of residential units in the Property to international travelers from Europe through USABOUND, an entity owned by Benedetto and Carla Cico and in which UESS and the Plaintiffs had no interest.
102. The use of the Property for short term rentals was pitched by the Cicos to the Plaintiffs as a beneficial and legal business model, one that would increase the value of Plaintiffs' investments.
103. Unbeknownst to Plaintiffs, Defendants Benedetto and Carla Cico intended to use the Property solely to benefit their own company, USABOUND, and without any intention of benefitting UESS. Indeed, upon information and belief, UESS received little to no income from the use of its Property as a short-term rental building. Instead, the finances of the venture were secretly managed by the Cicos to their financial advantage and to the detriment of UESS and Plaintiffs.
104. Short-term rentals of residential units in the Property were highly beneficial to Defendants Benedetto and Carla Cico. Their separate company, USABOUND, benefitted from the availability of the Property as a source for short-term rentals to its clients. Upon information and belief, USABOUND collected separate fees from travelers in connection

with short-term rentals of the Property, and took a commission and other financial benefits for short-term rentals of the Property greatly in excess of the amounts Defendants Benedetto and Carla Cico represented it would when they solicited the Plaintiffs' investments.

105. During the period UESS operated the Property, upon information and belief, Defendants Benedetto and Carla Cico also treated UESS as their personal piggybank, spending its funds on personal expenses of the Cicos, such as expensive skin care products, alcohol, helicopter tours of the Grand Canyon, car repairs in California, restaurant bills throughout the United States, and hotels in Las Vegas, Miami, California, and Italy.
106. Defendants' misuse and conversion of the UESS funds and their diversion of funds due UESS to their own benefit were hidden by them from Plaintiffs, as Defendants failed during the period UESS operated the Property to provide Plaintiffs a full and accurate accounting of the business of USABOUND and UESS, all in violation of the Operating Agreement and Defendants' fiduciary duties to their investors.
107. Further, Defendants Benedetto and Carla Cico continued the short-term rental activity at the Property even after they learned it was illegal and that it would be highly detrimental to the Property's value.
108. In about 2011, Defendants Benedetto and Carla Cico learned that the short-term rentals arranged through USABOUND were illegal. UESS was served with notices of violation by the City of New York Environmental Control Board for the short-term rentals of the Property by USABOUND.
109. Defendants Benedetto and Carla Cico failed to fully and properly inform Plaintiffs of these legal proceedings, in violation of their fiduciary obligations and the terms of the Operating Agreement. Rather, they intentionally concealed the illegality of their conduct so

they could continue to use the Property to benefit their own interests.

110. Defendants failed to fully and properly inform the Plaintiffs of the outcome of these legal proceedings, in violation of their obligations as managers and the terms of the Operating Agreement.
111. Benedetto and Carla Cico failed to commence an orderly winding down of the business of UESS upon learning that the UESS business model was illegal, in contravention of the Operating Agreement.
112. Instead, Benedetto and Carla Cico severely mismanaged UESS, permitting it to fall behind on its mortgage loan payments, causing a material default in its mortgage loan covenants and triggering substantial penalties, excessive interest, and attorneys' fees obligations to be incurred by UESS.
113. Benedetto and Carla Cico further mismanaged UESS and aggravated their violations when instead of effecting an immediate cure of the defaults they caused, or an immediate sale of the Property, they suffered the assignment of the UESS mortgage to a vulture fund, which, predictably and foreseeably, pursued the maximum recovery under the loan and mortgage agreements through an aggressive strategy of foreclosure litigation.
114. Benedetto and Carla Cico hid all of this from the investors, including Plaintiffs.
115. Defendants Benedetto and Carla Cico never informed the Plaintiffs that due to their illegal conduct, mismanagement, and waste of assets all to the detriment of UESS, that excessive losses were being incurred due to UESS's mortgage default being prosecuted by a vulture fund and that a distress sale of the Property at below market prices followed by satisfaction of the default obligations from the proceeds was the only option left open to them and that it would result in massive losses for the investors.

