

Inc. (“Power Cooling”) and Reliance Machining, Inc. (“Reliance Machining,” collectively with Power Cooling, the “Companies”), by and through their attorneys, Windels Marx Lane & Mittendorf, LLP, as and for their Complaint against Defendant Lauren Larsen (“Lauren”) and the Companies (as nominal defendants), allege as follows:

NATURE OF THE CASE

1. This case arises from malfeasance being perpetrated by Lauren, in connection with her stewardship of the decades-old family HVAC businesses, Power Cooling, Inc. (“Power Cooling”) and Reliance Machining, Inc. (“Reliance Machining,” collectively with Power Cooling, the “Companies”), which are owned in part by the Larsen 2021 Family Trust - Subtrusts A, B, and C (who collectively own 48.25% of the outstanding common stock of the Companies), and in part by Lauren (who owns 49% and controls another 2.75%, giving her majority control of the outstanding common stock of the Companies).

2. Lloyd Larsen (“Lloyd”) – Louann, Lydia, and Lauren’s father¹ – had originally founded the Companies and ran them for decades.

3. In 2002, as part of Lloyd’s estate planning, he transferred a portion of the Companies’ outstanding shares of stock into the “Larsen Family Trust” created on December 1, 2002 (the “2002 Trust”), a trust for the benefit of his issue.

4. Since Lloyd’s death in 2011, Lauren, directly or indirectly, has controlled the Companies by serving their officer and director; she also serves as co-trustee of the 2002 Trust.

5. As officer and director the Companies, as well as a trustee of the 2002 Trust, Lauren has complete control over the informational flow concerning the Companies.

¹ Lloyd’s fourth daughter, Linnea, is a non-party to this lawsuit.

6. During her entire tenure helming the Companies, Lauren has failed to honor promises and refused to share information concerning the Companies, which has left Louann and Lydia with little choice but to commence the instant litigation to vindicate their own rights as beneficial minority shareholders as well as those for whose benefit they serve as trustees.

7. Thus far, what little information the Trustees have been able to uncover regarding Lauren's management of the Companies has proven extremely troubling and raises concern that the value of the Companies' stock has been (and is being) eroded for Lauren's own personal benefit (and that of her personal family members), in derogation of Lauren's fiduciary duties to both the Companies and the Companies' minority shareholders.

8. For example, the Trustees have reason to believe that Lauren has hired her children to no-show jobs at the Companies, paying them large salaries and benefits, including paying for luxury cars and first class airline tickets. Further, on information and belief Lauren is using the Companies' funds to pay for life insurance policies for her mother and daughters that have no benefit to the Companies.

9. Lauren has repeatedly represented that the Companies lack funds to make distributions to the Companies' shareholders, but the Trustees know that the Companies own valuable real estate that is generating rental income and are otherwise viable HVAC businesses that should have profits available for distribution.

10. Despite her repeated refrains over the years that the Companies lack funds, Lauren, upon information and belief, has used the Companies' funds for the benefit of herself and her children and husband to, among other things, purchase, renovate and/or furnish a vacation home for herself, purchase a home in Montana for one of her daughters, and pay for an in-ground pool for her other daughter.

11. Moreover, Lauren has repeatedly promised to sell the Companies' real estate holdings in Long Island City for several years but has never presented the Trustees with any documentation purporting to evidence any good faith attempts to do so and, as of the date of this Complaint, the properties are not publicly listed for sale on any internet-based real estate platform.

12. Because of Lauren's ongoing misconduct spanning many years, the Companies and the trusts for which Plaintiffs serve as trustees continue to watch the value of their stock erode due to Lauren's malfeasance, but are unable to reign her in without judicial intervention.

13. Plaintiffs fear that the foregoing acts are merely the tip of the proverbial iceberg with respect to Lauren's misconduct, and they have sought the books and records of the Companies, which Lauren has largely refused to produce.

14. In the months preceding the commencement of this litigation, counsel for Plaintiffs made multiple requests for books and records – including a formalized demand for books and records pursuant to Section 624 of New York's Business Corporation Law (the "BCL") and the common law – but Lauren has refused to provide any documents, save for a single, unaudited 2021 financial statement, which was prepared by an accountant who is not the Companies' long-standing accountant and raises more questions than it answers.

15. Given Lauren's uncooperative attitude towards the Companies' minority shareholders and Plaintiffs, all of whom are extremely concerned with Lauren's ongoing looting and mismanagement of the Companies, the Trustees have no choice but to commence the instant litigation to vindicate their rights as minority shareholders and to preserve the value of the Companies.

THE PARTIES

16. Power Cooling is a New York domestic business corporation, which was formed on July 18, 1966 and is based in Queens County, New York. Power Cooling's primary address, as registered with the New York Department of State, Division of Corporations, is 43-43 Vernon Boulevard, Long Island City, New York 11101. Power Cooling's address for service of process is registered with the New York Department of State, Division of Corporations as "Lauren Larsen 256 84th Street, Brooklyn, New York 11209."

17. Reliance Machining is a New York domestic business corporation, which was formed on December 1, 1978 and is based in Queens County, New York. Reliance Machining's address for service of process is registered with the New York Department of State, Division of Corporations as "Lauren Larsen 256 84th Street, Brooklyn, New York 11209."

18. The Larsen 2021 Family Trust (the "2021 Trust") was created in August 2021. It creates three separate trusts: Subtrust A, Subtrust B, and Subtrust C (collectively, the "Subtrusts"). Subtrust A owns 19.40% of the total outstanding common stock of Power Cooling and Reliance Machining, respectively. Subtrust B owns 19.40% of the total outstanding common stock of Power Cooling and Reliance Machining, respectively. Subtrust C owns 9.45% of the total outstanding common stock of Power Cooling and Reliance Machining, respectively.

19. Plaintiff Katerina Voumvourakis is a trustee of Subtrust A and Subtrust B. Voumvourakis is a resident of Suffolk County, New York.

