



NAILAH K. BYRD
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Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed: COMPLAINT
January 3, 2023 12:15

By: AMANDA J. MARTINSEK 0058567

Confirmation Nbr. 2738315

MARK F. PERKINS, ET AL

CV 23 973251

vs.

Judge: PETER J. CORRIGAN

C.A.J. PROPERTIES, INC., ET AL

Pages Filed: 41

COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

MARK F. PERKINS
7220 Rollingbrook Trail
Solon, Ohio 44139

- and -

TECH READY MIX, INC.
5000 Crayton Ave.
Cleveland, Ohio 44104

- and -

MCTECH CORP.
8100 Grand Ave.
Cleveland, Ohio 44114

Plaintiffs,

v.

C.A.J. PROPERTIES, INC.
c/o Anthony J. Cifani
8100 Grand Ave.,
Cleveland, Ohio 44104

- and -

PERK COMPANY, INC.
c/o CT Corporation System
4400 Easton Commons Way, Suite 125
Columbus, Ohio 43219

- and -

LISA CIFANI
4971 McCormick Drive
Richfield, Ohio 44285

- and -

ANTHONY CIFANI
6943 Father Caruso Drive, Suite 20
Cleveland, Ohio 44102

) CASE NO.

) JUDGE

) **VERIFIED COMPLAINT FOR**
) **TEMPORARY, PRELIMINARY,**
) **AND PERMANENT INJUNCTIVE**
) **RELIEF, AND MONEY DAMAGES**

) Jury Trial Demanded

)
)
- and -)
)
JOSEPH CIFANI)
4971 McCormick Drive)
Richfield, Ohio 44285)
)
- and -)
)
DAVID ZUPANCIC)
5514 Beacon Hill Court)
Seven Hills, Ohio 44131)
)
- and -)
)
JOHN/JANE DOE 1)
)
- and -)
)
JOHN/JANE DOE 2)
)
- and -)
)
JOHN/JANE DOE 3)
)
)
<i>Defendants.</i>)

Plaintiffs, Mark F. Perkins (“Mark”), on his own behalf, in his capacity as an officer of, and the majority shareholder of, both McTech Corp. (“McTech”) and Tech Ready Mix, Inc. (“TRM”), McTech, on its own behalf and derivatively, and TRM, on its own behalf and derivatively (together with Mark and McTech, “Plaintiffs”), for their Verified Complaint against Defendants, C.A.J. Properties, Inc. (“C.A.J.”), Perk Company, Inc. (“Perk”), Lisa Cifani (“Lisa”), in her capacity as the minority shareholder of, and an officer of, both McTech and TRM, Anthony Cifani (“Anthony”), Joseph Cifani (“Joseph,” together with Lisa and Anthony, the “Cifani Family”), David Zupancic (“David”), John/Jane Doe 1, John/Jane Doe 2, and

John/Jane Doe 3, (John/Jane Doe 1, John/Jane Doe 2, and John/Jane Doe 3, together with David, Perk, C.A.J., and the Cifani Family, the “Defendants”),¹ allege and aver as follows:

INTRODUCTION

1. The Cifani Family is well known in the Greater Cleveland construction industry because it has an expansive web of business interests throughout Northeast Ohio. The Cifani Family and the Perkins family have been in business together for decades—currently sharing ownership of several companies involved in the construction industry.

2. The Cifani Family owns, or has an interest in, a construction company (Perk), multiple general contracting and construction management companies (McTech and Cifani & Sons, Inc. (“C&S”)), a ready-mix concrete wholesaler and distributor (TRM), a commercial trucking company (A.J.C. Leasing, Inc. (“A.J.C.”)), and a commercial property manager and landlord (C.A.J.).

3. Mark is the CEO and majority shareholder of both TRM and McTech. Mark is an African-American, which is why TRM and McTech qualify as minority business enterprises (“MBE”) under Ohio law.

4. The Cifani Family’s business interests are inextricably interwoven with each other and with Mark. For example, McTech is Perk’s landlord. C.A.J. is TRM’s landlord. A.J.C. provides trucking-related services to TRM. Perk provides automotive mechanic services to TRM’s truck fleet. TRM supplies Perk with ready-mix concrete. C&S is wholly owned by Lisa. Lisa also owns 49% of both McTech and TRM. Lisa is one of TRM’s officers, and she is also one of C&S’s officers.

