VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Dirk D. Thomas )

1175 I St, NW, Suite 1150 )

Washington D.C. 20006 )

 )

 Plaintiff )

 v. )

 )

Rick Rahim )

10001 Georgetown Pike, # 1170 )

Great Falls, Virginia 22066 ) Law No. CL2021-16427

 )

 and )

 )

BV Management LLC )

 )

 Defendants )

 )

**Second Amended Complaint**

 COMES NOW Plaintiff Dirk D. Thomas, by counsel, and moves this Court for Judgment against Defendants, jointly and severally, and in support thereof, states as follows:

**The Parties**

1. Plaintiff Dirk D. Thomas (“Thomas’) was, at all pertinent times herein, operating a

business in the District of Columbia and transacting business in Virginia.

1. At all pertinent times herein, Defendant Rick Rahim (“Rahim’) was owner and

manager of BV Management LLC, which is currently located at 10123 Colvin Run

Road, Great Falls, Virginia 22066.

1. Defendant BV Management LLC (“BVM”) is a limited liability company organized

 and existing under the laws of the Commonwealth of Virginia. The company is in the business of the on-line purchase and sale of goods through Amazon and other subsidiaries.

**Jurisdiction and Venue**

1. This Court has subject matter jurisdiction of this action pursuant to Virginia

Code §17.1-513.

1. This Court has personal jurisdiction over Defendant Rahim because he is a resident of

Virginia and transacts business within the commonwealth.

1. This Court has personal jurisdiction over BVM because it is an LLC organized and

existing under the laws of Virginia and transacts business within the Commonwealth.

**Common Allegations**

1. In 2018 Defendant Rick Rahim approached Dirk Thomas about making a loan to

facilitate the continued operation of BV Management LLC. On or about September 4, 2018, Defendant Rahim executed a loan agreement (the first note) with Thomas in which Thomas agreed to loan Rahim $262,500, at 10% interest. (Exh. A) The terms of the agreement also included, *inter alia*, Rahim assigning 1.5% of Rahim’s interest in BVM to Thomas. On September 4, 2018, Thomas conveyed the $262,500 to Defendants.

1. On or about August 21, 2019, the parties executed a promissory note (the second

note) in which Mr. Thomas loaned Defendant Rahim and BVM another $ 262,500. (Exhibit B). Rahim agreed to make quarterly interest payments of 10% staring on December 15, 2019, with the principal and interest maturing on September 1, 2021. As part of the consideration for the loan, Defendants irrevocably assigned an unencumbered, non-dilutable 1.5% interest in the currently outstanding shares of BVM, which, according to Defendants’ representations, comprised 20,000,000 shares of Class A LLC units. On or about August 21, 2019, Thomas conveyed $262,500 to the Defendants.

1. To effectuate the assignment of shares, on or about August 23, 2019, Defendants

executed an assignment of 300,0000 membership units in favor of Dirk Thomas.

1. On or about July 15, 2020, the parties executed an Addendum and Modification to

their initial September 4, 2018, agreement (erroneously referred to as the September 14, 2018 agreement). (Exh. C). The Parties agreed to extend the term of the loan agreement until July 15, 2022, with interest continuing to accumulate on the principal amount of the first note ($262,500) to be paid quarterly at the rate of 10% per annum. Defendants agreed to make quarterly payments of $12,000, starting on October 15, 2020. As additional consideration, Defendants agreed to pay Thomas an additional quarterly payment of $5,4367.50, representing a non-recoverable, non-recourse advance on any distribution of profits made in the future.

1. Payments for interest on the first note in the amount of $6,562 were made on or about the following dates: 1/15/2019; 4/15/2019; 7/15/2019; 10/15/2019; 1/15/2020; 4/15/2020; and 7/15/2020. As to the second loan, payments for interest in the amount of $ 6,562 were made on or about the following dates: 1/15/2020; 4/15/2020; 7/15/2020; 10/15/2020; 1/25/2021; 4/16/2021; and 7/16/2021. As to the addendum to the agreements, payments for interest and advance on distributions in the amount of $12,000 were made on or around 10/15/2020; 1/25/2021; 4/16/2021; and 7/16/2021. None of these payments included principal.

 **Count I**

**(Breach of September 4, 2018, Loan Agreement – All Defendants)**

Plaintiff repeats and realleges paragraphs one through eleven, as if fully set forth herein, and further alleges as follows:

1. For valuable consideration exchanged, Defendants Rahim and BVM entered into a

valid and enforceable loan agreement (the first note) dated September 4, 2018, in which Thomas provided sums totaling $262,500.

1. Although Defendants made initial interest payments on the first note, they are now

in default of that agreement, as modified, triggering all applicable default remedies.

