

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18-CVS-22971

2019 AUG 15 P 3:34

MECKLENBURG CO., C.S.C.

JAMES G. VERDONE,
Plaintiff,

BY _____

vs.

FIRST AMENDED COMPLAINT

GEORGE F. VERDONE, JR., individually and in his capacity as co-executor of the Estate of Emily Verdone, TUMP, LLC, VERDONE LIMITED PARTNERSHIP, CATHERINE E. VERDONE, individually and in her capacity as co-executor of the Estate of Emily Verdone, ELSYA V. STOCKIN, individually and in her capacity as co-executor of the Estate of Emily Verdone, and JAMES G. VERDONE, in his capacity as co-executor of the Estate of Emily Verdone,

Defendants.

Plaintiff James G. Verdone (“Jim Verdone”) complaining of Defendant George F. Verdone, Jr. (“Rick Verdone”), individually and in his capacity as sole member and manager of Tump, LLC, and Tump, LLC (“Tump” collectively with Rick Verdone, the “Defendants”), in its capacity as Managing General Partner of Verdone Limited Partnership, alleges as follows:

PARTIES

1. Jim Verdone is a citizen and resident of Teton County, Wyoming.
2. Rick Verdone is a citizen and resident of Mecklenburg County, North Carolina.

Rick Verdone is the sole member and manager of Tump and a limited partner of Verdone Limited Partnership.

3. Tump is a limited liability company organized under the laws of North Carolina with its principal place of business in Mecklenburg County, North Carolina. Tump is the Managing General Partner of Verdone Limited Partnership.

4. Verdone Limited Partnership is a limited partnership formed under the laws of Delaware with its principal place of business in Mecklenburg County, North Carolina. Verdone Limited Partnership is named as a nominal defendant in this action pursuant to Section 1-260 of the North Carolina General Statutes but no claim for damages is made against it.

5. Upon information and belief, Catherine E. Verdone (“Catherine Verdone”) is a citizen and resident of Mecklenburg County, North Carolina. Catherine Verdone is a limited partner of Verdone Limited Partnership and is therefore named as a nominal defendant pursuant to Section 1-260 of the North Carolina General Statutes but no claim for damages is made against her.

6. Upon information and belief, Elsy V. Stockin (“Elsya Stockin”) is a citizen and resident of Mecklenburg County, North Carolina. Elsy Stockin is a limited partner of Verdone Limited Partnership and is therefore named as a nominal defendant pursuant to Section 1-260 of the North Carolina General Statutes but no claim for damages is made against her.

7. Upon information and belief, the Estate of Emily Verdone (“Estate”) is a limited partner of Verdone Limited Partnership and therefore the Co-Executors of the Estate are named as nominal defendants pursuant to Section 1-260 of the North Carolina General Statutes but no claim for damages is made against the Estate.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to Section 7A-243 of the North Carolina General Statutes because the matter in controversy exceeds \$25,000.00.

9. This Court has personal jurisdiction over Defendants pursuant to Section 1-75.4(1) of the North Carolina General Statutes.

10. Venue is proper in Mecklenburg County pursuant to Sections 1-79 and 1-82 of the North Carolina General Statutes.

FACTS
Formation of the Partnership

11. On December 16, 1997, the Verdone Limited Partnership (the “Partnership”) was formed by Emily McCoy Verdone (“Emily Verdone”), as General Partner, by filing a Certificate of Limited Partnership in the Office of the Secretary of State of the State of Delaware.

12. The rights and responsibilities of partners in the Partnership were set forth in an Agreement of Limited Partnership of Verdone Limited Partnership (the “Partnership Agreement”) dated as of December 16, 1997.

13. Emily Verdone executed the Partnership Agreement as the sole General Partner and as a Limited Partner, and her four children—Elsya Stockin, Catherine Verdone, Rick Verdone, and Jim Verdone (collectively the “Siblings”), executed the Partnership Agreement each as a Limited Partner.

14. Emily Verdone formed the Partnership as a vehicle to preserve, manage, and increase the family’s assets for the benefit of herself and for the equal benefit of the four Siblings. *See* Ex. A (“Partnership Agreement”), § 4.

15. At the time the Partnership was formed, Emily Verdone made an initial capital contribution, consisting of real estate at a stated value of \$449,000.00 and \$1,000 in cash, in exchange for a four percent (4%) general partnership interest and a ninety-four percent (94%) limited partnership interest. Each of the Siblings made an initial capital contribution of \$2,296.00

in cash in exchange for a one-half percent (0.5%) limited partnership interest. *See* Partnership Agreement, Schedule A.

16. Upon information and belief, Emily Verdone later transferred a three percent (3%) limited partnership interest to each of her children, resulting in ownership interests as follows:

	Type of Interest	Percentage Interest
Emily Verdone	General Partner	4%
Emily Verdone	Limited Partner	82%
Elsya Stockin	Limited Partner	3.5%
Catherine Verdone	Limited Partner	3.5%
Rick Verdone	Limited Partner	3.5%
Jim Verdone	Limited Partner	3.5%

Partnership Agreement, First Amendment to Schedule A.

17. At some time prior to January 1, 2004, Emily Verdone gifted her entire remaining eighty-two percent (82%) limited partnership interest equally to the four Siblings. As a result, Emily Verdone's sole ownership interest in the Partnership was her four percent (4%) general partnership interest and the Siblings each owned a twenty-four percent (24%) limited partnership interest.

Key Rights and Responsibilities in Original Partnership Agreement

18. The Partnership Agreement vests responsibility for "the management of the day-to-day business and affairs of the Partnership" in the Managing General Partner. Partnership Agreement § 19.1. Managing General Partner is defined as "**EMILY MCCOY VERDONE** and any successor Managing General Partner elected in accordance with the provisions of this Agreement." Partnership Agreement § 6. The original version of the Partnership Agreement also

included the following provisions relevant to this lawsuit—Section 16.4, Section 19.6, Section 19.7, Section 24, and Section 28.

19. Section 16.4 restricts who can be admitted as a General Partner, providing that only Limited Partners or “the transferee of all or part of a Interest of a General Partner (if such transfer otherwise meets the requirements of Section 16.3)” are permitted to be admitted as General Partners. Additionally, Section 16.4 requires “written approval of both the General Partners and a Majority in Interest of the Limited Partners” prior to the admission of a General Partner.

20. In relevant part, Section 19.6 of the Partnership Agreement originally provided that the Managing General Partner shall be paid a salary “set by a majority of the General Partners (other than the Managing General Partner) in an amount equal to *the reasonable compensation* which the Partnership would have to pay to a third party to perform the same management, investment and other services performed by the Managing General Partner” but not less than “an annual fee of .65% of the value of the net assets managed”

21. Notwithstanding the text of Section 19.6, Emily Verdone never claimed and was never paid a management fee during her tenure as Managing General Partner.