20. Plaintiff Louann Larsen is a trustee of Subtrust A and Subtrust C. Louann is a resident of Broward County, Florida.

21. Plaintiff Lydia Larsen is a trustee of Subtrust B and Subtrust C. Lydia is a resident of Kings County, New York.

22. Defendant Lauren Larsen individually owns 49% of the total outstanding common stock of Power Cooling and Reliance Machining, respectively. Lauren is also co-trustee of the 2002 Trust, which owns 2.75% of the total outstanding common stock of Power Cooling and Reliance Machining, respectively. Finally, Lauren oversees the business operations as an officer and director of both Power Cooling and Reliance Machining. Upon information and belief, Lauren maintains formal residency in Kings County, New York.

JURISDICTION AND VENUE

23. Jurisdiction in this Court is proper pursuant to CPLR § 301 because Plaintiff Lydia resides in Kings County.

24. Venue in this Court is proper pursuant to CPLR § 503(a).

FACTS COMMON TO ALL CLAIMS

The Ownership of the Companies

25. Lloyd Larsen and his wife, Herdis Louise Larsen (“Louise”), had four (4) daughters, Louann, Lydia, Lauren, and Linnea.

26. Lloyd Larsen started the Companies, which operated as closely held family businesses that specialized in cooling and heating services, commonly referred to as “HVAC”.

27. In addition to the HVAC businesses, Power Cooling also acquired two tracts of real property located at 43-27 Vernon Boulevard, Long Island City, New York 11101 and 59-55 60th Street, Maspeth, NY 11378 (collectively, the “Properties”). As of the date of this filing, Power Cooling still owned the Properties and the Properties are not publicly listed for sale.

28. While Lloyd Larsen was alive, as part of his estate planning, he placed 51% of the Companies’ outstanding common stock into the 2002 Trust on or about December 1, 2002. Lauren

was named as a co-trustee of the 2002 Trust, along with a non-party to this lawsuit, Charles Zimmerman (“Zimmerman”).

29. On January 1, 2003, the elder Mr. and Mrs. Larsen and Lauren executed a voting agreement to make themselves the sole voting shareholders of the Companies.

30. Lloyd Larsen passed away in February 2011, leaving Lauren and Louise in control of the Companies.

31. Upon information and belief, Lauren thereafter acquired 49% of the Companies’ outstanding common stock, through a gift of 29% and the purchase of the remaining 20% of her mother’s shares (which included her deceased father’s shares as well).

32. In August 2021, certain assets from the 2002 Trust were decanted into a new trust, the 2021 Trust, which was created in August 2021 and which creates the three Subtrusts.

33. Of the 51% of the Companies’ stock that the 2002 Trust owned, 48.25% of it was transferred to the Subtrusts, leaving the present ownership of the Companies as follows:

NAME OF PARTY	PERCENTAGE OWNERSHIP
Subtrust A	19.40%
Subtrust B	19.40%
Subtrust C	9.45%
2002 Trust	2.75%
Lauren	49%
Total	100%

34. In addition to the foregoing assets, 100% of the membership interests in a third family business, L&L Larsen Family LLC (“L&L”), were transferred to the 2021 Trust.² In August 2021, L&L held four tracts of real property as follows: (i) 248 Ovington Avenue, Brooklyn, New York 11209; (ii) 441 73rd Street, Brooklyn, New York 11209; (iii) 135 Harbor Beach Road, Mount Sinai, New York 11766; and (iv) 1519 SE 12th Street, Deerfield Beach, Florida 33441.

35. Lauren remains co-trustee of the 2002 Trust, with Zimmerman serving as the other co-trustee.

36. The co-trustees of Subtrust A, which is held for the benefit of Louann (and her issue), are Louann and Voumvourakis.

37. The co-trustees of Subtrust B, which is held for the benefit of Lydia (and her issue), are Lydia and Voumvourakis.

38. The co-trustees of Subtrust C, which is held for the benefit of Linnea (and her issue), are Louann, Lydia, and Zimmerman.

39. The governing documents of Subtrust C empower Louann and Lydia to act for Subtrust C without Zimmerman.

Lauren’s Malfeasance

40. Since her father passed away, and Lauren assumed direct or indirect control over the Companies, Lauren has run the Companies with impunity for years.

41. While she has worked to obstruct the Plaintiffs’ visibility into the Companies’ operations to the maximum extent possible, what the Plaintiffs have been able to learn concerning her management of the Companies raises concern.

² Subtrust A and Subtrust B each received 37.5% of the membership interests in L&L, while Subtrust C received 25%.

42. Upon information and belief, the Companies have failed to follow corporate formalities such as conducting regularly scheduled board of director (the “Board”) meetings, and maintaining minutes of any such meetings.

43. The Companies have not made any distributions to any shareholders since Lauren assumed control.

44. Despite making no distribution to any shareholders (including the Subtrusts), upon information and belief, Lauren has been able to find funds to hire her daughter, Kristina Senum Krueger (“Kristina”), who has no experience in the HVAC industry, and to pay her an annual salary exceeding \$200,000, plus benefits, and life insurance paid by the Companies.

45. Upon information and belief, Lauren’s other daughter, Kathryn Senum Perkins (“Kathryn”), is also on the Companies’ payroll despite not being involved in the Companies’ business in any way. Kathryn is a resident of Montana, who rarely visits New York, and does not work remotely or perform any services for the Companies that would justify employment much less an annual salary exceeding \$200,000 that she is being paid, plus benefits, and life insurance paid by the Companies.

46. Upon information and belief, Lauren’s other daughter, Kariana Senum, is also on the Companies’ payroll despite leaving in July 2020 and not performing any services for the Companies to justify her employment let alone the annual salary exceeding \$200,000 that she is being paid, plus life insurance paid by the Companies.

47. When asked to cap her daughters’ income, Lauren refused to do so, and previously stated that the salaries to her daughters were justified because, *inter alia*, Kathryn needs capital to open a coffee shop and Kathryn’s partner made a very modest income.