¹ Because Defendants’ conspiracy is broad, Plaintiffs also name a number of John/Jane Does herein so that they can be added to this action as further details concerning Defendants’ conspiracy are uncovered.

5. Because the Cifani Family's business interests are so interconnected, an event that impacts one business impacts the others. This general principle is significant because the Cifani Family, David, and others are currently engaged in a conspiracy aimed at using their various business interests to improperly squeeze Mark out of TRM—a certified minority business enterprise (“MBE”), of which he is the CEO, President, controlling member of the Board of Directors, and the majority shareholder. TRM employs more than 70 people and had annual revenues in excess of \$30 million in 2022.

6. Mark recently discovered that, for some years, the Cifani Family and David have been using TRM to benefit the Cifani Family's other businesses, to Mark's and TRM's detriment. When Mark began putting a stop to the concerted efforts against him and TRM, including the termination of David, the Cifani Family retaliated, and it put into action a plan to deal a deathblow to TRM in order to seize TRM's operations as its own.

7. The Cifani Family's and David's conspiracy and retaliatory efforts reached a fever pitch on December 27, 2022, when C.A.J., TRM's landlord, notified TRM that it purportedly would not renew TRM's year-long lease, which allegedly ends on December 31, 2022—even though, by January 2022, C.A.J. had already accepted rent from TRM through at least 2024. C.A.J. did not provide any reason or justification for its purported nonrenewal.

8. Due to the timing of C.A.J.'s notice, TRM was offered only days to vacate the property located at 5000 Crayton Avenue, Cleveland, Ohio 44104 (the “Plant”). The timing of C.A.J.'s notice was no accident—it was an essential step in the Cifani Family's plot against Mark and TRM.

9. TRM has been operating as a fully functioning ready-mix concrete wholesaler and distributor from the Plant, with more than 70 employees, for over two decades. Based on a

handshake agreement, which was partially memorialized by a letter of intent in July 2021 (the “LOI”) between Mark and Anthony, TRM has invested millions of dollars building a state-of-the-art facility at Crayton Avenue. A wrongful eviction would rob TRM of the benefit of its good faith investments.

10. Moreover, relocating all of its equipment, trucks, and inventory would take TRM months. Simply put, this wrongful eviction would effectively close TRM’s doors, leaving over 70 employees unemployed, and TRM’s vendors and suppliers significantly impacted.

11. The Cifani Family and David used C.A.J. to present TRM with a Sisyphean task in hopes that Mark would give up control of TRM, allowing them to acquire a fully functioning ready-mix concrete wholesaler and distributor, with an annual revenue of over \$30 million, for free. The Cifani Family’s actions, if unchecked, would also subvert Ohio law’s requirement that certified minority business enterprises be led by minorities—not whites.

PARTIES, JURISDICTION, AND VENUE

12. Mark is TRM’s and McTech’s CEO as well as their majority shareholder, owning 51% of both McTech and TRM. Mark resides in Solon, Ohio.

13. TRM is a ready-mix concrete wholesaler and distributor. It is a certified minority business enterprise organized under the laws of the State of Ohio, and its principal place of business is located in Cleveland, Ohio.

14. McTech is a construction manager and general contractor. It is a certified minority business enterprise organized under the laws of the State of Ohio, and its principal place of business is located in Cleveland, Ohio.

15. Perk is a construction company, which is wholly owned by Anthony and Joseph. It is organized under the laws of the State of Ohio, and its principal place of business is located in Cleveland, Ohio.

16. C.A.J. is a commercial landlord, and Anthony and Joseph have an ownership interest in, and control, C.A.J. It is organized under the laws of the State of Ohio, and its principal place of business is located in Cleveland, Ohio.

17. Lisa is an officer of both McTech and TRM, as well as McTech's and TRM's minority shareholder, owning 49% of the company. Lisa currently resides in Richfield, Ohio.

18. Anthony, Joseph's brother and Lisa's brother-in-law, is a co-conspirator. Anthony currently resides in Cleveland, Ohio.

19. Joseph, Lisa's husband and Anthony's brother, is a co-conspirator. Joseph currently resides in Richfield, Ohio.

20. David, the former General Manager of TRM and Cifani Family partisan, is a co-conspirator. David currently resides in Seven Hills, Ohio.

21. This Court has personal jurisdiction over Defendants because Perk and C.A.J. are Ohio-based companies and the rest of the Defendants are residents of Ohio.