116. Indeed, in a memorandum from Benedetto Cico setting a shareholders meeting on May 15, 2013, Benedetto Cico made no mention of the distress sale that was to occur just two weeks later, and stated that the purpose of the meeting was "to review options available to the Company to maximize the value of the building owned at 44-46 East End Avenue in New York City."

117. Without consulting the Plaintiffs, Defendants Benedetto and Carla Cico closed a distress sale of the Property on May 29, 2013, paying out from the proceeds millions of dollars in payment of principal, interest, default interest at the maximum allowable rate, penalties, attorney's fees, and other default fees, all of which was the result of mismanagement, corporate waste, and breaches of fiduciary duty by Defendants causing a massive loss to UESS and its investors, including Plaintiffs.

118. Indeed, Defendants Benedetto and Carla Cico never provided a copy of the contract of sale or the closing statement to the Plaintiffs until long after this litigation was filed and to this day, Defendants have failed to provide a full accounting of the purchase, management and sale of the Property.

119. Other examples of the Cicos' waste of assets, mismanagement, and breaches of fiduciary duty, much of which was only recently disclosed for the first time by Defendants in this litigation, include: (a) the Shortfall Loans at 10% interest, (b) numerous New York City building department and other violation penalties, interest, and expenses on the Property, (c) overdue debts to contractors and vendors for the Property, (d) excessive, unjustified alleged expense reimbursements to Benedetto Cico without adequate back-up, (e) the unauthorized commitment of UESS to borrow \$1.8 million from the buyer of the Property and the payment from UESS of over \$130,000 to that buyer in interest and fees, (f) the illegal and intentional

booking of guests into the Property for the period after the sale of the Property, to the enrichment of Defendants and their entities, resulting in Defendants causing UESS pay to over \$140,000 of UESS funds to hotels in order to accommodate such guests after the sale of the Property, (g) unauthorized realtor fees for long term tenants of over \$10,000, (h) and numerous other payments caused to be made by the Cicos from UESS funds that are not yet known to Plaintiffs.

120. Defendants Benedetto and Carla Cico failed to dissolve and wind up UESS upon the sale of the Property, despite their requirement to do so as Co-Managers.

121. Following the sale of the Property, Defendants Benedetto and Carla Cico have continuously sought to dissuade the Plaintiffs from pursuing the distribution of the assets properly belonging to UESS, including but not limited to \$3,750,000 in cash or cash equivalent that Defendants represented UESS still had in February 2015.

122. The Defendants refused to provide an accounting of assets and finances of UESS, and have refused to provide full and complete responses to Plaintiffs' demands for information. Instead, Defendants Benedetto and Carla Cico have engaged in diversionary tactics designed to conceal funds, property and assets properly attributable to UESS, and frustrate the Plaintiffs attempts to retrieve it (at great expense to the Plaintiffs).

123. The actions of Defendants Benedetto and Carla Cico demonstrate their continued willingness to use UESS for the benefit of their other business ventures without consideration of their duties and obligations under the law.

124. On July 1, 2013, just over one month after the sale of the Property and before any discussion with Plaintiffs about how the proceeds from the sale of the Property should be used, Defendants Benedetto and Carla Cico formed Defendant 151 East Houston Acquisition

LLC, a New York Limited Liability Company.

125. Defendants Benedetto and Carla Cico did not inform Plaintiffs that they had formed Defendant 151 East Houston Acquisition LLC, nor that they had already planned to use the new company as a vehicle to purchase a hotel with the proceeds of the sale of the Property and other funds, property, and assets owned by UESS.
126. Instead, what followed was a steady stream of material misrepresentations and omissions by Defendants to the investors, including Plaintiffs regarding the sale of the Property, the assets of UESS and the conduct of the Cicos as managers of UESS.
127. Specifically, in written communications with some of the investors in May 2013 and November 2013, the Defendants as managers of UESS misrepresented that:
- a. The sales price of the Property was \$11.8 million, when in fact it was \$10 million
 - b. That UESS was in possession of the proceeds of the sale of the Property and other assets totalling over \$3 million, when in fact UESS had less than \$750,000 and was in possession of none of it, having committed it to an unauthorized purchase of a hotel for which no financing was in place, as more fully described below;
 - c. That a bank in Riga, Latvia was in possession of over \$3 million of UESS assets, when in fact this was completely false and appears to be based on a document purporting to be a wire confirmation email from the Latvian bank that was forged by Mr. Cico and sent to certain investors of UESS;
128. Specifically, the Cicos failed to disclose to the UESS investors, including Plaintiffs:
- a. the Shortfall Loan and their terms;
 - b. that Defendants committed UESS to a real estate purchase contract that it did not have the funds to close, necessitating the Shortfall Loans to avoid losing UESS' down-

