

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY: COMMERCIAL DIVISION

-----X  
ARIEL X. BURT, individually and derivatively  
on behalf of FORSYTHE LTD.,

Index No.: \_\_\_\_\_

Plaintiff,

-against-

**COMPLAINT**

LLUIS TORRENT JEREZ,

Defendant,

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Plaintiff Ariel X. Burt (“Burt” or “Plaintiff”), through her undersigned attorneys, both individually on her own behalf and derivatively on behalf of Forsythe Ltd. (“Forsythe”), states the following as and for her Complaint against Defendant Lluís Torrent Jerez (“Torrent” or “Defendant”):

**NATURE OF THE ACTION**

1. Burt, the owner of 50% of the shares of Forsythe, a Bermuda-based company, commences this action against Torrent, the owner of Forsythe’s remaining shares.
2. Burt brings this action to hold Torrent accountable for the damage he has intentionally and unlawfully inflicted, and which he continues to intentionally and unlawfully inflict, on both Burt and Forsythe. Namely, and as set forth in greater detail herein, Torrent is actively denying Forsythe the benefits of one of its most important assets: its ownership of a Delaware company called Atlas Renewables LLC (“Atlas”).
3. Burt and Torrent formed Forsythe in March of 2020 to further their joint venture to develop solar power plants throughout the United States.

4. Burt and Torrent agreed, in writing, that Forsythe would own and control Atlas in full, and be its sole member, and that the parties' various U.S.-based solar power projects would be held by Atlas.

5. To that end, after Torrent initially formed Atlas in or around January 2020, Torrent entered into a Membership Interest Transfer Agreement ("MITA") with Forsythe in September 2020 pursuant to which he transferred his 100% membership interest in Atlas to Forsythe in exchange for the nominal purchase price of \$1,000.

6. Torrent thereafter confirmed and reaffirmed repeatedly, for years, both verbally and in writing, to Burt and to the various third parties with whom Atlas did business, that "Atlas is a 100% subsidiary of Forsythe Ltd." For years thereafter, Torrent never once complained that he had not received the nominal \$1,000 purchase price, nor did he ever once take the position that the written contract pursuant to which he transferred ownership of Atlas to Forsythe was not consummated or effective.

7. Forsythe and Burt invested money, time, work, energy, business connections, and other valuable assets and resources into Atlas because Forsythe was the sole member of, and fully owned and controlled, Atlas.

8. In July of 2023, as Atlas found itself on the verge of a potentially lucrative business deal with a third party concerning one of Atlas' solar-power projects based in New York, Burt discovered, for the first time, that Torrent was representing himself to these third parties as the sole member of Atlas.

9. When Burt confronted Torrent with what she had discovered, Torrent took the position, for the first time in the nearly three years since he had executed the MITA on behalf of both himself and Forsythe, that the MITA was not and had never been effective. Torrent justified

this complete about-face by arguing that Forsythe (which Torrent himself, together with Burt, fully controls) had never paid Torrent the nominal \$1,000 purchase price described in the MITA.

10. Since then, Torrent has doubled down on his outrageous position by further excluding Burt from meetings with Atlas' prospective business partners and by repeatedly claiming that he, and not Forsythe, is the sole member of Atlas.

11. Torrent's actions are without basis in law or fact. Torrent is attempting to deny the clear meaning and import of the MITA, and to re-write the parties' relationship, memorialized in writing over a period of years, all to cut Burt and Forsythe out of a lucrative Atlas deal at the last minute. Torrent is in breach of the express provisions of the MITA, and he is tortiously interfering with Forsythe's prospective economic advantage by knowingly interfering with and denying Forsythe's 100% membership interest in Atlas.

12. Moreover, even if Torrent intentionally opted not to pay himself the nominal \$1,000 purchase price set forth in the MITA, Torrent's repeated written and oral statements to the contrary over the next several years, which served to mislead and induce Burt and Forsythe into investing substantial money, time, resources, connections, and other assets into Atlas, constitute a blatant, obvious, and intentional fraud.

13. Burt accordingly seeks declaratory relief, along with compensatory damages, punitive damages, interest, costs, and attorneys' fees on both her own behalf and on behalf of Forsythe, in order to compensate Burt and Forsythe for the harms and losses they have suffered as a result of Torrent's unlawful actions.

### **THE PARTIES**

14. Plaintiff Burt is an adult individual who resides in Bermuda, and who is a citizen of both the United States and Switzerland. She is the owner of 50% of the shares of Forsythe, a corporation organized and existing under the laws of the nation of Bermuda with a registered office located at Century House, 16 Par-La-Ville Road, Hamilton HM 08, Bermuda.