48. Indeed, Lauren even refused to accept a cap of \$500,000 as an annual salary for her daughters.

49. Lauren has repeatedly told Louann and Lydia that there is no money being generated by the Companies, but Plaintiffs have reason to believe that the Properties generate substantial rental income.

50. Specifically, there are six (6) known businesses currently renting commercial space on Power Cooling's property.

51. Upon information and belief, there are many others renting monthly parking spaces and storage spaces.

52. Upon information and belief, some of the rental income being generated by the foregoing is paid in cash, which is then pocketed by Lauren (or otherwise inures to her benefit and/or that of her family members) and not provided or recorded as income to the Companies.

53. Furthermore, the Companies are still engaged in providing the HVAC services they have provided for decades, which had long been a profitable endeavor under Lloyd's leadership.

54. Therefore, the Trustees have reason to believe that the Companies are still generating sufficient income to support distribution payments to the Companies' shareholders, including the Subtrusts.

55. Upon information and belief, the Companies have been paying approximately \$80,000 per year for a \$4 million life insurance policy on Louise, with Lauren as the sole beneficiary.

56. Upon information and belief, the Companies are also paying approximately \$48,000 per year for corporate life insurance policies for Lauren's three (3) daughters, Kristina, Kathryn, and Kariana.

57. Therefore, not only do Plaintiffs have reason to believe that Lauren has been and continues to provide her daughters with no-show jobs, but she is also overcompensating them to provide them with benefits to which they are not entitled, to the detriment of the Companies.

58. Upon information and belief, in 2018, Lauren purchased a vacation residence in upstate New York.

59. Upon information and belief, Lauren used the Companies' funds to pay for an in-ground pool installed in the backyard of the Brooklyn residence where her daughter, Kristina, resides.

60. Upon information and belief, Lauren has also recently bought her daughter a residence in Montana.

61. Plaintiffs are concerned that these foregoing large expenditures (as well as furniture and renovations pertaining to these residences) were purchased with the funds of the Companies and/or charged on the Companies' corporate credit card account.

62. Upon information and belief, Lauren husband, Paul Matejov ("Matejov") is president/owner of a company that bids on jobs to serve as a subcontractor for projects that Power Cooling oversees, and Plaintiffs are concerned that the subcontracting processing is being used a subterfuge for additional company funds to inure to Lauren's benefit.

63. Simply put, Lauren's ongoing misconduct helming the Companies has been consistent with someone diverting the income being generated by the Companies into her personal accounts (or otherwise for the benefit of herself and her family members) and/or using the assets of the Companies to fund her extravagant lifestyle.

64. Additionally, Lauren has formed (at least) two additional corporate entities, Turbo Cooling, Inc. and the Larsen Group, Inc., which may be entities that Lauren uses to divert assets from the Companies and/or were formed as competitors of the Companies.

65. Over the past several years, as their concerns have grown, Louann and Lydia have pressed Lauren for additional information regarding the assets of the Companies, but Lauren has not been forthcoming.

66. Despite claiming that the Companies' core HVAC business was losing money, Lauren has never presented the Trustees with any document purporting to represent an offer or otherwise evidencing an intention by Lauren to sell the Companies.

67. Considering how valuable the Properties are, it make little economic sense to use them to continue operating an HVAC business that purportedly loses money instead of selling the valuable real estate.

68. The Trustees believe that Lauren refuses to sell any of the Companies' assets (including the Properties) because Lauren does not wish to distribute any funds to the Subtrusts, as she would be required to under Article VIII of the operative "Shareholders' Agreement of Power Cooling Inc. and Reliance Machining Inc.," which is dated August 2021 (the "Shareholder Agreement").

69. Rather, Lauren appears content to simply loot the Companies for her own personal benefit as well as for her family members' benefit.

70. In doing so, Lauren has secured for herself and her family members effectively all of the cash flow generated by the Companies.

Lauren's Breach of Shareholder Agreement

71. Lauren refuses to abide by the terms of the Shareholder Agreement.

72. Despite being required to maintain a Board containing a minimum of three (3) persons pursuant to Article III of the Shareholder Agreement, Lauren has failed to ensure that the Board is comprised of at least three (3) persons.

73. Instead, Lauren has maintained the current composition of the Board, which presently consists of only Lauren and her elderly mother, Louise (who is in her eighties).

74. As presently constructed, Lauren is able to continue dominating the Board and operate the Companies as she sees fit without any checks on her stewardship to ensure that she is operating the Companies in the best interest of all shareholders.

75. Lauren has failed to honor the corporate formalities required by the Companies' governing agreements, including the Shareholder Agreement.

76. Lauren has been engaged in a deliberate and systematic course of conduct that has wasted the assets of the Companies and failed to maximize the value of the Companies while simultaneously destroying the value of the Companies' stock for the sake of preserving unlawful revenue streams and benefits for Lauren and her immediate family members.

Plaintiffs' Books & Records Requests

77. In light of the foregoing misconduct, Plaintiffs' concerns regarding the Companies are well founded, especially given Lauren's repeated refrain that the Companies lack funds while she simultaneously employs (and overpays) her daughters and continues to fund a variety of expensive purchases, despite Lauren not having any other form of employment.

78. Plaintiffs have requested information regarding the Companies, but Lauren has either ignored the requests or promised to give documents but then later refused to provide any.

79. Beginning in February 2022, Louann and Lydia attempted to obtain information and documents from the Companies by having counsel contact Zimmerman, as Trustee of 2002

Trust. At first, Zimmerman agreed to speak, but he then declined to both speak with counsel and make any requests for documents. Upon information and belief, Zimmerman is being paid by one or both of the Companies, at Lauren's direction, as a consultant for unknown services.

80. On March 11, 2022, counsel for the Subtrusts contacted Lauren's counsel via email seeking various books and records pertaining to the Companies, and which requested that certain documents pertaining to the Companies be provided by March 25, 2022 (the "March 11th Request"). A true and correct copy of the March 11th Request is annexed hereto as Exhibit 1.