- payment;
- c. the diversion to Defendants and their entities of funds rightfully due UESS in the operation and management of the Property;
 - d. that Defendant permitted UESS to cause a default in its mortgage on the Property;
 - e. The maximum rate default interest, late penalties, fees, and expenses, attorneys fees and other losses to UESS triggered by UESS's mortgage default;
 - f. the violations issued by the NYC authorities against the Property;
 - g. the illegal operation of the Property by the Defendants as UESS managers;
 - h. payment of over \$140,000 of UESS funds for hotels for guests that Defendants had booked into the Property for the period after the sale of the Property;
 - i. the \$1.8 million loan to UESS from the buyer of the Property and the payment by UESS of over \$130,000 in interest and fees in respect of it;
 - j. that Defendants committed all remaining UESS assets to a non-contingent contract to purchase the Houston Property and a non-contingent contract for other services by the seller of the Houston Property without financing in place to close the transaction, resulting in the forfeiture of all of the remaining UESS assets;
129. A November 25, 2013 memorandum from Defendants to the investors, including Plaintiffs stated that the 151 East Houston transaction would close by the end of 2013, but that the option to liquidate (which would provide them with less return on their investment) would take through the first half of 2014.
130. Benedetto and Carla Cico received no consent to go forward with this self-interested transaction, but still refused the investors' requests to distribute UESS' funds.
131. In another memorandum dated August 28, 2014, Benedetto Cico responded to demands

from certain Plaintiffs for a return of their investments by providing a number of fraudulent representations designed to delay and defer the return of UESS funds.

132. An August 28, 2014 Memorandum from Defendants to investors provided a statement of cash or cash equivalent in the amount of \$3,750,000.00 in a New York Community Bank ("NYCB") Account, No. 5467001280. Recent inquiry to New York Community Bank confirmed that the bank account number provided was an invalid number, and UESS never held a bank account with NYCB.
133. The August 28, 2014 Memorandum from Defendants to investors also stated that each member will benefit from tax credits accumulated by UESS in the amount of \$1,050,000.00 to \$1,100,000.00. To this day, Defendants Benedetto and Carla Cico have not provided any further details regarding these alleged tax credits.
134. In yet another memorandum from Benedetto Cico, dated February 22, 2015, he continued to refuse to liquidate UESS and encouraged the purchase of a new building through Defendant 151 East Houston Acquisition LLC would increase each Member Plaintiff's investment by at least 25% after closing. Again, Benedetto and Carla Cico received no consent to go forward with this self-interested transaction, but still refused to return UESS' funds.
135. The February 22, 2015 Memorandum also stated that UESS had \$3,747,025.00 in cash.
136. As an attempt to prove to certain Plaintiffs that they had not stolen this money, Defendants Benedetto and Carla Cico provided a facsimile containing what they represented to be an account statement from Sterling National Bank showing a balance of \$3,747,025.35 as of December 31, 2014 in an account held by "Upper East Side Suites LLC." Plaintiffs have since learned that this account had long before been emptied of all funds and closed.
137. Despite Plaintiffs' demands, Defendants have not identified what they have done with this

money, and have continued to conceal the location of funds, property and assets properly attributable to UESS.