15. Defendant Torrent is an adult individual who is a citizen of the nation of Spain. Upon information and belief, Torrent is a resident of the State of New York, and owns a home in the State of New York located at 1 Colonial Green, Albany, New York 12211.

16. Torrent is the owner of 50% of the shares of Forsythe.

### **JURISDICTION AND VENUE**

17. The Court has jurisdiction over this matter pursuant to CPLR § 301, since Torrent is a resident of the State of New York and regularly conducts business in the State of New York. All of the solar projects owned by Atlas are located in the State of New York.

18. Venue is proper in this Court pursuant to CPLR § 503, as Torrent is a resident of the County of Albany.

### **FACTUAL BACKGROUND**

#### **The Parties Form Forsythe, the Parent Company for their U.S.-Based Joint Venture**

19. Burt and Torrent each have extensive experience developing solar power projects in a variety of nations around the world. They had worked together on a number of these projects in the past prior to 2020.

20. In early 2020, Burt identified a tremendous opportunity to develop solar power projects in the State of New York.

21. Burt had been actively developing solar projects in the United States for roughly ten years prior. She understood the U.S. solar market, and had developed important connections within the industry.

22. Burt brought and presented her idea to Torrent, with whom she had recently worked on a solar development project in Japan. At that time, Torrent had no experience with developing solar projects in the United States.

23. Burt and Torrent agreed to jointly pursue Burt's plan to develop solar projects in New York.

24. To further their joint venture, Burt and Torrent jointly incorporated Forsythe Ltd. in the nation of Bermuda on March 3, 2020.

25. The parties intended to utilize Forsythe as their jointly held parent company, which would create and own additional U.S.-based direct and indirect subsidiaries and assets related to individual solar projects they would develop in the United States.

26. Burt, Torrent, and Forsythe entered into a Shareholders Agreement with respect to Forsythe on or around March 9, 2020. As the Forsythe Shareholder Agreement reflects, Burt and Torrent each held 50% of the shares in Forsythe as of the date of Forsythe's formation.

27. To this day, Burt and Torrent continue to each hold 50% of Forsythe's shares.

28. There is not and has never been a dispute between the parties concerning their 50/50 ownership of Forsythe.

### **Torrent Forms Atlas to Serve as the Parties' U.S.-Based Holding Company**

29. In January of 2020, and to further the plan that Burt had developed and presented to Torrent, Torrent formed Atlas Renewables LLC in the State of Delaware.

30. As the parties continued to discuss their plans for developing solar projects in the United States, they agreed to utilize Atlas as their U.S.-based holding company for their individual solar projects and assets located in the United States.

31. The parties thereafter memorialized this intention, and their broader goals for their joint venture, in a written Cooperation Agreement.

**Burt and Torrent Enter Into the Cooperation Agreement**

32. Burt and Torrent executed the Cooperation Agreement on or around June 23, 2020. A true and correct copy of the Cooperation Agreement is annexed hereto as **Exhibit A**.

33. The Cooperation Agreement provides, in relevant part, that Burt and Torrent are engaged in a “[j]oint endeavor to develop solar power plants in the United States and other jurisdictions the Parties may agree” (Exhibit A at ¶ 1), and that “[t]he objective is to develop as many solar power plants as possible in the United States ...” (Id. at ¶ 2.)

34. It states further that the purpose of the Cooperation Agreement “is [to] put down in writing what has been agreed so far...” (Id. at ¶ 3.)

35. The Cooperation Agreement then explicitly and unambiguously lays out the corporate ownership structure on which the parties had agreed concerning Forsythe, Atlas, and their various U.S.-based projects and assets. It states as follows:

“A parent company in Bermuda named ‘Forsythe’ will be held 50/50 by LT [Torrent] and AXB [Burt]. In any case Forsythe will hold 100% of all of the US companies, entities and assets. So therefore, it is currently foreseen that the Bermuda company holds 100% of the Delaware company ‘Atlas Renewables’ which holds an LLC for each 6.5MWdc solar asset.”

(Id. at ¶ 6.)

36. The Cooperation Agreement further states that “[i]t is the understanding that the Delaware director, currently LT [Torrent] will perform all duties as per the Forsythe Board decision and will have a representative character for the business in the US.” (Id. at ¶ 8.)