81. Specifically, the March 11th Request sought the following documents:

- i. Accrual or cash based financial statements, including all supplementary statements and schedules for the Companies.
- ii. Federal tax returns, including all supplementary statements and schedules for the Companies.
- iii. Detailed general ledgers, in electronic format.
- iv. Bank statements for all accounts, including copies of canceled checks, wire transfers and deposit details.
- v. Credit card statements for all accounts used by the Companies and a listing of employees who have access to or maintain the credit cards.
- vi. Detailed payroll reports reflecting year end totals by employee from the third-party payroll provider, including W-2s and 1099s.
- vii. Transaction details schedules and supporting documentation regarding transactions with related parties, including shareholder or employee loans, for each year.

82. Lauren did not provide any documents in response to the March 11th Request.

83. On March 28, 2022, Lauren's counsel advised Plaintiffs that Plaintiffs should avail themselves of the formal legal mechanisms in place for obtaining the Companies' books and records.

84. On April 1, 2022, counsel for the Subtrusts submitted a formal written demand for books and records pursuant to their rights as shareholders under the common law and Section 624 of the BCL (the "April 1st Demand"), which requested that Lauren respond within five (5) days of receipt of the April 1st Demand. A true and correct copy of the April 1st Demand is annexed hereto as Exhibit 2.

85. The April 1st Demand sought the following documents:

- i. Accrual or cash based financial statements, including all supplementary statements and schedules for the Companies.
- ii. Federal and state tax returns, including all supplementary statements and schedules for the Companies.
- iii. Detailed general ledgers, in electronic format.
- iv. Bank statements for all accounts, including copies of canceled checks, wire transfers and deposit details.
- v. Credit card statements for all accounts used by the Companies and a listing of employees who have access to or maintain the credit cards.
- vi. Detailed payroll reports reflecting year end totals by employee from the third-party payroll provider, including W-2s and 1099s.
- vii. Transaction details, schedules and supporting documentation regarding transactions with related parties, including shareholder or employee loans, for each year.

- viii. Minutes of all Board and shareholder meetings for the Companies, and all Board and shareholder resolutions.
- ix. Documents evidencing rents paid to or on behalf of the Companies, including leases entered into by either Power Cooling or Reliance Machining.

86. The April 1st Demand further recited that the purposes for which Plaintiffs sought the documents were as follows:

Since the Subtrusts have credible bases by which to infer that your mismanagement of the Companies has adversely impacted the value of their interests in the Companies, the Subtrusts' primary purpose for demanding the foregoing records is reasonably related to the Subtrusts' interests as shareholders in the Companies. "[I]nvestigating alleged misconduct by management and obtaining information that may aid legitimate litigation are, in fact, proper purposes for a BCL § 624 request, even if the inspection ultimately establishes that the board had engaged in no wrongdoing." *Ret. Plan for Gen. Emps. of City of N. Miami Beach*, 120 A.D.3d at 1056. The demanded books and records are essential to accomplishment of the Subtrusts' articulated purpose for the inspection and are otherwise unavailable from any other source. The Subtrusts have reason to believe that your stewardship of the Companies may have resulted in, *inter alia*, breaches of the fiduciary duties you owe to the other shareholders, corporate waste, diversion of company assets, and the loss of valuable opportunities to maximize the assets of the Companies, and in turn, the value of Subtrusts' interests in the Companies.

Specifically, the Subtrusts have learned from multiple sources that one (or more) of your children may be listed as an employee of the Companies receiving compensation and benefits despite not having any responsibilities as an employee. The Companies have also failed to make any distributions for the entire period of your management of the Companies, which the Subtrusts believe should have been made – at least for some years – given the longevity of the Companies' business, as well as the Companies' real estate generating rental income. Further, you have repeatedly assured the Subtrusts that you would take actions to cause the Companies to sell lucrative assets for several years, but have failed to provide any evidence of attempting to do so, and thus failed to take advantage of prevailing favorable real estate market conditions.

(See Ex. 2 at 3.)

87. Lauren did not respond to the April 1st Demand until April 11, 2022.

88. On April 11, 2022, counsel for the Companies provided Plaintiffs' counsel with only the combined financial statements for the year ended September 30, 2021 (and not for the prior periods requested) for the Companies (the "2021 Financial Statement"). A true and correct copy of the Companies' April 11, 2022 response to the April 1st Demand is annexed hereto as Exhibit 3.

89. Notably, the 2021 Financial Statement was not prepared by the Companies' longstanding accountant.

90. The 2021 Financial Statement does not provide any further details or explanation concerning key line items, including *inter alia*, (i) "Salaries and wages" of \$2,638,621, (ii) "Officer's salaries" of \$364,451, (iii) "Insurance expense" of \$1,050,163, (iv) "Employee benefits" of \$556,550, (v) "Office expense" of \$243,575, and (vi) "Officer loans receivable" of \$987,039.

91. The 2021 Financial Statement also does not state the reasons that Power Cooling spent \$1.2 million to reacquire "100 shares of Treasury stock" or from whom – the stock certainly was not purchased from the Subtrusts.

92. Furthermore, upon information and belief, the 2021 Financial Statement's entry for "Rental Income" of \$283,849 is grossly understated relative to the size of the commercial spaces being rented, highly desirable property locations, prevailing market rates for the past decade, and the fact that all of the tenants are mature businesses generating substantial revenues.

93. By way of example, to accept the entry for "Rental Income" of \$283,849 would mean that each of the six commercial tenants are paying approximately \$4,000 per month in rent,

which is substantially below the prevailing market rate for commercial rental properties in Long Island City, which range from \$10,000-\$40,000 per month (depending on lot size).

94. Upon information and belief, none of the lots being rented by the Companies would justify a \$4,000 monthly rent under prevailing market conditions that have existed for the past decade.

95. By Plaintiffs' estimation, the rental income generated by the Properties should be (at least) \$300,000 more than the figure recited in the 2021 Financial Statement, but Lauren did not provide any leases to enable Plaintiffs to corroborate the amount recited as "Rental Income" in the 2021 Financial Statement (despite being asked to do so).