138. Upon information and belief, Defendants diverted what they admit was at least \$3,747,025.35 properly attributable to UESS, and transferred these funds along with other funds, property and assets attributable to UESS, to an account held by an entity unknown in Citadele Bank in Riga, Latvia.
139. In still another memorandum from Benedetto Cico, dated May 1, 2015, to investors he states that Plaintiffs agreed to sell their membership interests in UESS to investors in his separate company, 151 East Houston Acquisition LLC.
140. On May 3, 2015, certain Plaintiffs made clear that no such agreement had been reached, and demanded a prompt liquidation of the company. Benedetto Cico ignored this, and despite the fact that he and Carla Cico *still* had received no consent to go forward with this self-interested transaction, steadfastly refused to return UESS' funds.
141. Thereafter, in an attempt to prevent the Plaintiffs from discovering where UESS's assets have been diverted (or to prevent them from taking legal action), Defendants Benedetto and Carla Cico made a number of promises concerning the return of certain Plaintiffs' investments in UESS. Not all Plaintiffs were offered these terms, only a select few who the Defendants chose to communicate with. Defendants Benedetto and Carla Cico purportedly promised to return 40% of certain Members' investments immediately (i.e., \$100,000 for every \$250,000 investment) as a "show of good faith," with the opportunity to recover up to 100% upon completion of their hotel acquisition through Defendant 151 East Houston Acquisition LLC.
142. Defendants Benedetto and Carla Cico provided documents and screenshots regarding the

account in the Latvian Citadele Bank which purport to show wire transfers to certain Plaintiffs in satisfaction of these promises. However, all of these documents, upon information and belief, are forgeries and/or fraudulent misrepresentations.

143. For example, Defendants Benedetto and Carla Cico provided a letter from Citadele Bank dated October 15, 2015 (the "October 2015 Citadele Letter") which states: "With the present we confirm to have accepted, approved and initiated the wire transfers ordered by Mr. Benedetto Cico for the transaction 'UESS Suites LLC.' The wires are in the process of being sent, and we expect them to be credited to each beneficiary not later than Friday, 23.10.2015." The letter is signed by "Oksana Fjodorova," who is represented on the letter to be a "Corporate Banking Specialiste" at Citadele.

144. No credit or funds were ever received by any Plaintiffs on October 23, 2015 or at any time thereafter. Upon inquiry to Citadele Bank, Oksana Fjodorova, the purported signatory of the October 2015 Citadele Letter, stated that she did not write or send the October 2015 Citadele Letter for Defendant Benedetto Cico.

145. By e-mail on October 31, 2015, Defendant Benedetto Cico once again attempted to placate the Plaintiffs with a screenshot of banking information from Citadele Bank in Latvia, with further promises that funds would be transferred. Again, the Plaintiffs have received no credit or funds to date from Defendants.

146. By e-mail on November 25, 2015, Defendant Carla Cico once again confirmed the transfer of certain specified amounts from the Citadele Bank in Latvia to a subset of Plaintiffs. Yet still, the Plaintiffs have received no credit or funds to date.

147. As a result of the Defendants' improper conduct, a Majority in Interest of UESS, removed Defendants Benedetto Cico and Carla Cico from their positions as managers of UESS by written consent dated November 23, 2015.

148. After this Court Ordered Defendants to produce certain documents and information, Plaintiffs learned for the first time that the sale of the Property did not net UESS \$3.7 million, as the Cicos had gone to great lengths to misrepresent, but rather less than \$750,000, all of which the Cicos caused UESS to commit, in a contract without a financing contingency, to the purchase of the Houston Property without the financing in place to close the transaction, which resulted in the default by UESS under the contract of sale and therefore the forfeiture of all of UESS's remaining assets to the Houston Property seller.
149. The botched Houston Property transaction represented the Cico's final acts of mismanagement and waste of UESS's assets, ending in the Cicos' loss of all \$4.75 million invested in UESS by Plaintiffs and others.
150. The botched Houston Property transaction was impermissible from the outset under the Operating Agreement, which expressly limited UESS to the business of purchasing, managing and selling the Property and prohibited the purchase of anything unrelated to the Property without unanimous consent of the members.
151. The conduct and omissions of each Defendant herein described aided and abetted the other in their violations of law and contract detailed herein and constituted a conspiracy between them to commit such acts and omissions, with the result that each is liable, jointly and severally, for the violations of the other.

FIRST CAUSE OF ACTION

(Breach of Contract)

152. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs, as though set forth fully herein.
153. Plaintiffs have complied with all of their obligations under the Operating Agreement.