37. The Cooperation Agreement is signed by both Burt and Torrent.

**Torrent Transfers His 100% Membership Interest in Atlas to Forsythe**

38. To effectuate the parties’ joint venture, and to put in place the corporate structure they had expressly agreed upon and clearly memorialized in the Cooperation Agreement, Torrent then transferred his 100% membership interest in Atlas to Forsythe.

39. He did this via a written agreement between him, as “Seller,” and Forsythe, as “Buyer.” That agreement is titled “Atlas Renewables LLC Membership Interest Transfer Agreement” (the “MITA”). A true and correct copy of the MITA is annexed hereto as **Exhibit B**.

40. Torrent and Forsythe entered into the MITA on or around September 3, 2020. The MITA is signed by Torrent on behalf of himself, as the sole member of Atlas, on the one hand, and by Torrent and Burt, on behalf of Forsythe, on the other.

41. The MITA, like the Cooperation Agreement, is unambiguous. It states that Forsythe “shall purchase from Seller [Torrent], and Seller shall sell to Buyer [Forsythe], 100% of Seller’s total Interest in the Company [Atlas] (the ‘Transferred Membership Interest’) for the aggregate purchase price of one thousand dollars (\$1,000) (the ‘Purchase ‘Price’).” (Exhibit B at § 1(a).)

42. The MITA states further that “[t]he Purchase Price shall be payable by Buyer to Seller, and the Transferred Membership Interest shall be transferred by Seller to Buyer, at 10:00 a.m. EST on September 10, 2020 (the ‘Closing’).” (Id. at § 1(b).)

43. The MITA continues: “The Purchase Price shall be payable by Buyer to Seller at the Closing by wire transfer in immediately available funds to Seller’s account.” (Id. at § 1(c).)

44. The MITA then makes clear that no additional paperwork need be exchanged between Atlas and Forsythe to effectuate the transfer of Torrent’s membership interest in Atlas, and that the transfer will be deemed effective “automatically” as of the Closing date:

“Seller agrees and acknowledges that no certificate or certificates are necessary to evidence the Transferred Membership Interest that is being transferred by Seller to Buyer hereunder; such transfer shall be deemed effective automatically, without further notice or instruction from Seller, at the Closing.”

(Id. at § 1(d).)

45. As the MITA further reflects, Torrent made the following representation and warranty to Forsythe at the time the MITA was executed:

“Seller is the sole beneficial and record holder of the Transferred Membership Interest, and upon consummation of the transactions contemplated by this Agreement, Seller shall have transferred to Buyer and Buyer shall have obtained from Seller all right, title and interest in the Transferred Membership Interest, free and clear of any and all liens, mortgages, hypothecations, collateral assignments, charges, encumbrances, title defects, security interests or claims (whether record or unrecorded) of any kind.”

(Id. at § 2(c).)

46. The MITA includes a chart definitively demonstrating the transfer of 100% of Torrent’s interest in Atlas to Forsythe following the Closing:

Each Member’s Interest in the Company, adjusted to reflect the transfer of the Transferred Membership Interest by Seller to Buyer hereunder, is set forth below:

Member	Percentage Interest in Company Prior Sale of Transferred Membership Interest	Percentage Interest in Company Following Sale of Transferred Membership Interest
Torrent (Seller)	100%	0%
Forsythe (Buyer)	0%	100%



(Id. at § 4.)

47. The MITA further provides that “[t]he parties agree that, effective upon the Closing, Seller [Torrent] will have no further rights as a Member in the Company [Atlas] . . .” (Id. at § 5.)

48. The terms and provisions of the MITA are governed by and construed in accordance with the laws of the State of Delaware. (Id. at § 11.)

49. Upon information and belief, following execution of the MITA Torrent caused Forsythe to transfer to him the nominal \$1,000 purchase price.

50. Upon information and belief, financial records of Forsythe document Torrent’s receipt of this nominal purchase price.

51. At no time for at least the next two and half years after execution of the MITA and the Closing did Torrent ever once complain that he had somehow not received the nominal \$1,000 purchase price, or that the MITA was somehow not effective.

52. To the contrary, and as discussed further below, Torrent repeatedly affirmed and reaffirmed that the MITA was effective and that Forsythe fully owned and controlled Atlas.

**Torrent Repeatedly Affirms and Reaffirms that Forsythe is the Sole Member of Atlas**

53. Over the next several years, Burt and Torrent worked together, via Forsythe, to further a variety of solar projects in New York.

54. Each of these projects was either owned directly by Atlas, or was organized under its own LLC owned 100% by Atlas. Either way, each such project was owned by Atlas, and each project was thereby, in turn, owned by Forsythe.