96. Upon information and belief, Lauren has personally pocketed a portion of the rental income since some tenants pay their rent in cash.

97. Plaintiffs need additional information concerning the line items recited in the Companies' 2021 Financial Statement to adequately ascertain the health of the Companies and the scope of Lauren's misconduct.

98. In light of the scope of the documents sought, the Companies' April 11, 2022 response to the April 1st Demand to the Plaintiffs' demand for books and records is woefully deficient.

99. In the Companies' April 11, 2022 response, the Companies' counsel stated that, "We specifically reject the unsworn claim to credible information of any kind that would support further disclosure."

100. It is thus clear that Lauren will not provide Plaintiffs with additional documents or information concerning the Companies.

101. Plaintiffs' ability to ascertain the full scope of Lauren's waste and diversion of corporate assets continues to be thwarted by her refusal to share any detailed information with the Plaintiffs, despite numerous informal and formal written demands, including the March 11th Request and April 1st Demand.

102. Since Lauren controls the entirety of the informational flow regarding the Companies, Plaintiffs have no other means of obtaining the information sought.

103. Given the foregoing malfeasance Lauren has committed and is likely to continue committing without judicial intervention, Plaintiffs have no choice but to bring this action to, *inter alia*, obtain the books and records of the Companies, order Lauren to disgorge the funds of the Companies she has unlawfully diverted and wasted, and for damages arising from the erosion of the value of the Companies' stock caused by Lauren's misconduct.

CAUSES OF ACTION

**AS AND FOR PLAINTIFFS' FIRST CAUSE OF ACTION
FAILURE TO PROVIDE BOOKS & RECORDS**

104. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 103 of this Complaint, as if fully set forth herein.

105. The Companies are each New York domestic business corporations, and thus subject to the BCL and the New York common law.

106. Lauren is the director and officer in charge of the day-to-day operations of each of the Companies.

107. Plaintiffs are trustees of the Subtrusts, who are minority shareholders in the Companies.

108. Plaintiffs are empowered to act on the Subtrusts' behalf to vindicate the Subtrusts' rights and those of their beneficiaries.

109. As shareholders in the Companies, the Subtrusts have rights pursuant to both the common law and Section 624 of the BCL to inspect the Companies' books and records.

110. On April 1, 2022, counsel for the Subtrusts submitted a lawful demand to inspect the Companies' books and records (*i.e.* the April 1st Demand), which provided the statutory amount of notice and otherwise complied with the BCL and common law.

111. Lauren has not substantially complied with the Subtrusts' April 1st Demand, and has refused to provide any documents other than the 2021 Financial Statement.

112. The 2021 Financial Statement the Companies provided raises more questions than it resolves, as many of the line items appear to be consistent with the Plaintiffs' concerns regarding Lauren's usage of the Companies' funds for the improper purposes discussed at length in this Complaint, including *inter alia* (i) paying her family members of no-show jobs replete with benefits, (ii) paying for life insurance policies that only inure to Lauren and her family members' personal benefit, and (iii) not collecting and underreporting the income generated by the Companies.

113. Moreover, the 2021 Financial Statement does not contain any detailed information regarding any expenditures for years prior to 2021, despite the April 1st Demand demanding such documents.

114. The 2021 Financial Statement also does not explain why Power Cooling "reacquired" \$1.2 million worth of stock and from whom.

115. Upon information and belief, the figure recited for "rental income" in the 2021 Financial Statement is understated relative to the prevailing market rates in the area and the caliber of tenant occupying the Companies' property.

116. Additionally, Lauren has not provided any minutes of Board meetings, as required by BCL §§624(b), (d) in response to Plaintiffs' April 1st Demand.

117. The 2021 Financial Statement explicitly states that it has not been audited, which does not allay Plaintiffs' concerns whatsoever regarding Lauren's misuse of the Companies' funds.

118. Against the backdrop of the Plaintiffs' well-founded fears concerning the malfeasance being perpetrated by the Companies' management, Plaintiffs should be provided with the additional documentation sought, which may aid this litigation by shedding light on the Companies' financial condition, which Lauren herself has repeatedly admitted was precarious but with which Lauren and her family nonetheless continue to fund their lavish lifestyles.

119. Plaintiffs' stated purposes for their April 1st Demand for the Companies' books and records are proper purposes under the BCL and the common law, "even if the inspection ultimately establishes that the [Companies'] board had engaged in no wrongdoing." *See Ret. Plan for Gen. Emps. of City of N. Miami Beach v. McGraw-Hill Companies, Inc.*, 120 A.D.3d 1052, 1056 (1st Dep't 2014).

120. Plaintiffs are seeking the books and records as a good faith exercise of their duties as fiduciaries of the Subtrusts, who are minority shareholders that remain powerless to forestall Lauren's looting of the Companies without judicial intervention.

121. It is unlawful for Lauren to deny Plaintiffs' access to the Companies' books and records indefinitely.

122. Based on Lauren's refusal to substantially comply with Plaintiffs' formal and informal requests, it is clear that Lauren does not intend to voluntarily provide Plaintiffs with access to any more of the Companies' books and records.

123. Without access to the Companies' books and records, Plaintiffs have no other means by which to ascertain the Companies' financial condition and uncover the full scope of Lauren's malfeasance.

124. Accordingly, Plaintiffs seek an order directing Lauren to produce the Companies' books and records on a USB or other digital hard-drive, including (without limitation) the following documents: (1) accrual or cash based financial statements, including all supplementary statements and schedules for the Companies; (2) federal and state tax returns, including all supplementary statements and schedules for the Companies; (3) detailed general ledgers, in electronic format; (4) bank statements for all accounts, including copies of canceled checks, wire transfers and deposit details; (5) credit card statements for all accounts used by the Companies and a list of employees who have access to or maintain the credit cards; (6) detailed payroll reports reflecting year-end totals by employee from the third-party payroll provider, including W-2s and 1099s; (7) transaction details, schedules and supporting documentation regarding transactions with related parties, including shareholder or employee loans, for each year; (8) minutes of all Board and shareholder meetings for the Companies, and all Board and shareholder resolutions; and (9) documents evidencing rents paid to or on behalf of the Companies, including leases entered into by either Power Cooling or Reliance Machining.