154. Defendants Benedetto and Carla Cico have breached the Operating Agreement by, *inter alia*:
- a. failing to dissolve UESS following sale of the Property and distribute the proceeds and assets of UESS pursuant to Section 8.1 of the Operating Agreement;
 - b. causing UESS to commit funds to transactions unrelated to the Property in violation of Section 1.3 of the Operating Agreement limiting the purpose of UESS to the purchase, operation, and sale of the Property and assets related to the Property;
 - c. failing to make periodic distributions to Plaintiffs and other Members pursuant to Section 4.1 of the Operating Agreement despite the facts that, on information and belief, there was or should have been available distributable funds under the Operating Agreement;
 - d. entering into self-dealing transactions with USABOUND, 151 East Houston Acquisition LLC, Molto Bene LLC, Carla Cico, and others without approval of UESS's Members pursuant to Sections 5 of the Operating Agreement;
 - e. continuing short-term rentals following the realization that they were illegal without approval of UESS's Members pursuant to Section 5.2 of the Operating Agreement;
 - f. failing to advise other Members of legal process or papers relating to the business of UESS pursuant to Sections 5.13 and 5.20 of the Operating Agreement;
 - g. concealing legal process or papers, continued illegal conduct and self-interested transactions entered into by Defendants in contravention of Sections 5.2, 5.5, 5.12, 5.13, and 5.20 of the Operating Agreement;
 - h. failing to keep records as required in the Operating Agreement for access by Members, including Plaintiffs pursuant to Section 6.1 of the Operating Agreement;
 - i. failing to provide Plaintiffs with tax returns in a timely manner pursuant to Sections 6.2

and 6.3 of the Operating Agreement;

j. failing to provide true and full financial information in a timely manner pursuant to Sections 6.2, 6.3, and 6.9 of the Operating Agreement;

k. entering into loan transactions with Carla Cico, Molto Bene LLC and others affiliated with Defendants in violation of Section 3.3 of the Operating Agreement;

155. These breaches and other of the Operating Agreement by Defendants were material breaches.

156. As the direct and proximate result of Defendants Benedetto and Carla Cico's wrongful conduct and omissions, Plaintiffs have been injured and have suffered damages in an amount in excess of \$4,750,000.00.

SECOND CAUSE OF ACTION
(Breach of Fiduciary Duty)

157. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs, as though set forth fully herein.

158. Pursuant to UESS's Operating Agreement and Delaware Law, Defendants Benedetto Cico and Carla Cico, as managers of UESS, owed UESS and the Plaintiffs fiduciary duties, including the duties of care, loyalty, and candor.

159. Defendants breached their fiduciary duties as set forth in detail above, including, but not limited to the following:

- a. Causing UESS to enter into a non-contingent contract for the purchase of the Property without financing in place to close the transaction and causing UESS to entering into high-interest loans in order to close and avoid loss of the downpayment;

- b. Managing UESS's repayment of those high-interest loans in a manner so as to benefit certain members and their affiliates and to the detriment of UESS;
- c. diverting income and/or assets owned by UESS to themselves and/or their entities, including, without limitation, Carla Cico, Benedetto Cico, USABOUND, Molto Bene LLC, and 151 Houston Acquisition LLC;
- d. causing UESS to continue booking and operating short-term rentals in the Property following realization that they were illegal;
- e. following the realization that the short-term rental operation was illegal, failing to place the Property for immediate sale and, upon closing, dissolving UESS and distributing its assets to the investors, all so that the guest booking business of Defendants' separately-owned entities can continue to their enrichment;
- f. failing to dissolve UESS following sale of the Property and distributing its assets to the investors, but instead committing all of UESS's remaining assets to an illegal attempt to buy a hotel, all so that the guest booking business of Defendants' separately-owned entities can continue to their enrichment;
- g. illegally booking guests into the rooms of the Property for the period following closing of the sale of the Property to the enrichment of Defendants' separately-owned entities and causing UESS to pay over \$140,000 for hotel rooms to accommodate the guests;
- h. concealing and failing to advise other Members of material adverse developments in the business of UESS;
- i. failing to keep complete and adequate records of the business of UESS and refusing to disclose copy of UESS's records to its members on demand;