22. Section 19.7 of the Partnership Agreement originally provided the method by which a successor Managing General Partner would be appointed if Emily Verdone “shall die, become incompetent . . . , resign as Managing General Partner or cease for any reason to be a General Partner.” If such a circumstance arises, then Emily Verdone, or her “successor-in-interest or any attorney-in-fact or guardian,” will be permitted to appoint a new Managing General Partner. The new Managing General Partner will “have all the powers and duties specified in this Article 19.” Originally, Section 19.7 required that “[a]ny such successor Managing General Partner shall be required to hire North Carolina Trust Company (or such other bank, trust company, or professional

money manager as shall be unanimously agreed upon in writing by all the partners . . .) to manage and invest the assets of the Partnership.”

23. Section 24 of the Partnership Agreement originally provided that the General Partner shall keep the “[p]roper and complete records and books of account . . . in which shall be entered fully and accurately all transactions and such other matters relating to the Partnership’s business.” Partnership Agreement § 24.1. Section 24.1 originally required that “[t]he books and records shall at all times be maintained at the Partnership’s office as provided in Article 3 and shall be open to the reasonable inspection and examination of the Partners or their duly authorized representatives during reasonable business hours.” Partnership Agreement § 24.1.

24. Originally, Section 28.1 of the Partnership Agreement required that semi-annual meetings of the Partnership be held at the Partnership’s principal office. Additionally, Section 28.1 provided that additional meetings of the Partnership could be “called by the General Partners or by Limited Partners who hold at least ten percent (10%) of the aggregate Interests.”

Value of Partnership Assets

25. Upon information and belief, the Partnership’s only significant asset is a parcel of real property located at 9210 Kerns Road, Huntersville, North Carolina 28078 (the “Property”). The Property totals 75.21 acres of land.

26. The ad valorem property tax value of the Property is currently \$1,818,118.00, although the fair market value of the Property is significantly higher.

27. Around May 30, 2013, the Partnership received an unsolicited offer to purchase the Property for \$3,760,000.00.

28. Based upon an appraisal conducted by Fred H. Beck and Associates, LLC on December 19, 2018, after discussions between counsel for the parties, the current fair market value of the Property is \$4,140,000.00.

In light of Emily Verdone's Diminished Capacity, Rick Verdone Assumes Control of Verdone Family Trust, Emily Verdone's Assets, and the Partnership

29. In April 2009, Emily Verdone moved into the independent living section of an assisted living facility in Charlotte, North Carolina.

30. Shortly thereafter, on December 8, 2009, Rick Verdone was appointed Business Power of Attorney or attorney-in-fact for Emily Verdone. For reasons known only to Rick Verdone, he did not inform Jim Verdone of such appointment. In fact, Jim Verdone was not informed of such appointment until February 1, 2013, when he received a letter from Neil Coghill, the attorney who had assisted Emily Verdone in the administration and management of the family's assets that mentioned the prior appointment.

31. Upon information and belief, after his appointment, Rick Verdone began making the management decisions for the Partnership and exercising the authority of Managing General Partner on behalf of Emily Verdone. As such Rick Verdone had fiduciary obligations to the Partnership, Jim Verdone, and the other limited partners.

32. Sometime in February 2010, Emily Verdone moved to the third floor of the assisted living facility, which is secured with a passcode required for entry and exit and staffed with a full nursing station. Upon information and belief, Emily Verdone's medical condition had deteriorated and was continuing to deteriorate at that time.

33. On February 1, 2013, Neil Coghill recommended that Emily Verdone resign as a Trustee "so that she is no longer required to make important decisions about the [Verdone Family Trust] and read, understand and sign legal documents in connection with the [Verdone Family

Trust].” Upon information and belief, these comments reflected the diminished capacity of Emily Verdone at that time, including her inability to read, understand, and sign legal documents.

Rick Verdone’s Conditional Offer to Relinquish Control

34. On August 21, 2012, Rick Verdone communicated to the other Siblings that he would like “to ‘pass on’ a significant amount of th[e] responsibilities” related to the management of Emily Verdone’s affairs. Rick Verdone served as co-trustee of the Verdone Family Trust, assisted in managing Emily Verdone’s personal affairs in his capacity as attorney-in-fact, and assisted in managing the Partnership, in his capacity as Emily Verdone’s attorney-in-fact.

35. In connection with the Partnership, Rick Verdone explained that the responsibilities related to managing the Partnership mainly include filing the taxes for the Partnership, maintaining Tump Farm as a “working farm” to keep its status in the Value Use Program for tax purposes, and maintaining the forest portion of the Property in the Value Use Program.

36. In response, Jim Verdone expressed his appreciation for Rick Verdone’s service and informed Rick Verdone that he would be willing to assist. As part of the effort to learn what these responsibilities entailed, Jim Verdone asked for more detailed information regarding the assets and financial information related to the Verdone Family Trust, Emily Verdone’s personal affairs, and the Partnership. As relates to the Partnership, Jim Verdone inquired if there was an assessed value of the Property. For unexplained reasons, Rick Verdone never responded to any of these requests.

37. On February 28, 2013, Rick Verdone emailed the Siblings to inform them that he would be resigning, effective March 30, 2013, as Emily Verdone’s Attorney-in-Fact, Representative for the General Partner of the Partnership, and as Co-Trustee of the Verdone Family Trust.

38. Rick Verdone informed the Siblings that someone would need to take over those responsibilities. In doing so he made a point to clarify, in writing, the parties' understanding that none of these duties were to be compensated, stating: "all responsibilities outlined would involve no financial compensation as has been the case in the past."

39. As before, Jim Verdone and Elsy Stockin responded that they would be willing to take over the fiduciary responsibilities previously handled by Rick Verdone. Through their attorney, they requested that they be provided with financial information regarding the Verdone Family Trust, the Partnership, and Emily Verdone's personal affairs.

40. Despite expressing a desire to be relieved of his fiduciary duties, Rick Verdone asserted that a transfer of control would only be made upon certain conditions.

41. First, Rick Verdone again insisted that "[p]rior to assuming any fiduciary roles, Jim and Elsy . . . confirm in writing that neither of them will take any compensation for such services at any time." Second, Rick Verdone insisted that Jim Verdone and Elsy Stockin execute in Rick Verdone's favor "a full release and indemnification for any act or failure to act in his several fiduciary roles at any time in the past."

42. Inexplicably, Rick Verdone refused to explain why he was seeking a full release. Nor would he provide any of the financial information that Jim Verdone and Elsy Stockin requested.