125. Due to her improperly refusing to allow Plaintiffs' access to any more of the Companies' books and records, Lauren should be held liable for the expenses incurred by Plaintiffs in connection with promulgating their numerous demands and bringing this action, including costs and attorneys' fees.

AS AND FOR PLAINTIFFS' SECOND CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY OF CARE
(Asserted Derivatively Against Lauren as Director and Officer of the Companies)

126. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 125 of this Complaint, as if fully set forth herein.

127. The Companies are each New York domestic business corporations.

128. Lauren is the director and officer in charge of the day-to-day operations of each of the Companies.

129. Therefore, Lauren owes a fiduciary duty of care to each of the Companies.

130. Lauren has failed to honor her fiduciary duty of care to the Companies by *inter alia* (i) hiring her family members to no-show jobs and overpaying said family members relative to their value to the Companies and their qualifications, (ii) failing to take advantage of prevailing market conditions to sell the Companies and/or the Properties while operating the Companies at a loss, (iii) expending the Companies' funds on life insurance policies that only inure to the benefit of Lauren and/or her family members, and (iv) generally diverting corporate assets for her own and her family members' personal benefit to the detriment of the Companies.

131. Plaintiffs are trustees of the Subtrusts, who are minority shareholders in the Companies.

132. Plaintiffs are empowered to act on the Subtrusts' behalf to vindicate the Subtrusts' rights and those of their beneficiaries.

133. Therefore, Plaintiffs may properly bring this lawsuit in a derivative capacity on behalf of the shareholders of the Companies.

134. Since Lauren controls all of the remaining shares in the closely held Companies outside of Plaintiffs' control and dominates the Board, any demand to compel the Board to act against Lauren should be excused as futile.

135. Lauren's misconduct has spanned years, which Lauren has gone to great lengths to conceal from Plaintiffs.

136. Lauren's misconduct has damaged the value of the Subtrusts' stock in the Companies as well as the value of the Companies themselves, but further information is needed to ascertain the full scope of Lauren's malfeasance.

137. While Plaintiffs are presently not in a position to calculate the full scope of Lauren's malfeasance due to Lauren's failure to make the Companies' books and records available to Plaintiffs, because of Lauren's foregoing misconduct, the Companies have suffered damages in an amount to be determined at trial, but not less than \$10 million.

138. Furthermore, Lauren should be ordered to disgorge all the funds she and her family members have received that have been diverted for their benefit from the Companies.

AS AND FOR PLAINTIFFS' THIRD CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY OF LOYALTY
(Asserted Derivatively Against Lauren as Director and Officer of the Companies)

139. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 138 of this Complaint, as if fully set forth herein.

140. Lauren is the director and officer in charge of the day-to-day operations of each of the Companies.

141. Lauren owes a fiduciary duty of loyalty to the Companies, which requires that she not engage in any transactions in which she personally benefits to the detriment of the Companies.

142. Lauren has breached her fiduciary duty of loyalty to the Companies by *inter alia* (i) hiring her family members to no-show jobs and overpaying said family members relative to their value to the Companies and their qualifications, (ii) failing to take advantage of prevailing market conditions to sell the Companies and/or the Properties while operating the Companies at a loss, (iii) founding Turbo Cooling, Inc. as a competitor to Power Cooling, (iv) utilizing Matejov's

company as a subcontractor solely to divert corporate assets for Lauren and Matejov's benefit, and (v) generally diverting corporate assets for her own and her family members' personal benefit to the detriment of the Companies.

143. Plaintiffs are trustees of the Subtrusts, who are minority shareholders in the Companies.

144. Plaintiffs are empowered to act on the Subtrusts' behalf to vindicate the Subtrusts' rights and those of their beneficiaries.

145. Therefore, Plaintiffs may properly bring this lawsuit in a derivative capacity on behalf of the shareholders of the Companies.

146. Lauren's misconduct has spanned years, which Lauren has gone to great lengths to conceal from Plaintiffs.

147. Lauren's misconduct has damaged the value of the Subtrusts' stock in the Companies as well as the value and viability of the Companies themselves, but further information is needed to ascertain the full scope of Lauren's malfeasance.

148. Since Lauren controls all of the remaining shares in the closely held Companies outside of Plaintiffs' control and she dominates the Board, any demand to compel the Board to act against Lauren is excusable as futile.

149. Therefore, Lauren should be ordered to disgorge all the funds that she and her family members have received that have been diverted for their benefit from the Companies.

150. While Plaintiffs are presently not in a position to calculate the full scope of Lauren's malfeasance due to Lauren's failure to make the Companies' books and records available to Plaintiffs, because of Lauren's foregoing misconduct, the Companies have suffered damages in an amount to be determined at trial, but not less than \$10 million.

AS AND FOR PLAINTIFFS' FOURTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY
(Asserted Directly Against Lauren as Majority Shareholder of the Companies)

151. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 150 of this Complaint, as if fully set forth herein.

152. Lauren is the majority shareholder of each of the Companies, which are closely held private corporations.

153. The Subtrusts are minority shareholders in the Companies.

154. Therefore, Lauren owes a fiduciary duty to the Subtrusts as minority shareholders.

155. Lauren has breached her fiduciary duties to the Companies by *inter alia* (i) hiring her family members to no-show jobs and overpaying said family members relative to their value to the Companies and their qualifications, (ii) failing to take advantage of prevailing market conditions to sell the Companies and/or the Properties while operating the Companies at a loss, (iii) diverting corporate assets for her own and her family members' personal benefit to the detriment of the Companies and the value of the minority shareholders' stock in the Companies, (iv) refusing to make distributions to the Subtrusts despite there being sufficient income being generated by the Companies to support such distributions, and (v) refusing to provide Plaintiffs with access to any information regarding the Companies' business.