1. Plaintiff, prior to the filing of this case, fulfilled all of his obligations under the

note by making multiple requests for payment. Despite repeated demands, the last of which was made on October 21, 2021, Defendants have failed to make the payments due and owing, entitling Plaintiff to collect the full principal, with interest, late payments, and a 1.5% equity interest in BVM.

1. Defendants’ default under the agreement constitutes a material breach of September

 4, 2018 loan agreement, as modified, as well as the July 15, 2020 addendum. This breach has caused Plaintiff to sustain significant economic damages. As such, Plaintiff is entitled to recover damages, including, *inter alia*, full payment of principal ($262,500), interest and advance distributions through September 30, 2021, accruing at $4,000 a month after 9/30/21, 10% late charges, accruing as of October 30, 2021, the buy-back of stock units ($300,000), along with attorney’s fees and costs. These damages are continuing into the future.

**Count II**

**(Breach & Default of August 21, 2019, Promissory Note – All Defendants)**

 Plaintiff repeats and realleges paragraphs one through fifteen as if fully set forth herein and further alleges as follows:

1. For valuable consideration exchanged, Defendants Rahim and BVM entered into

a valid and enforceable promissory note on August 21, 2019 with Plaintiff, in which Thomas provided another loan totaling $262,500.

1. Plaintiff, prior to the filing of this case, fulfilled all of his obligations under the

promissory note by making multiple demands for payment, the most recent of which was on October 21, 2021.

1. Plaintiff also sought to exercise his option to obtain his 3% ownership interest in

 BVM by exercising his option to be reimbursed for his shares, based on the valuation of the business, as stated in the agreement. Defendants failed to respond to his request, initially made on October 16, 2021.

1. Defendants, by failing to make timely payments of interest and by

failing to provide Thomas with his agreed percentage of BVM’s shares, have defaulted and materially breached the August 21, 2019, promissory note. This breach triggers Plaintiff’s default remedies under the note.

1. Defendants’ default under the August 21, 2019, promissory note constitutes a

material breach of that agreement, as well as the July 15, 2020 addendum, which has caused Plaintiff to sustain significant economic damages. As such, Plaintiff is entitled to recover damages including, *inter alia*, the principal ($262,500), interest owed and accruing through September 30, 2021 ($6,662.50), accruing at $2,170.50 a month after September 30, 2021, 10% penalty which accrued as of 10/30/2021 along with the buyback of stock representing 1.5% of the equity of BV Management LLC, along with costs and attorney’s fees.

**Count III**

**(Unjust Enrichment/Restitution – 3% Equity Interest)**

Plaintiff repeats and realleges paragraphs one through twenty as if fully set forth herein and further alleges as follows:

1. Defendants have taken the position that Plaintiff cannot recover his 3% equity interest at law, based upon the language of the agreements at issue.
2. As Virginia has abolished the traditional distinctions between law and equity, Plaintiff seeks equitable relief herein, including an award of the value of his 3% equity share in BV Management LLC.
3. By virtue of the September 4, 2018 and August 21, 2019 agreements, Plaintiff conferred a monetary benefit upon Defendants, specifically the advance and investment of $525,000in funds used to start Defendants’ business.
4. Pursuant to the terms of the September 4, 2018 and August 21, 2019 agreements, Defendants assigned Plaintiff a combined 3% interest equity interest in BVM. Paragraph 10 of the September 4, 2018 agreement states the “[b]orrower irrevocably assigns and delivers an unencumbered 1.5% interest it its corporate entity BV management to Lender in consideration of Lender making this loan.” Paragraph 7 of the August 21, 2019 agreement confers a combined “unencumbered, non-dilutable 3% ownership interest in the outstanding shares of BV Management LLC, which ownership interest shall be further recognized in a Subscription and Assignment of Membership Units agreement that will be executed by Borrowers and Lender concurrently with the execution of this Agreement and shall be incorporated herein.” The Assignment of Membership Units agreement confirms Plaintiff’s ownership rights and interest in BMV. (Exh. D).
5. Defendants were aware that they were receiving this monetary benefit from Plaintiff, which they used to enrich Defendant Rahim and BVM, to the detriment of their investors. Defendants failed to make any disclosures of the profits of BVM to Plaintiff, despite being obligated under the July 15, 2020 addendum to make profit distributions in addition to interest and principal payments.
6. Defendants have obtained a significant benefit from the funds Plaintiff invested in BVM. Through initial discovery, Plaintiff has learned that Defendants have generated over $12 million in revenues up through August of 2019. However, Defendants have not formalized any corporate or financial disclosures for BVM and have continued to conceal this information from their investors, including Mr. Thomas. Defendants’ concealment of the actual profits of BVM has irreparably harmed Plaintiff, as he is unable to determine the value of his interest in BVM or obtain the profits to which he is entitled.
7. Despite generating over 12 million in revenues up through August of 2019, Defendant Rahim has filed no corporate returns of formal accountings for BVM. He has failed to make profit distributions to Mr. Thomas and his failure to file proper tax reports and withholdings has resulted in the IRS imposing a Small Business Federal Tax Lien of $1,723,699 dollars. Mr. Rahim and BVM have incurred other dept obligations that have the potential to render BVM devoid of any remaining assets, including Mr. Thomas’ 3% equity share, profits, principal and interest on the agreements at issue.
8. While Mr. Rahim was withholding interest payments and profits from Mr. Thomas, and taxes from the Federal government, he was accumulating various assets and doing business under different names. He currently owns a twelve thousand square foot home in Great Falls, a beach house in Nags Head North Carolina and another property in Leesburg Virginia. He has five automobiles including a Tesla and Cadillac Escalade. He is also a pilot and has boasted about extracting his child’s tooth by attaching a long string to a helicopter, to yank the tooth out in flight. (Link: <https://www.insider.com/a-dad-pulled-out-his-sons-loose-tooth-using-an-actual-helicopter-2016-6>). In short, Mr. Rahim lives an extravagant lifestyle at the expense of his creditors, including Mr. Thomas.
9. Defendants’ inequitable conduct has resulted in them being unjustly enriched by the benefits conferred upon them by Plaintiff. Defendants have engaged in such conduct fully aware of the benefits they have received and the irreparable harm that Plaintiff has and will continue to suffer as Defendants continue to retain and dilute Plaintiff’s non-dilutable 3% equity share of BVM. As such, Plaintiff seeks an award of the 3% value of BVM or other relief, as this Court deems appropriate, including an order enjoining BVM from selling, assigning or transferring stock or disbursing its assets to third parties until Plaintiff is made whole. By virtue of their legal, contractual and equitable obligations, Defendants should be forced to disgorge Mr. Thomas’ 3% equitable stock interests that they have wrongfully retained for their own benefit