55. Burt and Torrent actively worked with third parties to further develop each of these individual projects.

56. In connection with their work on these projects and with these third parties, Torrent repeatedly represented, affirmed, and reaffirmed, both to the third parties and to Burt and Forsythe themselves, through his words and actions, that Atlas was 100% owned and controlled by Forsythe.

57. For instance, minutes of a Forsythe Board Meeting attended by Burt and Torrent and held on December 3, 2020 – approximately three months after execution of the MITA and the Closing date – document the parties’ discussions regarding the status and next steps associated with a variety of Forsythe solar projects, all of which were owned 100% by Atlas.

58. On March 15, 2021 – over six months following execution of the MITA and the Closing date – Torrent sent an email to a third-party business contact and to Burt, in which Torrent responded to the business contact’s inquiry regarding the difference between Atlas and CAERO, another affiliated entity through which Torrent and Burt pursued solar projects. Torrent responded as follows:

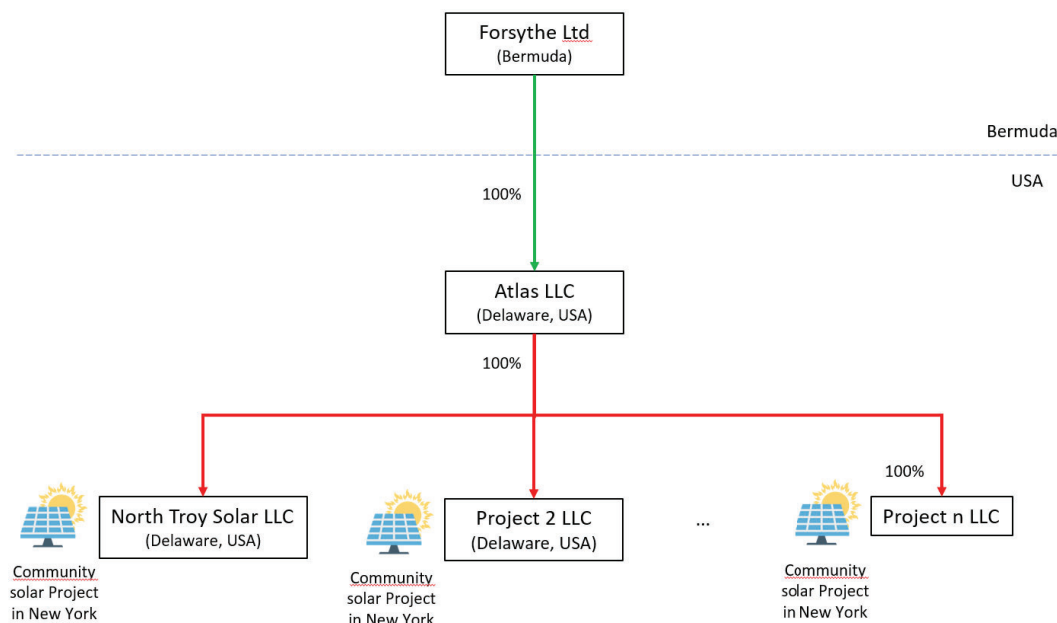
“Atlas Renewables is our operational company for all our developments in USA. Atlas Renewables is 100% controlled by an overseas entity which is 100% controlled by Ariel and myself.”

59. On March 21, 2021 – again, over six months following execution of the MITA – Torrent sent an email to Burt in which he discussed incorporation of the various project-specific LLCs in the U.S., and the structure of Atlas. Regarding Atlas, Torrent stated to Burt as follows: “Being Forsythe the entity who holds 100% membership interest, all the net losses and net profits generated by Atlas are for Forsythe.”

60. On March 30, 2021, Torrent sent an email to an attorney, copying Burt, in which he explained the ownership structure between Forsythe, Atlas, and the various project-specific LLCs, and asked the attorney to review various related documents to ensure they conformed to that structure. Torrent stated as follows in that email:

As you may remember, we are developing solar projects in the State of New York under the Atlas Renewables LLC flagship. As represented in the PPTX file, Atlas is a 100% subsidiary of Forsythe Ltd, a Bermudian based company. For each of the solar projects, we are incorporating a Special Purpose Vehicle (SPV), like North Troy Solar LLC, which has all the rights related to that specific project. All the incorporated SPVs are 100% subsidiaries of Atlas Renewables LLC.”