156. Lauren has repeatedly represented that the Companies lack funds to make distributions, but she has simultaneously made lavish expenditures for her own and her family members' personal benefit.

157. Furthermore, the 2021 Financial Statement Lauren provided lists "Retained Earnings" of \$7,461,463, which strongly suggests that distributions could be made.

158. Therefore, Lauren's conduct vis-à-vis the Subtrusts is not supported by business realities regarding the Companies, but are instead solely motivated by her desire to profit at the Subtrusts' expense.

159. Lauren has engaged in a systematic looting of the Companies by a number of means, which collectively threaten the viability of the Companies' businesses, and in turn, the value of the Subtrusts' stock holdings.

160. If the status quo is allowed to remain in place, Lauren will continue oppressing the Subtrusts (*i.e.*, the minority shareholders).

161. Plaintiffs are empowered to act on the Subtrusts' behalf to vindicate the Subtrusts' rights and those of their beneficiaries.

162. While Plaintiffs are presently not in a position to calculate the full scope of Lauren's malfeasance due to Lauren's failure to make the Companies' books and records available to Plaintiffs, because of Lauren's foregoing misconduct, the Subtrusts have suffered damages in an amount to be determined at trial, but not less than \$5 million.

**AS AND FOR PLAINTIFFS' FIFTH CAUSE OF ACTION
CONSTRUCTIVE TRUST**

163. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 162 of this Complaint, as if fully set forth herein.

164. Lauren, as both majority shareholder and the party helming the Companies, owes a fiduciary duty to the Subtrusts as minority shareholders.

165. Considering that Lauren is also a relative of Louann and Lydia, there is a heightened expectation that Lauren will conduct herself vis-à-vis her sisters with the utmost loyalty and good faith.

166. There exists a confidential or fiduciary relationship between Lauren and the Subtrusts, the Trustees, and the beneficiaries of the Subtrusts.

167. In August 2021, Lauren promised Plaintiffs (as trustees of the Subtrusts) that she would abide by the Shareholder Agreement.

168. In reliance on that promise, the Subtrusts entered into the Shareholder Agreement, granted Lauren outsized managerial control over the Companies and further left 2.75% of the Companies' outstanding common stock in the 2002 Trust for Lauren to preside over, thereby granting her status as majority shareholder.

169. As set forth above, Lauren breached her promise to abide by the Shareholder Agreement.

170. As a result of Lauren's misconduct, Lauren has been unjustly enriched by retaining all of the cash flow generated by the Companies to the exclusion of the Subtrusts.

171. A constructive trust should be imposed over the Companies' assets and income, so that available profits may be distributed in accordance with the terms of the Shareholder Agreement.

AS AND FOR PLAINTIFFS' SIXTH CAUSE OF ACTION
CORPORATE WASTE
(Asserted Derivatively Against Lauren as Director and Officer of the Companies)

172. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 171 of this Complaint, as if fully set forth herein.

173. Lauren is the director and officer in charge of the day-to-day operations of each of the Companies.

174. Abusing her role as a director and officer of the Companies, Lauren has engaged in a persistent and systematic course of conduct to loot the Companies and otherwise waste the assets

of the Companies to solely benefit herself and her family members to the detriment of the Companies.

175. Lauren's waste of the Companies' assets includes *inter alia*, (i) hiring her family members to no-show jobs and overpaying said family members relative to their value to the Companies and their qualifications, (ii) using the Companies' funds to procure life insurance policies that only benefit Lauren and her family members (and not the Companies), (iii) spending the Companies' funds on a vacation home for herself, (iv) spending the Companies' funds to procure a home in Montana for her daughter Kathryn, (v) spending the Companies' funds to install an in-ground pool at the residence of her daughter Kristina, (vi) subcontracting work to Matejov's company over more qualified and/or cheaper bids, and (vii) generally diverting corporate assets for her own and her family members' personal benefit to the detriment of the Companies.

176. Lauren has acted without the knowledge of or approval of Plaintiffs or the Subtrusts, whom she has actively withheld information from (despite due demand) regarding the ongoing business operations of the Companies in an effort to prevent Plaintiffs from thwarting her ongoing malfeasance.

177. Lauren's misconduct has spanned years, which Lauren has gone to great lengths to conceal from Plaintiffs.

178. Lauren's misconduct has adversely affected the value of the minority shareholders' stock in the Companies, and further threatens the viability of the Companies.

179. Plaintiffs are trustees of the Subtrusts, who are presently minority shareholders in the Companies, and thus have standing to derivatively seek redress for damages suffered by the Companies for the corporate waste Lauren has committed during the years that she has helmed the Companies.

180. As a result of Lauren's foregoing misconduct, the Companies have been damaged in an amount to be determined at trial, but not less than \$10 million.

AS AND FOR PLAINTIFFS' SEVENTH CAUSE OF ACTION
UNJUST ENRICHMENT
(Asserted Derivatively Against Lauren as Director and Officer of the Companies)

181. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 180 of this Complaint, as if fully set forth herein.

182. Lauren has enriched herself by utilizing the Companies' funds for her own and her family members' personal benefit by paying distributions and other monetary payments to herself and her family members, to the exclusion of the Subtrusts.

183. Upon information and belief, Lauren has also been unjustly enriched by diverting assets for her own personal benefit that should otherwise have inured to the Companies' benefit, by *inter alia*, (i) using the Companies' funds to procure life insurance policies that only benefit Lauren and her family members (and not the Companies), (ii) spending the Companies' funds on a vacation home for herself, (iii) spending the Companies' funds to procure a home in Montana for her daughter Kathryn, (iv) spending the Companies' funds to install an in-ground pool at the residence of her daughter Kristina, (v) spending the Companies' funds for her own and her family members' personal benefit, (vi) subcontracting work to Matejov's company over more qualified companies and/or cheaper bids, and (vii) possibly diverting corporate opportunities to other companies under her ownership.