43. Because of Rick Verdone's refusal to provide them with the requested information, Jim was not comfortable with Rick Verdone's demands, especially the requirement that Jim Verdone and Elsy Stockin fully release and indemnify him for any acts or failure to act in his fiduciary roles. It made no sense to provide a full release without an understanding of what conduct or potential claims might be released.

44. To that end, Elsysa Stockin wrote a letter to Rick Verdone reiterating her desire, along with Jim Verdone's desire, to take over the responsibilities of managing Emily Verdone's affairs and the Partnership. However, she expressed that his conditions are "non-starters" and that they should be given "the freedom to manage and make decisions" just as Rick Verdone had when he was acting in a fiduciary role.

45. In the face of such requests, instead of simply providing factual information about his conduct of Emily Verdone's affairs, or explaining why he required a full release, on May 30, 2013, Rick withdrew his proposed resignations.

46. After withdrawing his resignations, Rick Verdone represented that, as a Co-Trustee of the Verdone Family Trust, he would provide each of the beneficiaries of the trust, including Jim Verdone and Elsysa Stockin, "a written report summarizing the receipts, disbursements and principal of the trust assets." Rick Verdone also represented that "in his fiduciary capacity as the attorney-in-fact, [he] will annually provide Mrs. Verdone and each of her children a written report summarizing the receipts, disbursements and principal of Mrs. Verdone's assets."

47. Despite such promises, to date Rick Verdone has refused to provide any written reports with respect to Emily Verdone's assets or trust assets.

48. On May 30, 2013, Neil Coghill recommended to the limited partners that they convert the Partnership to a North Carolina limited-liability company and appoint one of the Siblings to be the manager of the LLC. Jim Verdone requested additional information regarding the purpose of the conversion and once again sought financial documents for the Partnership.

49. Neither Neil Coghill nor Rick Verdone provided Jim Verdone with the information he requested. As a result, Jim Verdone elected not to approve the Conversion because he did not

have sufficient information to understand the purpose or effect that such conversion would have. Accordingly, the Partnership remained a Delaware Limited Partnership.

Rick Verdone Begins Bad Faith Effort to Dilute Partnership Interests of Jim Verdone and Elsy Stockin

50. Other than the initial capital contributions made on or before December 16, 1997, as specified in Schedule A to the Partnership Agreement, “[t]he Partners are under no obligation to make any additional Capital Contributions.” Partnership Agreement § 7.1. However, the Partnership Agreement provides that the General Partner may offer and sell additional partnership interests to current Partners. Section 7.2 specifies the manner and method of pricing of such offers to sell, stating that:

The Partners shall first be offered, on identical terms and conditions, the opportunity to purchase such additional Interests pro rata in accordance with their relative interests. The offering price per 1% Interest shall not be less than the highest price for which the Partnership had previously issued or sold a 1% Interest in the Partnership. The Interests of those Partners who elect not to exercise their right to purchase additional Interests, will be proportionately diluted in the event of a sale of additional Interests to Partners who do exercise their right to purchase additional Interests.

Partnership Agreement § 7.2.

51. On November 6, 2013, Rick Verdone, in his capacity as attorney-in-fact for Emily Verdone, indicated his decision to “to raise additional funds by selling additional Interests to the Partners” pursuant to Section 7.2 of the Partnership Agreement (“First Offer”). The First Offer stated as follows:

[t]he Partnership is offering a total of 5.0% additional Interests in the Partnership at a total price of \$22,960.00. For each Limited Partner who currently owns a 24.0% Interest in the Partnership, the Partnership is offering 1.2% additional Interest at a price of \$5,510.40. For the General Partner who currently owns a 4.0% Interest in the Partnership, the Partnership is offering 0.2% additional Interest at a price of \$918.40.

52. The First Offer required that each partner notify the Partnership whether he or she was going to elect to purchase the offered interests by November 20, 2013.

53. On November 8, 2013, Jim Verdone emailed Neil Coghill, inquiring what the additional capital would be used for and how the share prices had been determined. Jim Verdone repeated his request to receive financial information related to the Partnership as then required by Section 24.1 of the Partnership Agreement.

54. Jim Verdone also raised the issue that the Partnership had not been holding annual meetings as required pursuant to Section 28.1 of the Partnership Agreement.

55. Jim Verdone also explained that it was his understanding that the Partnership needed to hire North Carolina Trust Company to manage and invest the Partnership's assets as required pursuant to Section 19.7 of the Partnership Agreement in the event Emily Verdone appointed a successor Managing General Partner. Jim Verdone noted that the Partnership had presumably not done so because of expense, but expressed his desire to enforce such a requirement if Rick Verdone, as acting Managing General Partner of the Partnership on behalf of Emily Verdone as her attorney-in-fact, was not going to provide the financial information requested.

56. Neil Coghill responded to Jim Verdone on November 15, 2013, but neither Neil Coghill nor Rick Verdone provided the financial information requested, nor did they provide meaningful responses to Jim's requests regarding annual meetings or the need for a third-party trustee.

57. Upon information and belief, Elsysa Stockin informed Neil Coghill and the other partners that she would not be able to come up with the required funds in the short time period allowed.

58. As a result, neither Jim Verdone nor Elsy Stockin elected to purchase additional interests in connection with the First Offer.

59. Emily Verdone (through Rick Verdone as attorney-in-fact), Catherine Verdone, and Rick Verdone all elected to purchase the interests in accordance with the First Offer, which resulted in Jim Verdone and Elsy Stockin's partnership interests being diluted and Rick Verdone and Catherine Verdone having voting control over the Partnership.

60. After the First Offer, Rick Verdone, in his capacity as attorney-in-fact for Emily Verdone, purported to change the partners ownership interests in the Partnership as follows:

	Type of Interest	Percentage Interest
Emily Verdone	General Partner	4.1%
Elsya Stockin	Limited Partner	23.39%
Catherine Verdone	Limited Partner	24.56%
Rick Verdone	Limited Partner	24.56%
Jim Verdone	Limited Partner	23.39%

61. Upon information and belief, by issuing the First Offer to purchase Partnership interests without providing required financial information, and with a tight turnaround, Rick Verdone acted in bad faith and specifically intended to dilute the existing interests of Jim Verdone and Elsy Stockin to Rick Verdone's benefit.

62. Upon information and belief, Rick Verdone, as attorney-in-fact for Emily Verdone, set the offer price for the First Offer, decided the amount of additional interests that would be sold, and made all the business decisions related to the First Offer.

63. But, in order to disproportionately penalize any non-participating limited partners, and give himself (or himself and Catherine Verdone, whom he knew would vote at his direction)

control of Partnership votes, Rick Verdone vastly undervalued the Partnership's assets when establishing the purchase price for additional interests. Specifically, Rick Verdone calculated the purchase price of Partnership Interests using \$459,200.00 as the total value of Partnership assets. Upon information and belief, the fair market value of the Partnership as of November 6, 2013 was substantially higher than that.