61. The “PPTX file,” or PowerPoint file, that Torrent attached to and referenced in this email features the following diagram:



62. On June 27, 2021 – over nine months following execution of the MITA and the Closing date – Torrent sent an email to Burt to which he annexed a draft organizational chart he had created regarding Forsythe, Atlas, and the related entity referenced above, CAERO. The organizational chart Torrent created and annexed to this email appears as follows:



67. At no time during this meeting did Torrent give any indication that Forsythe did not own Atlas, or otherwise raise any issue with respect to the effectiveness of the MITA.

68. Burt and Torrent continued working together to further develop and pursue Atlas' pipeline of solar projects between September of 2020 and June of 2023.

69. At no time during that entire period did Torrent once take the position that the MITA had not been consummated, or that he had not been paid the nominal \$1,000 purchase price set forth therein.

70. To the contrary, and as set forth in the examples identified herein, he repeatedly affirmed and reaffirmed Forsythe's 100% ownership of, and sole membership interest in, Atlas.

71. Indeed, well into 2022, Torrent and Atlas continued to actively utilize and share with potential third-party business partners certain organizational charts documenting Forsythe's ownership of Atlas.

72. On one occasion in September of 2021, Torrent sent Burt a one-page document pursuant to which he purported to terminate the Cooperation Agreement. The parties thereafter discussed the matter, Torrent orally rescinded his purported termination, and the parties continued working together exactly as they had been before. Indeed, the November 23, 2021 Forsythe board meeting discussed above occurred well after this incident. Regardless, nothing in Torrent's purported termination notice mentioned or had any impact on the MITA.

**Burt and Forsythe Invest Significant Time, Energy, Money, and Other Assets Into Atlas**

73. Burt and Forsythe together invested significant time, energy, money, and other assets into Atlas.

74. They did so based on their understanding that Atlas, together with the projects and project-specific LLCs under its control, was in turn solely owned and controlled by Forsythe.

75. Indeed, Forsythe loaned hundreds of thousands of dollars to Atlas at either zero interest or with very little interest.

76. Forsythe invested significant sums into Atlas with no expectation or requirement that such sums be paid back.

77. Forsythe directly paid the hourly and monthly fees of Atlas personnel, who performed work for Atlas.

78. Forsythe directly paid vendors providing services to Atlas or in connection with individual solar projects under Atlas' control.

79. Forsythe directly paid for various permits, interconnection deposits to grid operators, land option fees, and governmental applications filed in connection with Atlas' solar projects.

80. Burt invested her own money into Atlas, through loans to Forsythe.

81. Burt spent thousands of hours working to develop and advance Atlas' pipeline of solar projects.

82. Burt researched and identified areas where projects could be and were pursued, utilized her extensive network of contacts to connect Atlas with decisionmakers and other stakeholders in those areas, actively negotiated with third parties on behalf of Atlas, hired all of Atlas' personnel, and weighed in on draft agreements between Atlas and third parties.

83. Burt was the author of the underlying business model that Atlas utilized. Along with Atlas' finance team, she developed the financial model that governed Atlas' projects.

84. Burt drafted the deal terms that Atlas utilized to guide its land acquisition strategy, and actively contributed to and helped shape that strategy.

85. Burt attended site visits for potential project locations, met and negotiated with landowners, and approved development and land acquisition costs.

86. Burt met with government representatives overseeing permitting and land use matters in order to build relationships on behalf of Atlas and aid Atlas' projects to move as smoothly as possible through regulatory and approval processes.

87. Burt met and fostered relationships with industry partners, technology partners, and potential equity partners, again creating relationships to directly benefit Atlas and its projects.

88. Burt rented a house in Saratoga Springs County, New York, that served as Atlas' first home office in the State.

89. Burt attended Atlas' meetings with third-party business prospects, and worked with Torrent to make key decisions related to Atlas' various projects.

90. Forsythe and Burt would not have done these things for the benefit of Atlas had Forsythe not been the sole member of Atlas.

#### **Torrent's Last-Minute Attempt to Cut Forsythe and Burt Out of Atlas' Projects**

91. In July of 2023, Atlas neared consummation of a potentially lucrative deal with a third party to purchase one of Atlas' New York-based solar projects.

92. Around this same time, Burt noticed that Torrent was not including her on communications and meetings with the potential third-party purchaser and was representing himself to this potential third-party purchaser as Atlas' sole member.

93. When Burt confronted Torrent about her discovery in July of 2023, Torrent informed her, for the very first time in the nearly three years since Torrent had executed the MITA on behalf of both himself and Forsythe, that it was his position that the MITA was never effectuated because he had never received the nominal \$1,000 payment from Forsythe.