184. Therefore, Lauren has been unjustly enriched at the expense of the Subtrusts, Plaintiffs, and the Companies.

185. Under the foregoing circumstances, it is against equity and good conscience to allow Lauren to be permitted to keep any of the funds she has improperly retained, and she should

be ordered to pay over to the Companies all amounts that she wrongfully appropriated as well as *pro rata* distributions to the Subtrusts.

186. Because of Lauren's foregoing unjust enrichment, the Subtrusts and the Companies have been damaged in an amount to be determined at trial, but not less than \$10 million.

AS AND FOR PLAINTIFFS' EIGHTH CAUSE OF ACTION
BREACH OF SHAREHOLDER AGREEMENT

187. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 186 of this Complaint, as if fully set forth herein.

188. The Companies are governed by the "Shareholders' Agreement of Power Cooling Inc. and Reliance Machining Inc.," which is dated August 2021 (previously defined as the "Shareholder Agreement"), which is a valid binding contract subscribed to by Lauren and the Subtrusts.

189. Pursuant to the Shareholder Agreement the Certificate of Incorporation for each of the Companies was amended to provide, *inter alia*: "The consent by vote of at least two of (x) shareholders constituting a Subtrust A Group Majority, (y) shareholders constituting a Subtrust B Group Majority, and (z) shareholders constituting a Lauren Group Majority shall be required as a condition to the Board of Directors taking any of the following actions:

- (a) enter into or modify any agreement that is not at an arm's length price and on arm's length terms;
- (b) after August __, 2021, to incur any liabilities other than trade payables and other liabilities incurred in the ordinary course of the Corporation's business of installing, repairing and maintaining cooling and heating systems (the "Business") and carrying real property; ...

190. Lauren has caused the Companies to operate in violation of the Certificates of Incorporation.

191. Lauren has also breached the Shareholder Agreement by (a) refusing to appoint a valid Board consisting of three (3) members to govern the Companies, as required by Article III,

Section 1 of the Shareholder Agreement; (b) failing to provide notice of key events affecting the Companies' business, including events that would qualify as "Board Change Events" under Article III; and (c) taking actions without the Subtrusts' consent, in violation of Paragraph 10 of the Amended Certificate of Incorporation of Power Cooling and which is incorporated into the Shareholder Agreement as Exhibit A-1.

192. Because of Lauren's breach of the Shareholder Agreement, Plaintiffs have suffered damages in an amount to be determined at trial, but not less than \$5 million.

AS AND FOR PLAINTIFFS' NINTH CAUSE OF ACTION
DECLARATORY RELIEF

193. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 192 of this Complaint, as if fully set forth herein.

194. There presently exists a justiciable controversy as to whether Lauren is fit to continue running the Companies given her ongoing misconduct, which including *inter alia* diverting assets and harming the Companies, breaching her fiduciary duties of care and loyalty to the Companies and minority shareholders, and her failure to follow corporate formalities as required by law and the Companies' governing documents.

195. Lauren has opposed Plaintiffs' repeated attempts to have Lauren operate the Companies in a manner consistent with her promises and her fiduciary obligations by *inter alia* (i) refusing to provide Plaintiffs with information concerning the financial health of the Companies, (ii) lying about the financial health of the Companies, and (iii) taking actions that benefit Lauren and Lauren's husband and children to the detriment of the Companies.

196. Moreover, Plaintiffs do not believe that Lauren's domination of the Board will allow the Companies to operate in a way that maximizes the value of the Subtrusts' stock.

197. Therefore, Plaintiffs are seeking a judicial declaration (i) stating that Lauren is unfit to remain in charge of the Companies, (ii) removing Lauren as an officer/director of the Companies, and (iii) appointing an independent board of directors to manage the Companies.

AS AND FOR PLAINTIFFS' TENTH CAUSE OF ACTION
ACCOUNTING

198. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 197 of this Complaint, as if fully set forth herein.

199. Lauren has refused to provide any information concerning the finances of the Companies, despite numerous demands.

200. In light of the numerous ways that Lauren stands as a fiduciary vis-à-vis Plaintiffs, and Lauren's foregoing breaches of said fiduciary duties, Plaintiffs are entitled to an accounting regarding the Companies' finances for the entire period of Lauren's tenure helming the Companies.

WHEREFORE, Plaintiffs demand judgment against Defendants, as follows:

- a. On their first cause of action, an order requiring the Companies to provide the Companies' books and records to Plaintiffs within five (5) business days, and costs incurred by Plaintiffs in promulgating the numerous demands and bringing this action, including attorneys' fees;
- b. On their second cause of action, an amount to be determined at trial but no less than \$10 Million plus attorneys' fees and punitive damages;
- c. On their third cause of action, an amount to be determined at trial but no less than \$10 Million plus attorneys' fees and punitive damages;
- d. On their fourth cause of action, an amount to be determined at trial but no less than \$5 Million plus attorneys' fees and punitive damages;
- e. On their fifth cause of action, the imposition of a constructive trust over the Companies' assets;
- f. On their sixth cause of action, an amount to be determined at trial but no less than \$10 Million plus attorneys' fees and punitive damages;
- g. On their seventh cause of action, an amount to be determined at trial but no less than \$10 Million plus attorneys' fees and punitive damages;
- h. On their eighth cause of action, an amount to be determined at trial but no less than \$5 Million plus attorneys' fees and punitive damages;
- i. On their ninth cause of action, a judicial declaration (i) stating that Lauren is unfit to remain in charge of the Companies, (ii) removing Lauren as an officer/director of the Companies, and (iii) appointing an independent board of directors to manage the Companies;

j. On their tenth cause of action, an accounting regarding the Companies' finances for the entire period of Lauren's stewardship of the Companies; and

k. Such other and further relief as this Court deems just and proper.

Dated: April 26, 2022
New York, New York

WINDELS MARX LANE & MITTENDORF, LLP



By _____

Scott R. Matthews
Gabriel Altman
156 West 56th Street
New York, New York 10019
(212) 237-1000
smatthews@windelsmarx.com
galtman@windelsmarx.com
Attorneys for Plaintiffs