Count IV

**(Conversion)**

Plaintiff repeats and realleges paragraphs one through twenty-nine, as if fully set forth herein, and further alleges as follows:

1. Defendants have expressly assigned a non-dilutable, 3% ownership interest to Plaintiff in BVM.
2. Defendants’ breach of their contractual obligations has prevented Plaintiff from obtaining the benefit of his bargain including payments on interest, principal and profits. To the extent that Defendants have refused to honor their assignment of Plaintiff’s 3% equity ownership interest and have further mismanaged BVM to the point that it may no longer be a viable business entity, they have effectively converted Plaintiff’s equity and ownership interest in BVM.
3. Under principles of equity, contract and Va. Code §13.1-1030, Plaintiff is entitled to his 3% equity share in BVM, as the failure to award such relief will result in Plaintiff sustaining irreparable harm as the Principal of BVM, Rick Rahim, continues to mismanage the company for his own personal benefit, while ignoring his contractual and other legal obligations.
4. Despite Plaintiff’s request for reimbursement, Defendants have wrongfully exercised dominion and control over Mr. Thomas’ equitable share of BVM, resulting in the conversion of his stocks and 3% equity interest.
5. By virtue of their legal, contractual and equitable obligations, Defendants should be forced to disgorge Mr. Thomas’ 3% equitable stock interests that they have wrongfully converted for their own benefit.

 Wherefore, these and other premises considered, Plaintiff moves this Court for Judgment against Defendants, Rick Rahim and BV Management, LLC, jointly and severally, for the following relief:

1. An award of compensatory damages $1,250,000 in compensatory damages, or other amounts, to be determined at trial, along with prejudgment interest, costs and attorney’s fees;
2. Imposing a constructive trust on Rick Rahim and BVM to secure Mr. Thomas 3% equitable interest, and/or to order issuance of redeemable stock certificates and/or the sale of the equivalent stock to compensate Mr. Thomas;
3. Enjoining Defendants from making any additional monetary distributions to Rick Rahim, or other 3rd parties, beyond distributions to legitimate vendors of BMV, until such time as a proper accounting can be undertaken of BMV;
4. An order requiring Defendants, at their own cost, to undertake an accounting with an independent, certified accounting firm for purposes of creating accurate financial and profit and loss statements for BVM, with the results to be shared with Plaintiff;
5. An order requiring Defendants to disgorge their profits and provide Mr. Thomas’ with compensation constituting the value of his 3% equity interest; and
6. Awarding any additional relief this Court finds just and proper, including any equitable relief necessary to make Mr. Thomas whole.

VERIFICATION PURSUANT TO SUPREME COURT RULE 1:10

Pursuant to Va. S. Ct. R. 1:10, I, Dirk Thomas, hereby affirm, under the penalty of perjury, that the foregoing claim is justly due and payable, as stated herein.

 Dirk Thomas

*Notary Seal:*

Date*: / /*

 Plaintiff, by counsel,

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Exhibit A

Exhibit B

Exhibit C

Exhibit D