94. Torrent told Burt that, as a result, “Forsythe never became a 100% direct owner of Atlas and, as a result, you never became 50% indirect owner of Atlas.”

95. Torrent further claimed that he had “been the sole owner of Atlas since it was incorporated.”

96. Torrent’s position is outrageous and utterly without basis in law or fact.

97. Torrent’s position directly contradicts the plain language of the MITA.

98. Torrent’s position ignores the fact that, as a 50% shareholder in Forsythe and signatory to the MITA on both sides of that deal, he had complete control over the \$1,000 payment and could have sent it to himself at any time.

99. Torrent’s position ignores the fact that he never once claimed, prior to July of 2023, that the \$1,000 purchase price was never paid or that the MITA was never consummated.

100. Torrent’s position directly contradicts his own written statements and actions over the course of nearly three years confirming time and time again that Forsythe was the sole member of Atlas.

101. Torrent’s position is as transparent and obvious as it is completely and utterly without merit. He is attempting, at the eleventh hour, to cut Burt and Forsythe out of Atlas’ upcoming deal with the third-party purchaser, along with other deals in Atlas’ pipeline developed by Burt and Forsythe for Atlas, so as to reap all the financial rewards himself.

102. His actions have caused and are continuing to cause Burt and Forsythe substantial and significant harm.



**FIRST CAUSE OF ACTION – DECLARATORY JUDGMENT**  
**(Individually on Behalf of Burt and Derivatively on Behalf of Forsythe)**

103. Plaintiff repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

104. A real and justiciable controversy exists between Burt, on her own behalf and derivatively on behalf of Forsythe, on the one hand, and Torrent, on the other, concerning ownership of Atlas, a Delaware LLC.

105. Burt and Forsythe contend that Forsythe is the sole member of Atlas pursuant to the MITA and the transfer memorialized therein. Torrent contends that he is and has always been the sole member of Atlas.

106. In order to eliminate future damages and resolve this justiciable controversy, Plaintiff seeks a declaration that Forsythe is the sole member of Atlas, and has been since at least September 10, 2020, the “Closing” date set forth in the MITA.

107. As Burt and Torrent each control 50% of Forsythe, and as no such formal action can be taken by Forsythe against Torrent without Torrent’s consent, Burt has not made a formal demand to Forsythe to take action against Torrent because such a demand would have been entirely futile.

**SECOND CAUSE OF ACTION – BREACH OF CONTRACT**  
**(Derivatively on Behalf of Forsythe)**

108. Plaintiff repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

109. The MITA constitutes a valid and enforceable contract between Forsythe and Torrent.

110. Forsythe performed all of its obligations under the MITA.

111. In the alternative, Forsythe performed all of its obligations under the MITA, except to the extent that Torrent prevented Forsythe from doing so.

112. The MITA provides that, following the September 10, 2020 Closing date, Torrent will have no further rights in or to Atlas, and that Forsythe will be Atlas' sole member.

113. The parties' course of dealing following execution of the MITA demonstrates that the MITA was effective.

114. In the alternative, to the extent that Forsythe never issued the \$1,000 payment contemplated in the MITA, Torrent waived any right to challenge such nonpayment by failing to raise any such issue for years and by affirming and reaffirming the MITA's effectiveness.

115. Torrent breached the MITA in and after July of 2023 by denying Forsythe the benefits of its asset, Atlas.

116. Torrent breached the MITA in and after July of 2023 by repudiating its key provision, i.e., that, pursuant to the MITA's express terms, Forsythe became the sole member of Atlas as of the Closing date set forth therein.

117. Torrent breached the MITA in and after July of 2023 by denying that Forsythe is the sole member of Atlas, and by claiming that he, Torrent, is Atlas' sole member.

118. Torrent breached the MITA by representing to third parties that he, and not Forsythe, is the sole member of Atlas.

119. Torrent breached the MITA by intentionally excluding Burt, Forsythe's 50% owner, from meetings with Atlas' prospective business partners.

120. As a direct and proximate result of Torrent's breach of contract, Forsythe has sustained damages and will sustain future damages in amounts yet to be determined.

121. As Burt and Torrent each control 50% of Forsythe, and as no such formal action can be taken by Forsythe against Torrent without Torrent's consent, Burt has not made a formal demand to Forsythe to take action against Torrent because such a demand would have been entirely futile.