64. As noted, the current fair market value of the Property—the Partnership's sole material asset—is \$4,140,000.00. At that value, Rick Verdone's purchase of an additional 1.2% interest should have cost him \$49,680. Even using the assessed value of \$1,818,118.00, Rick Verdone's 1.2% interest would have cost him \$21,817. However, using the significantly depressed value built into the First Offer, Rick was able to purchase his additional 1.2% interest (and generate a corresponding dilution of interest for any non-participant in the election) for only \$5,510.40.

65. In addition, undervaluing assets for the First Offer enabled Rick Verdone to issue future offers to sell additional interests at similarly deflated prices. The Partnership Agreement requires that "[t]he offering price per 1% Interest shall not be less than the highest price for which the Partnership had previously issued or sold a 1% Interest in the Partnership." Thus, by setting the First Offer price significantly below the fair market value of the Partnership, Rick Verdone enabled himself to make future offers at a similarly diluted price.

Rick Verdone Uses New Majority Limited Partner Interest to Amend Partnership Agreement for His Benefit and to the Detriment of Jim Verdone and Elsy Stockin

66. Rick wasted very little time taking advantage of Jim Verdone and Elsy Stockin's newly diluted minority limited partnership interests. On January 1, 2014, Rick Verdone caused Emily Verdone, as the sole General Partner, and Catherine Verdone and Rick Verdone, now representing a Majority in Interest of the Limited Partners as a result of the First Offer, to execute the First Amendment to the Agreement of Limited Partnership of Verdone Limited Partnership

(“Amendment”). The Amendment made six changes to the Partnership Agreement. Notably most were surgically targeted to delete the rights and protections that Jim Verdone and Elsy Stockin had consistently asserted under the Partnership Agreement as originally drafted.

67. First, the Amendment changed the address of the Principal Office of the Partnership, to 2422 Overhill Road, Charlotte, NC 28211. Upon information and belief, the Principal Office of the Partnership is Rick Verdone’s home address. Ex. B (“Amendment”) ¶ 1.

68. Second, to prevent Jim Verdone and Elsy Stockin from continuing to insist upon a third-party investment manager, the Amendment added a provision to Section 19.1 allowing the Managing General Partner to hire a Limited Partner to manage the Partnership assets. The new term specifies that if the Managing General Partner hires a third party that the third party would be entitled to receive compensation in accordance with Section 19.6. Amendment ¶ 2.

69. Third, the Amendment changed Section 19.6, which addresses the salary of the Managing General Partner. The Amendment deleted the requirement that the Managing General Partner’s salary be “set by a majority of the General Partners (other than the Managing General Partner).” Amended Section 19.6 does not even provide a method by which the salary for the Managing General Partner will be set. Instead, it continues to require that the salary be reasonable compensation for the services provided, stating that “[t]he amount of the compensation paid . . . to the Managing General Partner . . . shall be an amount not more than the reasonable compensation which the Partnership would have to pay a third party manager engaged on the open market to perform the same management, investment or other services performed” and “[i]n no event shall such salary exceed or be less than an amount which is reasonable compensation for services rendered as required by Section 704(e)(2) of the Code.” Amendment ¶ 3. The Amendment also provides more specific instructions on how to calculate the salary. Originally Section 19.6

required the salary be no less than “.65% of the value of the net assets managed.” Amendment ¶ 3. The amended Section 19.6 is more specific, stating that the salary should be no less than “.65% of the current appraised non-use tax value of any real property owned and managed by the Partnership and the current net value of any cash and other liquid assets owned and managing by the Partnership (the ‘Managed Value’).” Amendment ¶ 3.

70. The Amendment also added the option for the Managing General Partner to defer payment of his or her salary “[i]f at the time that compensation is payable. . . the Managing General Partner determines that payment of such compensation from the net income of the Partnership would not be practicable.” Amendment ¶ 3. In such a circumstance, the “payment of such compensation may be deferred until such time as the Managing General Partner determines that the Partnership has sufficient cash to pay such compensation.” Amendment ¶ 3. Section 19.6 specifically provides that “[i]n the event that the Partnership sells all or substantially all of the assets of the Partnership, such deferred compensation shall be paid upon the settlement of such sale.” Amendment ¶ 3.

71. Fourth, the Amendment changed Section 19.7, which provides the timing and method of appointing a successor Managing General Partner in place of Emily Verdone, and also deleted the requirement that “any such successor Managing General Partner shall be required to hire North Carolina Trust Company (or such other bank, trust company, or professional money manager as shall be unanimously agreed upon in writing by all the partners . . .) to manage and invest the assets of the Partnership.” Amendment ¶ 4.

72. Fifth, in the face of Jim Verdone and Elsy Stockin’s historical requests for financial information and other records, the Amendment changed Section 24.1 to provide that the “[t]he books and records shall be made available to all Partners electronically and shall at all times

be open to the reasonable inspection and examination of the Partners or their duly authorized representatives.” Amendment ¶ 5.

73. Finally, in the face of Jim’s query about annual meetings, the Amendment revoked the requirement in Section 28.1 that the Partnership have semi-annual meetings at the Principal Office and provided that “[i]n lieu of regular meetings in-person or by teleconference, the business of the partnership may be conducted by electronic mail, facsimile, or otherwise.” Amendment ¶ 6.

Resignation of Emily Verdone as General Partner

74. On April 1, 2014, Emily Verdone, as the sole General Partner of the Partnership, and Rick Verdone, as the sole Member and Manager of Tump, executed the Resignation of General Partner of Verdone Limited Partnership and Appointment of Successor General Partner (“Resignation”). *See* Ex. C. Pursuant to Section 19.7 of the Partnership Agreement, as amended, the Resignation provides that “Emily McCoy Verdone hereby *resigns as the General Partner of the Partnership* as of the Effective Date of this Agreement and appoints [Tump] LLC as the successor General Partner of the Partnership as of the same date.” Ex. C (emphasis added).

75. After the Resignation was executed, Neil Coghill, the attorney for the Partnership, provided the partners with a summary of key events related to the Partnership in which he described the purported resignation as eliminating Emily Verdone’s general partnership interest. He stated that “Mrs. Verdone resigned as the managing general partner, effective as of April 1, 2014, and her general partnership interest was converted to a limited partnership interest” and that “Tump, LLC is a single member North Carolina limited liability company which was created for the purpose of acting as the general partner of” the Partnership. Neil Coghill represented that Emily Verdone’s resigned in accordance with Section 19.7 of the amended Partnership Agreement and that Emily Verdone appointed Tump, LLC as the successor managing general partner. Such

representations suggested that all of these changes conformed with the requirements set forth in the Partnership Agreement and Jim Verdone relied on the Partnership's attorney to accurately communicate whether these actions had, in fact, been performed in accordance with the Partnership Agreement.