22. Venue is proper in this Court pursuant to Ohio Rule of Civil Procedure 3(C)(1)-(3).

FACTUAL BACKGROUND

The Cifani Family's web of business interests

23. The Cifani Family has a web of business interests throughout Northeast Ohio.

24. Perk, which is a Cleveland-based construction company, is wholly owned by Anthony and Joseph. Joseph serves as Perk's President, and Anthony serves as its Chief Financial and Development Officer. Perk was organized in 1992.

25. McTech is a Minority Business Enterprise ("MBE") general contractor and construction manager. Mark is McTech's CEO, President and majority shareholder, owning 51% of the company. Lisa is one of McTech's officers and its minority shareholder, owning 49% of the Company. In addition to providing construction management-related services, McTech is also Perk's landlord.

26. C&S is also a general contractor and construction manager, and it is a direct competitor of McTech. C&S is wholly owned by Lisa, who also serves as C&S's CEO.

27. TRM is a wholesaler and distributor of ready-mix concrete. TRM is also an MBE. Mark is TRM's CEO, President and majority shareholder, owning 51% of the company. Lisa is one of TRM's officers and its minority shareholder, owning 49% of the company. TRM employs over 70 individuals and, last year, its annual revenues were in excess of \$30 million.

28. C.A.J. is TRM's and McTech's commercial landlord. Anthony and Joseph have an ownership interest in, and control, C.A.J.

29. A.J.C. is a commercial trucking company. Anthony and Joseph have an ownership interest in, and control, A.J.C.

McTech's origin and TRM's spinoff

30. Ohio's MBE program is designed to assist minority businesses in obtaining contracts for goods and services, and the purpose of the program is to encourage, nurture, and support the growth of minority businesses.

31. Per Ohio law, MBE businesses must be at least 51% minority owned. Additionally, company leadership must be minority. Mark Perkins is African-American.

32. The Cifani Family and the Perkins family teamed up decades ago to participate in Ohio's MBE program and, in or about 1997, McTech was formed as a MBE. The Cifani Family and the Perkins family both knew that it was requisite that Mark be the majority shareholder of both TRM and McTech, and that he control both companies.

33. McTech originally had two distinct operating divisions: (i) a general contracting and construction management division; and (ii) a ready-mix concrete wholesaler and distribution division. However, in 2011, McTech spun its ready-mix concrete wholesaler and distributing division off, thereby making TRM a separate and distinct legal entity.

The Cifani Family's and David's concerted effort to harm and defraud TRM, McTech, and Mark

34. In 2011, after TRM was spun off from McTech, Mark, as the majority shareholder and CEO of both TRM and McTech, was legally vested with running both companies.

35. Because McTech's operation was then considerably more substantial than TRM's, Mark relied on David, a close Cifani Family friend and associate, to run TRM's day-to-day operations.

36. Unbeknownst to Mark, however, David and Lisa, at the direction of Anthony and Joseph, engaged in the following acts aimed at harming and defrauding TRM to the benefit of the web of Cifani Family businesses, to the detriment of Mark and TRM:

- A. In order for TRM to pursue certain certifications, or to renew existing certifications, Lisa, as the minority shareholder, was required to provide various agencies and entities with her personal information. When repeatedly asked, however, she continually refused to do so, which meant that TRM could not

obtain certain certifications that would have given it an advantage in the market place.

- B. Lisa refused to personally guarantee TRM's loans and/or lines of credit. Mark has personally guaranteed over \$10 million of TRM's loans and/or lines of credit. By refusing to personally guarantee any TRM debt, Lisa has left Mark with sole personal exposure of over \$10 million.
- C. Although Lisa is also one of TRM's officers, its minority owner, and is paid by TRM, she works full time for Perk. Sadly, the reality is that Lisa's primary role at TRM has been to work with David, behind Mark's back, to ensure that Perk receives extremely favorable terms and deep discounts when it purchases ready-mix concrete from TRM, which Perk does frequently, and in large amounts. In fact, Perk is TRM's largest customer. Perk typically receives the largest discount given to any TRM customer when it orders ready-mix concrete from TRM. TRM, at David's direction, also gave Perk 6 or 7 months to pay its invoices, whereas a typical TRM customer is given 60 days to pay. Today, Perk owes TRM over \$1.6 million in ready-mix concrete that it has purchased but not yet paid for.
- D. TRM has a fleet of over 40 rear discharge ready-mix trucks that it uses to deliver concrete, to which Perk provides maintenance and mechanical services. Perk systematically overcharged TRM for the services that it provides to TRM's fleet, and Lisa and David always ensured that TRM paid Perk's invoices promptly and in full, with no scrutiny or audit.