**THIRD CAUSE OF ACTION – PROMISSORY ESTOPPEL**  
**(Individually on Behalf of Burt and Derivatively on Behalf of Forsythe)**

122. Plaintiff repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

123. Torrent clearly and unambiguously represented and promised to Burt and Forsythe, orally and in writing, that Forsythe was, following the September 10, 2020 Closing date, the sole member and 100% owner of Atlas.

124. Torrent made this representation and promise in the MITA.

125. Torrent made this representation and promise in Forsythe board meetings, including but not limited to the board meetings discussed above held on or around December 3, 2020 and November 23, 2021.

126. Torrent made this representation and promise in written emails described herein, including but not limited to those dated March 15, 2021, March 21, 2021, and March 30, 2021.

127. Torrent made this representation and promise in written organizational charts that he drafted and/or transmitted, including but not limited to those described herein that he drafted and/or transmitted on or around March 30, 2021 and June 27, 2021.

128. Burt and Forsythe reasonably relied upon Torrent's repeated, clear, and unambiguous promises that Forsythe was the sole member and 100% owner of Atlas starting as of September 10, 2020.

129. Burt and Forsythe invested money, time, work, energy, business connections, and other valuable assets and resources into Atlas based on their reliance upon Torrent's repeated, clear, and unambiguous representations and promises.

130. If not for Torrent's repeated, clear, and unambiguous representations and promises, Burt and Forsythe would not have invested such money, time, work, energy, business connections, and other valuable assets and resources into Atlas.

131. Accordingly, Torrent should be estopped from now denying the accuracy of his repeated representations and promises concerning Forsythe's 100% ownership of Atlas.

132. As Burt and Torrent each control 50% of Forsythe, and as no such formal action can be taken by Forsythe against Torrent without Torrent's consent, Burt has not made a formal demand to Forsythe to take action against Torrent because such a demand would have been entirely futile.

**FOURTH CAUSE OF ACTION – EQUITABLE ESTOPPEL**  
**(Individually on Behalf of Burt and Derivatively on Behalf of Forsythe)**

133. Plaintiff repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

134. Torrent clearly and unambiguously represented to Burt and Forsythe, orally and in writing, that Forsythe was, following the September 10, 2020 Closing date, the sole member and 100% owner of Atlas.

135. Torrent made this representation in the MITA.

136. Torrent made this representation in Forsythe board meetings, including but not limited to the board meetings discussed above held on or around December 3, 2020 and November 23, 2021.

137. Torrent made this representation in written emails, including but not limited to those emails described herein dated March 15, 2021, March 21, 2021, and March 30, 2021.

138. Torrent made this representation in written organizational charts that he drafted and/or transmitted, including but not limited to those described herein that he drafted and/or transmitted on or around March 30, 2021 and June 27, 2021.

139. Burt and Forsythe reasonably relied upon Torrent's repeated, clear, and unambiguous representations that Forsythe was the sole member and 100% owner of Atlas starting as of September 10, 2020.

140. Burt and Forsythe invested money, time, work, energy, business connections, and other valuable assets and resources into Atlas based on their reliance upon Torrent's repeated, clear, and unambiguous representations.

141. If not for Torrent's repeated, clear, and unambiguous representations, Burt and Forsythe would not have invested such money, time, work, energy, business connections, and other valuable assets and resources into Atlas.

142. To the extent that Torrent never caused Forsythe to transmit the nominal \$1,000 payment contemplated in the MITA, and to the extent that, as a result, the MITA was never effective, Torrent concealed that fact from Burt and Forsythe.

143. In such event, Torrent concealed that fact, and actively misrepresented to the contrary, with the intention to induce Burt and Forsythe to invest the money, time, work, energy, business connections, and other valuable assets and resources into Atlas. As a result, Burt and Forsythe both in fact invested such assets and resources into Atlas.

144. Accordingly, Torrent should be estopped from now denying the effectiveness of the MITA and the accuracy of his repeated representations concerning Forsythe's 100% ownership of Atlas.

145. As Burt and Torrent each control 50% of Forsythe, and as no such formal action can be taken by Forsythe against Torrent without Torrent's consent, Burt has not made a formal demand to Forsythe to take action against Torrent because such a demand would have been entirely futile.

**FIFTH CAUSE OF ACTION – TORTIOUS INTERFERENCE WITH  
PROSPECTIVE ECONOMIC ADVANTAGE  
(Derivatively on Behalf of Forsythe)**

146. Plaintiff repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

147. There exists an economic relationship between Forsythe and Atlas. Namely, Forsythe is the sole member and 100% owner of Atlas.