76. The Partnership's tax returns for the years 2014–2017 list Tump as the General Partner and Emily Verdone as a limited partner.

77. The Amended and Restated Schedule A to the Partnership Agreement, dated April 1, 2014, did not list Tump as a partner, general or limited, nor did it distinguish Emily Verdone's 4.1% interest in Partnership as a "limited partner" interest.

78. Neither Jim Verdone nor Elsy Verdone were informed of the purported Resignation or Amendment until Neil Coghill sent them copies of the documents on April 25, 2014.

79. In that communication, Neil Coghill, upon information and belief acting at the direction of Rick Verdone, misrepresented the legal effect of Emily Verdone's resignation under the Partnership Agreement. Specifically, her resignation as a general partner is a mandatory dissolution event under the Partnership Agreement. Section 22.1 provides that the Partnership "shall be dissolved and terminated and its business wound up" upon the occurrence of certain events, including the "dissolution, retirement, resignation, death, disability or legal incapacity of a general partner." Partnership Agreement § 22.1(c).

80. Notably, Section 22.2 of the Partnership Agreement provides for certain exceptions to mandatory dissolution but provides for no exception if the triggering event is the death or resignation of a general partner.

81. Accordingly, the Partnership has been dissolved by its terms since April 1, 2014 – though no effort has been made to wind up its affairs.¹

Tump Began Accruing a Management Fee

82. Notwithstanding his recognition on numerous occasions that the Managing General Partner should receive no compensation, after April 1, 2014, Rick Verdone caused Tump to accrue a management fee of 1% of the non-use tax value of the property, totaling \$18,181 per year, and has continued to accrue such fee, plus interest, each year it has served as Managing General Partner.

83. Of course Tump is not a “third party” as contemplated by the Partnership Agreement and the Siblings. Upon information and belief, Tump is simply an empty corporate vehicle owned and controlled exclusively by Rick Verdone. A payment to Tump is the same as a payment to Rick Verdone, which is something he repeatedly agreed was inappropriate.

84. Further, in light of the limited work required to manage the partnership, an annual fee of \$18,181 is grossly excessive. The only tasks involved in managing the Partnership are filing the Partnership’s tax returns and maintaining the Property’s status as a “working farm.” Upon information and belief, the only significant task related to maintaining the property as a “working farm” is to maintain the lease the Partnership has with the person who grows, cuts, and sells hay.

85. Even Neil Coghill represented, in his May 30, 2013 letter informing the other limited partners that Rick Verdone withdrew his resignations, that “the farm does *not* generate sufficient income to pay for a third-party manager.”

¹ Alternatively, if the trier of fact ultimately concludes that Emily Verdone did not resign as a general partner on April 1, 2014, then her death on March 6, 2018, would serve as a “triggering event” requiring dissolution.

86. Upon information and belief, reasonable compensation for such work would be substantially lower than \$18,181 per year.

87. Upon information and belief, Tump's management fee is the largest expense of the Partnership—the second largest expense is the property taxes, which are approximately \$1,032.74 per year.

Second Offer to Sell Additional Interests in Partnership

88. Shortly after the execution of the Resignation, on May 28, 2014, Rick Verdone, in his capacity as sole member and manager of Tump, made a Secondary Offer of Additional Interests of Verdone Limited Partnership (“Second Offer”) to all the partners.

89. Rick Verdone represented that “[t]he Partnership is out of cash and needs additional funds to pay its ongoing debts and expenses.” However, the Second Offer did not provide any information regarding what expenses the Partnership had or any explanation of how the money from the sale of interests would be used.

90. The Partnership offered to sell “a total of 10.0% additional Interests in the Partnership at a total price of \$45,920.00.”

91. In accordance with Section 7.2 of the Partnership Agreement the Second Offer applied to the partners as follows:

For each Limited Partner who currently owns a 24.56% Interest in the Partnership (Cathy and [Rick]), the Partnership is offering a 2.456% additional interest at a price of \$11,278.00. For each Limited Partner who currently owns a 23.39% Interest in the Partnership (Elsya and Jim), the Partnership is offering 2.339% additional Interest at a price of \$10,741.00. For the Limited Partner who currently owns a 4.10% Interest in the Partnership (Mother), the Partnership is offering a .41% additional interest at a price of \$1,882.00.

92. The Second Offer required that each partner notify the Partnership whether he or she was going to elect to purchase the offered interests by June 13, 2014.

93. As before, Jim Verdone requested that the Partnership provide him with financial information and an explanation of how the funds from the Second Offer would be used. However, he was never provided with any such information.

94. Due to the continuing lack of transparency and communication by Rick Verdone, Jim Verdone, through his attorney, proposed that Rick Verdone buy-out his partnership interests. However, Rick Verdone refused to negotiate a buy-out.

95. Both Rick Verdone and Catherine Verdone elected to purchase additional interests in accordance with the Second Offer.

96. Once again, Jim Verdone elected not to purchase any additional interests because he was not given any of the financial information necessary to make an informed decision. Jim Verdone was never told how the sale price was calculated or how the funds would be used.

97. Upon information and belief, Elsy Stockin elected not to purchase any additional interests because she was unable to acquire the funds in the short time-frame and was not provided with any explanation of why the funds were needed.

98. As a result, Rick Verdone, acting in his fiduciary capacity as Managing General Partner through Tump, diluted Emily Verdone, Jim Verdone, and Elsy Stockin's limited partnership interests.

99. After the Second Offer, Rick Verdone purported to change the ownership interest in the Partnership as follows:

	Type of Interest	Percentage Interest
Emily Verdone	General Partner	3.92%
Elsya Stockin	Limited Partner	22.29%
Catherine Verdone	Limited Partner	25.75%
Rick Verdone	Limited Partner	25.75%

Jim Verdone	Limited Partner	22.29%
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100. Once again Rick Verdone vastly undervalued the Partnership's assets when establishing the purchase price for the Second Offer. Rick Verdone calculated the purchase price of the Partnership interests using \$459,200.00 as the current value of the Partnership assets. Upon information and belief, the fair market value of the Partnership as of May 28, 2014 was substantially higher than that.

101. As noted the current fair market value of the Partnership's sole material asset is \$4,140,000.00. At that value, Rick Verdone's purchase of an additional 2.456% interest should have cost him \$101,678.40. Even using the assessed value of \$1,818,118, which is the value he used to calculate Tump's annual management fee, Rick Verdone's 2.456% interest should have cost \$44,652.98. However, using the significantly depressed value, Rick Verdone was able to purchase his additional 2.456% interest for only \$11,278.00 and dilute the interests of Emily Verdone, Jim Verdone, and Elsy Stockin who elected not to participate in the purchase of additional shares.