- j. failing to provide true and full financial information in a timely manner;
 - k. misappropriating and converting UESS' funds, property and assets for their own use;
 - l. permitting UESS to default on its mortgage;
 - m. causing UESS to take out a secret \$1.8 million loan and to pay over \$130,000 in fees and interest in respect of it without the approval of, or even disclosure to, the UESS Members;
 - n. causing UESS to enter into a non-contingent purchase contract for the Houston Property and a non-contingent service contract with the seller of the Houston Property without having financing in place to close the transaction;
 - o. lying to the UESS members about the sales price for the Property, the assets remaining in UESS after the sale of the Property, the location of the UESS assets, the Houston Property transaction, and other material matters;
 - p. forging documents and presenting them to UESS members as authentic;
160. As a direct and proximate result of Benedetto Cico and Carla Cico's breaches of fiduciary duty, Plaintiffs have been injured and have suffered damages in an amount to be determined at trial.

THIRD CAUSE OF ACTION
(Inspection of Books and Records of UESS)

161. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs, as though set forth fully herein.
162. The Operating Agreement requires access be permitted for any member wishing to inspect the books and records of UESS.
163. Defendants have admitted that the books and records of UESS are in their possession in

San Anselmo, California.

164. Demands for a complete copy of all books and records of UESS have been made by Plaintiffs.

165. However, to date, Defendants have produced only selected portions of the UESS books and records.

166. Accordingly, Plaintiff respectfully request an order under the Operating Agreement and applicable law that a complete copy of the books and records of UESS, both those books and records maintained in hard copy and those maintained electronically, be turned over to Plaintiffs without further delay.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor, in favor of Plaintiffs and against Defendants, and each of them, jointly and severally, as follows:

- a. On Count One, compensatory damages to UESS in the full amount of its loss, against the Defendants, and each of them jointly and severally, in an amount to be determined at trial;
- b. On Count Two, compensatory damages to UESS in the full amount of its loss, against the Defendants, and each of them jointly and severally, in an amount to be determined at trial;
- c. On Count Three, for an Order directing Defendants to turn over a complete copy of the books and records of UESS to the Plaintiffs without delay;
- d. An Order prohibiting Defendants, or either of them, from taking possession or control of any asset belonging to the Plaintiffs or any of them, and, to the extent Defendants take the position that they are, or either is, manager of UESS, directing the immediate removal of Defendants as manager of UESS;

- e. Punitive damages against the Defendants, and each of them jointly and severally, in an amount sufficient to punish and deter, to be determined at trial;
- f. Plaintiffs' reasonable attorneys' fees and disbursements, accountants' and experts' fees, together with the costs of suit;
- g. All pre- and post-judgment interest as allowed by law; and,
- h. Such other and further relief this Court deems just and proper.

Dated: October 31, 2018
 New York, New York

Respectfully,

VALLA & ASSOCIATES, INC., PC
 509 Madison Avenue · Suite 1510
 New York, New York 10022
 (212) 913-9246

FEIN & JAKAB
 233 Broadway · Suite 901
 New York, New York 10279
 (212) 732-9290

 /s/
 PETER JAKAB

*Attorneys for Plaintiffs Favourite Ltd.,
 Claudio Gatelli, Graziano Sghedoni, Alberto
 Brentegani, Sirio Srl, Oile Srl, and Upper
 East Side Suites LLC*

TO:

GABRIEL FISCHBARG, ESQ.
Counsel for Defendant Carla Cico
 230 Park Avenue, Suite 900
 New York, New York 10020
 (917) 514-6261
fis123@yahoo.com

EDWARD TOPTANI
 TOPTANI LAW PLLC
 375 Pearl Street, Suite 1410
 New York, New York 10038
 (212) 699-8930
edward@toptanilaw.com

Attorneys for Defendant

Benedetto Cico

151 East Houston Acquisition LLC

Pro Se Defendant

c/o New York Dept. of State

One Commerce Plaza

99 Washington Avenue

Albany, NY 12231