148. This relationship offers Forsythe the strong probability of future economic benefit.

149. Torrent is aware of this relationship.

150. Torrent, through his efforts to deny Forsythe's membership interest in Atlas, deny the import and effectiveness of the MITA, and misrepresent Atlas' membership to Atlas' third-party prospective business partners, is intentionally interfering with Forsyth's relationship with Atlas in a manner designed to disrupt that relationship and deny Forsythe the economic benefits of that relationship.

151. Torrent's actions have disrupted Forsythe's relationship with Atlas.

152. Torrent's actions have caused and will continue to cause significant and substantial economic harm to Forsythe in amounts yet to be determined.

153. As Burt and Torrent each control 50% of Forsythe, and as no such formal action can be taken by Forsythe against Torrent without Torrent's consent, Burt has not made a formal demand to Forsythe to take action against Torrent because such a demand would have been entirely futile.

**SIXTH CAUSE OF ACTION – FRAUD**  
**(Individually on Behalf of Burt and Derivatively on Behalf of Forsythe)**

154. Plaintiff repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

155. To the extent that Torrent never caused Forsythe to transmit to him the nominal \$1,000 payment contemplated in the MITA, and to the extent that, as a result, the MITA was never effective and Forsythe never became the sole member of Atlas, then Torrent's repeated oral and written statements to the contrary, along with his failure to ever report that the \$1,000 was not transmitted to him and that the MITA was therefore not effective, constitute material misrepresentations and/or omissions of fact.

156. Torrent made these repeated oral and written statements to the contrary to Burt and Forsythe, along with other third parties.

157. Torrent's repeated oral and written statements to the contrary include, but are not limited to, the statements described herein that he made during the Forsythe board meetings held on December 3, 2020 and November 23, 2021, that he made in emails dated March 15, 2021, March 21, 2021, and March 30, 2021, and that he made in organizational charts he drafted and/or transmitted on or around March 30, 2021 and June 27, 2021.

158. To the extent that Torrent never caused Forsythe to transmit the nominal \$1,000 payment to him contemplated in the MITA, and to the extent that, as a result, the MITA was never

effective and Forsythe never became the sole member of Atlas, then Torrent knew that his repeated oral and written statements to the contrary were false.

159. To the extent that Torrent never caused Forsythe to transmit the nominal \$1,000 payment contemplated in the MITA, and to the extent that, as a result, the MITA was never effective and Forsythe never became the sole member of Atlas, then Torrent made his repeated oral and written statements to the contrary to Burt and Forsythe with the intention of inducing Burt and Forsythe to rely upon those statements.

160. In that event, Burt and Forsythe reasonably relied upon Torrent's repeated false statements that Forsythe was the sole member and 100% owner of Atlas to Burt and Forsythe's significant detriment. Specifically, Burt and Forsythe invested money, time, work, energy, business connections, and other valuable assets and resources into Atlas based on their reliance upon Torrent's false statements.

161. In that event, Burt and Forsythe would not have invested these valuable assets and acted to their own detriment if not for Torrent's false statements and omissions of fact.

162. In that event, Torrent intended to and did defraud Burt and Forsythe.

163. Torrent's actions have caused and will continue to cause significant and substantial economic harm to Burt and Forsythe in amounts yet to be determined.

164. As Burt and Torrent each control 50% of Forsythe, and as no such formal action can be taken by Forsythe against Torrent without Torrent's consent, Burt has not made a formal demand to Forsythe to take action against Torrent because such a demand would have been entirely futile.



**RELIEF REQUESTED**

**WHEREFORE**, Plaintiff Burt, individually and derivatively on behalf of Forsythe, respectfully requests that this Court grant the following relief:

- A. Issue a declaration that Forsythe is the sole member of Atlas;
- B. Award judgment in favor of Burt and Forsythe against Torrent on all causes of action set forth herein;
- C. Award compensatory damages on all causes of action set forth herein in favor of Burt and Forsythe against Torrent in an amount to be determined;
- D. Award punitive damages in favor of Burt and Forsythe against Torrent in an amount to be determined;
- E. Award Burt her costs and fees incurred in bringing this action, including, to the extent applicable, Burt's attorneys' fees; and
- F. Award Burt and Forsythe such other and further relief as this Court deems just and proper.

**DEMAND FOR A TRIAL BY JURY**

Burt hereby respectfully demands a trial by jury.

Dated: New York, New York

November 8, 2023

**STRADLEY RONON STEVENS & YOUNG LLP**



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