102. The Amended and Restated Schedule A to the Partnership Agreement dated August 1, 2014 did not list Tump as a partner, general or limited, nor did it distinguish Emily Verdone's 3.92% interest in Partnership as a "limited partner."

Third Offer to Sell Additional Interests in the Partnership

103. Emily Verdone passed away on March 6, 2018. Upon information and belief, her limited partnership interest is still owned by the Estate. All the Siblings are Co-Executors of the Estate.

104. On July 24, 2018, Neil Coghill emailed all the partners of the Partnership informing them that, according to Rick Verdone, the Partnership was out of cash and needed funding to pay current debts and expenses.

105. At that time, the Partnership made its third Offer of Additional Interests of Verdone Limited Partnership ("Third Offer"). The Partnership offered to sell a total of 10% additional interests at a total price of \$45,920.00. The specific offer was as follows:

For each Partner who currently owns a 25.75% Interest in the Partnership (Cathy and Rick), the Partnership is offering 2.575% additional Interest at a price of \$11,824.00. For each Partner who currently owns a 22.29% Interest in the Partnership (Elsya and Jim), the Partnership is offering 2.229% additional Interest at a price of \$10,236.00. For the Estate, which currently owns a 3.92% Interest in the Partnership, the Partnership is offering .392% additional Interest at a price of \$1,800.00.

106. The Third Offer required that each partner notify the Partnership whether he or she was going to elect to purchase the offered interests by August 7, 2018.

107. Jim Verdone and Elsysa Stockin, as Co-Executors of the Estate, elected to purchase additional interests on behalf of the Estate because they did not want the Estate's interests to be unfairly diluted. However, Catherine Verdone and Rick Verdone, as the two other Co-Executors of the Estate, elected not to purchase any additional interests on behalf of the Estate. Upon information and belief, because the majority of the Executors for the Estate did not agree to purchase additional interests, the Estate did not elect to purchase any additional interests.

108. Both Catherine Verdone and Rick Verdone elected to purchase an additional interest in accordance with the Third Offer.

109. On July 31, 2018, Jim Verdone emailed Neil Coghill once again requesting financial information related to the Partnership from 2013 to the present. Specifically, what debts and expenses the Partnership had incurred that required the Partnership to seek additional funds.

110. After not receiving any additional information, on August 2, 2018, Jim Verdone emailed all the Siblings expressing his concerns about why the Partnership needed over \$40,000 when the annual property taxes for the partnership were only \$1,000.00 and asked why the additional funding was needed. Rick Verdone never responded to this inquiry.

111. Additionally, because of the lack of transparency and communication, Jim Verdone wanted to cease his involvement with the Partnership and once again proposed that either his interest in the Partnership be bought out or that he be permitted to buy-out his Siblings interest. Neither Rick Verdone nor Catherine Verdone responded to this e-mail.

112. Due to the limited time to respond to the Third Offer and difficulty obtaining information, Jim Verdone and Elsy Stockin elected to purchase the additional interests because they did not want their interests in the Partnership to continue to be unfairly diluted.

113. Rick Verdone, once again, vastly undervalued the Partnership's assets when establishing the purchase price for additional interests. Rick Verdone used \$459,200.00 as the total value of the Partnership assets when calculating the purchase price of the Partnership Interest; however, Rick Verdone used the assessed value of \$1,818,118.00 to calculate Tump's management fee, which accrued in 2014-2018.

114. As noted the current fair market value of the Partnership's sole material asset is \$4,140,000.00. At that value, Rick Verdone's purchase of an additional 2.575% interest should have cost him \$106,605. Even using the assessed value of \$1,818,118.00, Rick Verdone's 2.575% interest would have cost him \$46,816.54. Instead, using the significantly depressed value of the Partnership, Rick Verdone purchased his additional 2.575% interest for only \$11,824.00.

115. The Third Offer did not specify the manner and timing of paying for the additional interests.

116. After electing to purchase the additional interests, Jim Verdone informed the Partnership that he would pay for his additional interests as soon as he received the financial information he had requested.

117. Although Jim Verdone has finally received the 2013 to 2017 tax returns for the Partnership, he has never received any explanation of how the funds raised from the Third Offer would be used.

118. On December 12, 2018, the Partnership demanded that Jim Verdone and Elsy Stockin deliver the payment for the Third Offer in full by 5:00 p.m. on December 20, 2018. This was the first time that Jim Verdone had been told that payment was required in full and could not be paid in monthly installments.

119. Based on this demand, Jim Verdone made payment in full on December 21, 2018, with a reservation of rights regarding the issues raised in this lawsuit.

Fourth Offer to Sell Additional Interests in the Partnership

120. On June 19, 2019, Defendants attorney of record in this action, David Boggs, sent an Offer of Additional Interests of Verdone Limited Partnership (“Fourth Offer”) on behalf of Tump, purporting to sell an additional 50% interests in the Partnership. The specific offer was as follows:

The Partnership is offering a total of 50% additional Interests in the Partnership at a total price of \$229,600.00. For each Partner who currently owns a 27.06% Interest in the Partnership (Cathy and Rick), the Partnership is offering 13.53% additional Interest at a price of \$62,129.76. For each Partner who currently owns a 23.42% Interest in the Partnership (Jim), the Partnership is offering 11.71% additional Interest at a price of \$53,772.32. For each Partner who currently owns a 19.16% Interest in the Partnership (Elsya), the Partnership is offering a 9.58% Interest for \$43,991.36. For the Estate, which currently owns a 3.30% Interest in the Partnership, the Partnership is offering 1.65% additional Interest at a price of \$7,576.80.

121. The Fourth Offer required that each partner notify the Partnership whether he or she was going to elect to purchase the offered interests by July 24, 2019.

122. The Fourth Offer specified that “the offering price per 1% Interest shall be \$4,592.00, which is the same price at which additional Interests in the Partnership were offered in each of the Prior Offerings.” This demonstrates that Tump was, once again, valuing the Partnership at \$459,200, which is substantially less than the fair market value of the sole asset of the Partnership.

123. The Fourth Offer states that the Partnership needs “additional funds to pay its current debts and expenses, to reimburse and reserve funds to Tump for legal fees pursuant to the Partnership Agreement” and that “the General Partner has determined that it is in the interest of the Partnership in meeting these legal obligations to raise additional funds by selling additional Interests to the Partnership.” Despite the representation that the funds from the Fourth Offer are needed to pay current debts and expenses of the Partnership in addition to Tump’s legal fees, the Fourth Offer does not specify any expenses or debts of the Partnership. Instead, the focus of the Fourth Offer is on the fact that Tump needs money to pay its legal fees.

124. Although the Partnership Agreement gives the General Partner discretion to determine if the Partnership should sell additional interests to raise capital, when exercising such discretion, the Partner must consider its fiduciary duties to the Partnership and the limited partners. This is especially true when the General Partner is making a decision to raise additional capital to compensate itself or to pay fees incurred by the General Partner, not the Partnership. Yet, Tump did not consult the limited partners or any disinterested party to discuss the sale of additional interests in the Partnership or to determine whether Tump was entitled to be advanced fees in accordance with the Partnership Agreement.

125. At this time, Tump is not entitled to an advancement of any fees in connection with this litigation. Section 22.1 of the Partnership Agreement does not provide for the advancement of

fees in every type of action. Instead, the only reference to advancement of fees relates to actions for liabilities under the Securities Act. Otherwise, Section 22.1 provides that:

[t]he General Partners and their affiliates shall be indemnified by the Partnership against any losses, judgments, liabilities, expenses, and amounts paid in settlement of any claims sustained by them in connection with the Partnership *provided that the same were not the result of gross negligence, willful misconduct or breach of fiduciary duty on the part of the General Partners or their Affiliates.*

If Tump is able to prevail on the claims against it, then it will be entitled to indemnification.

However, the Partnership Agreement does not provide for advancement of fees for this type of litigation.

126. After multiple discussions between counsel, on July 12, 2019, Rick Verdone, on behalf of Tump, agreed to extend the deadline for the Fourth Offer until July 31, 2019.

127. On July 22, 2019, in response to the Fourth Offer, Jim Verdone, through counsel, served a demand on Tump in accordance with Section 17-305 of the Delaware Limited Partnership Act, making a demand for information and business records related to the Fourth Offer. Specifically, Jim Verdone requested: (1) documentation reflecting the value of the Partnership and its assets; (2) documentation reflecting the outstanding and projected expenses of the Partnership, including the purported attorneys' fees that Tump, LLC contends it is entitled to have advanced; (3) documentation explaining the method and support for Tump's valuation of the Partnership when setting the price per share; (4) all documents that were used and relied upon to calculate the price of the additional interests that Tump is selling; and (5) all documents reflecting the value of the Property.

128. The day after Jim Verdone made a formal demand for documentation, Tump amended the Fourth Offer, proposing to sell only 12.5% additional interest in the Partnership

instead of 50% additional interest in the Partnership. Specifically, the Fourth Offer was amended as follows:

The total LP interests offered is reduced to 12.5% of the LP. The (a) total dollar amount of \$229,600; (b) the stated individual percentage of total LP ownership and contribution amount required to purchase the individual's offered interest; and (c) the other terms and conditions of the Offer remain unchanged and in full force and effect.

129. The amended Fourth Offer stated that "the revised interests table for pro rata share of the 12.5% total interest offering: Rick and Cathy each at 3.3825 % of the LP; Jim at 2.9275 % of the LP; Elsy at 2.395 % of the LP; [and] Estate at .495 % of the LP."

130. The amended Fourth Offer, which was made approximately one week before the extended deadline to respond to the Fourth Offer, does not provide any explanation regarding why Tump significantly reduced the total interests being sold and, effectively changed the price per interest.

131. On July 26, 2019, Tump provided a two-page response to Jim Verdone's demand for information. Tump did not provide an accounting of the future expenses and debts of the Partnership in 2019 nor did it provide documentation of the Partnership's 2018 or 2019 to-date expenses; instead, it provided a one-page handwritten balance sheet, which states the Partnership's income and expenses in 2017.

132. Tump also failed to provide any explanation of the methodology it used to calculate the price per interest or of how it values the Partnership. Instead of providing this information, to which Jim Verdone is entitled, Tump responded by challenging the validity of Jim Verdone's claims related to the First Offer and Second Offer. But such arguments are irrelevant and unresponsive to a valid request for information from a limited partner made in accordance with the Delaware Limited Partnership Act. Tump continues to repeat that the same methodology was used to set the price for the three prior offers, yet will not share that methodology.

133. Further, even after recognizing that the price per interest, and therefore the methodology for setting the price, is different in the Fourth Offer than the three previous offers, Tump still did not provide Jim Verdone with an explanation or documentation showing how the price per interest was established.

134. In response to the request for information regarding Tump's valuation of the Partnership, Tump provided a copy of the 2019 tax value of the Property. But this information does not explain Tump's valuation of the Property or the Partnership. In fact, based on the fact that Tump is attempting to sell 12.5% interest in the Partnership for a total of \$229,600, it does not appear that Tump even used the 2019 tax value when setting the price per interest. Further, the tax value of an asset does not establish the fair market value of the Property.

135. Because Jim Verdone was not provided with any information to reasonably justify the need for such funds or information regarding the value of the Partnership, Jim Verdone moved for a Temporary Restraining Order enjoining Tump, LLC and Rick Verdone from enforcing the Fourth Offer on July 29, 2019.

COUNT ONE
Declaratory Judgment Dissolving the Partnership

136. Jim Verdone incorporates by reference the preceding paragraphs of the Complaint as if fully set herein.

137. There exists a real and justiciable controversy between Jim Verdone, Tump, and Rick Verdone over whether the Partnership should be dissolved pursuant to the terms of the Partnership Agreement.

138. Section 22.1(c) of the Partnership Agreement provides that “[t]he Partnership shall be dissolved and its business wound-up only upon the occurrence of” four Terminating Events, including the “resignation. . . of a general partner.”

139. Although Section 22.2 of the Partnership Agreement provides that, notwithstanding Section 22.1, the partnership shall not be dissolved upon the occurrence of certain Terminating Events if certain conditions are satisfied, Section 22.2 does not apply to the resignation of a General Partner.

140. Emily Verdone resigned as Managing General Partner on April 1, 2014.

141. Accordingly, this controversy should be resolved and the Court should declare that the Partnership was dissolved on April 1, 2014 in accordance with Section 22.1(c) and that the Partnership should be wound-up in accordance with Section 23 of the Partnership Agreement.

142. There is no prejudice to any of the parties caused by any delay in effecting the dissolution of the Partnership. The Partnership is not a fully functioning business, but instead has one primary asset, the Property, that should be sold to pay off any debts of the Partnership and then the remaining proceeds should be distributed amongst the partners.

COUNT TWO
Breach of Fiduciary Duties

143. Jim Verdone incorporates by reference the preceding paragraphs of the Complaint as if fully set herein.

144. A fiduciary relationship existed between Rick Verdone and the Partnership and Rick Verdone and the other limited partners of the Partnership.

145. A fiduciary relationship also existed between Tump and the Partnership and the limited partners of the Partnership.

146. Consequently, Rick Verdone owed the Partnership, Jim Verdone, and the other partners fiduciary duties by virtue of the fact that he was making management decisions on behalf of the Partnership, first in his capacity as attorney-in-fact for Emily Verdone and then in his capacity as the Manager of Tump.

147. Tump also owed fiduciary duties to the Partnership and all the limited partners by virtue of its role as Managing General Partner of the Partnership.

148. Rick Verdone and Tump had an obligation to not undervalue the Partnership and therefore, should have used the fair market value of the Property to value the Partnership and set the offer price for the sale of the additional interests in the Partnership in the First Offer, the Second Offer, Third Offer, and Fourth Offer.

149. Rick Verdone and Tump breached their fiduciary duties owed to the Partnership, Jim Verdone and the other partners by acting in his own self-interest, and against the interest of the Partnership and other limited partners, when he undervalued the Partnership by setting the price for the First Offer, Second Offer, Third Offer, and Fourth Offer below the fair market value of the Partnership.

150. As a result, Rick Verdone has been able to substantially increase his interest of the Partnership without providing a reasonable value to the Partnership for the additional interests he has received.

151. The Partnership suffered damages that were proximately caused by Rick Verdone and Tump's breach of their fiduciary duties because the Partnership received inadequate consideration for the sale of additional interests.

152. Jim Verdone suffered damages that were proximately caused by Rick Verdone's and Tump's breach of fiduciary duty because his value in the Partnership was improperly diluted.

COUNT THREE
Breach of Partnership Agreement
Improper Accrual of Management Fee

153. Jim Verdone incorporates by reference the proceeding paragraphs of the Complaint as if fully set forth herein.

154. The Partnership Agreement was a valid and enforceable contract binding all General and Limited Partners, including Rick Verdone.

155. Tump was the Managing General Partner of the Partnership as of April 1, 2014, and thus was bound by the terms of the Partnership Agreement.

156. Rick Verdone, as sole Manager of Tump, is bound by the terms of the Partnership Agreement when performing the duties of Managing General Partner on behalf of Tump.

157. As Rick Verdone recognized numerous times in writing, the parties agreed that no Verdone family member would be financially compensated for performing the role of Managing General Partner of the Partnership.

158. Nonetheless, Rick Verdone violated such understanding by compensating himself (through Tump which he wholly owns and operates) for the management of Partnership affairs.

159. Rick's decision to compensate himself is a violation of the Partnership Agreement, as implemented and understood by the parties, and a violation of Rick's obligation of good faith and fair dealing to his partners.

160. Further, even if Rick were entitled to compensation, he has chosen to pay himself an amount far in excess of a "reasonable" amount in light of the work performed, and far in excess of what would be paid to an independent third party for the same work.

161. The Partnership and Jim Verdone, as a limited partner, have suffered damages as a result of these breaches because the Partnership has incurred significant expenses that exceed any value the Partnership received.

COUNT FOUR
Breach of Partnership Agreement
Failure to Provide Accounting Information

162. Jim Verdone incorporates by reference the proceeding paragraphs of the Complaint as if fully set forth herein.

163. The Partnership Agreement was a valid and enforceable contract.

164. Tump was the Managing General Partner of the Partnership as of April 1, 2014, and thus was bound by the terms of the Partnership Agreement.

165. Rick Verdone, as sole Manager of Tump, is bound by the terms of the Partnership Agreement when performing the duties of Managing General Partner on behalf of Tump.

166. The Partnership Agreement requires that the books and records of the partnership be made available to all the partners electronically. This requirement goes beyond merely providing online access to the Partnership's UBS Account.

167. Rick Verdone continually refused to provide Jim Verdone with accounting information, including any explanation of what expenses the Partnership had incurred that required the Partnership to sell interests to raise capital.

168. Rick Verdone's refusal to provide Jim Verdone with accounting information was a breach of Section 24 of the Partnership Agreement.

169. Jim Verdone has suffered damages as a result of the breach because he has been unable to protect his interest in the Partnership and make informed decisions related to whether he should continue to invest money in the Partnership.

COUNT FIVE
Punitive Damages

170. Pursuant to Section 1D-45 of the North Carolina General Statutes, a party is entitled to an award of punitive damages where he establishes entitlement to compensatory damages and demonstrates that the defendants engaged in fraudulent, malicious or willful or wanton conduct.

171. Rick Verdone maliciously schemed to take control of the Partnership and prevent Jim Verdone and Elsy Verdone from being able to have any meaningful participation in the Partnership. Rick Verdone then used his control to unfairly dilute the value of the Partnership in an effort to allow himself to gain greater interest and control without properly compensating the Partnership.

172. Accordingly, Jim Verdone is entitled to punitive damages.

COUNT SIX
Motion for Preliminary Injunction

173. Tump is attempting to continue to sell interests in the Partnership at severely undervalued prices, resulting in a windfall to the partners who participate and a substantial and unjustified loss for the partners who cannot participate.

174. Tump is continuing to breach its fiduciary duties to the Partnership and the limited partners by making a Fourth Offer to sell additional interests in the Partnership at a severely undervalued price and by refusing to provide requested and material information necessary for the limited partners to make an informed decision regarding whether to purchase additional interests.

175. Plaintiff is likely to prevail on the merits of his claim for breach of fiduciary duty against Tump and Rick Verdone. Plaintiff and other limited partners will be irreparably harmed if Tump is allowed to enforce the Fourth Offer and additional capital calls during the pendency of this litigation. Specifically, Plaintiff's ownership interest in the Partnership will continue to be unjustly diluted. Due to the nature of the Partnership, it will be very difficult to accurately value the Partnership and determine the economic harm that results from the unfair dilution. On July 29, 2019, Plaintiff filed the affidavit of Jim Verdone as Exhibit A to Plaintiff's Motion for Temporary Restraining Order and the affidavit of Elsy V. Stockin, to support Plaintiff's Motion for

Temporary Restraining Order, which set forth additional facts to support Plaintiff's Motion for Preliminary Injunction.

WHEREFORE, Jim Verdone respectfully requests that the Court:

- a. Declare the Partnership is dissolved pursuant to the terms of the Partnership Agreement;
- b. Void the three prior sales of additional interests in the Partnership, or alternatively, adjust the partners' ownership interests to reflect the fair market value of the interest purchased;
- c. Award Jim Verdone his actual damages in an amount to be proven at trial;
- d. Award Jim Verdone punitive damages;
- e. Award Jim Verdone his attorneys' fees, expenses, and costs of the court to the extent permitted by law;
- f. Enjoin Tump and Rick Verdone from enforcing the Fourth Offer or making any additional offers to sell additional interests in the Partnership during the pendency of this litigation; and
- g. Grant such other and further relief as the Court deems to be just and proper.

JURY DEMAND

Jim Verdone demands a trial by jury on all issues so triable.

This the 15th day of August 2019.



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