- E. A.J.C., Anthony's and Joseph's commercial trucking company, provides trucking-related services to TRM. Although A.J.C. also systematically overcharges TRM for its services, Lisa and David always ensure that A.J.C.'s invoices are promptly paid in full.
- F. As explained more fully below, for years, Lisa and David have caused TRM to overpay C.A.J., TRM's landlord, for rent.
- G. Lisa uses her TRM company credit card to make non-business purchases every month.
- H. On June 1, 2022, in an effort to starve TRM of cash and to interfere with its business relationships, Anthony, as one of the personal guarantors for TRM, wrote to The Huntington National Bank ("Huntington") regarding TRM's business loan agreement. *See Exhibit 1.* Specifically, Anthony inaccurately claimed that Huntington was required to obtain his signature, in addition to either Mark's or Lisa's, when advancing funds pursuant to TRM's line of credit with Huntington. In the June 1 letter, Anthony purported to revoke his personal guaranty because Huntington allegedly failed to follow this two-signature requirement. Huntington ultimately advised Anthony that no two-signature requirement exists, in TRM's business loan agreement or elsewhere. Due to Anthony's wrongful conduct, however, Huntington then advised TRM that it was ending its relationship with TRM—which meant that it closed TRM's accounts and called all of TRM's loans and lines of credit. Anthony's intentional interference with TRM's banking relationship caused TRM to experience unnecessary financial dislocation and distress.

- I. TRM recently ordered new rear discharge ready-mix trucks from Con-Tech Manufacturing (“Con-Tech”). The trucks cost approximately \$225,000 per truck, and take up to 18 months to manufacture. Mark recently learned, however, that Anthony and Joseph instructed Con-Tech to sell and deliver those trucks to Perk—not TRM—of a key step in Anthony, Lisa and Joseph’s conspiracy to squeeze Mark out of TRM and continue TRM’s operations, albeit, under a new identity.
- J. David funneled money from TRM to Slo-Motion Trucking, LLC (“Slo-Motion”), a company in which he has an ownership interest. Specifically, David submitted inflated invoices from Slo-Motion to TRM, which were paid by TRM through Lisa and David. David also never disclosed his ownership interest in Slo-Motion to Mark.
- K. David also funneled money from TRM to Zeus Construction Equipment, Inc. (“Zeus”), a purported construction leasing company in which he has an ownership interest.
- L. Lisa has shared confidential and proprietary financial and company information and documents of each of McTech and TRM with third-parties who are not privy to such information in the ordinary course.

37. In addition to conspiring with David to harm TRM, the Cifani Family has also conspired to harm McTech.

38. As noted above, McTech is a MBE general contractor and construction manager. The majority of McTech, 51%, is owned by Mark. The remaining 49% is owned by Lisa.

39. Lisa wholly owns Cifani & Sons, which is one of McTech’s competitors.

40. Because Lisa is loyal to Cifani & Sons, she uses her position as one of McTech's officers to misappropriate corporate opportunities from McTech to C&S.

41. Lisa has never formally disclosed her interest in C&S to McTech.

42. The Cifani Family has also used Perk to harm Mark and McTech.

43. Perk owes McTech over \$2.2 million for rent and other services.

44. McTech is Perk's landlord, and Perk has not paid rent to McTech in many years. Perk's annual rent obligation is \$240,000 annually. The intentional failure to pay accrued rent has also financially harmed McTech.

45. Perk has also failed to pay McTech for other services McTech has provided it.

Mark discovers the Cifani Family's and David's fraudulent scheme, so they try to squeeze him out of TRM

46. For many years, Mark trusted and relied on the Cifani Family and its ally, David. However, once Mark discovered the Cifani Family's and David's fraudulent schemes and the consistent harm caused to McTech and TRM by those schemes and fraudulent business practices, Mark, as CEO, began taking steps to put an end to them.

47. For example, Mark began questioning the discounts and terms provided to Cifani Family businesses and began scrutinizing TRM's dealings with those entities with far greater care. Mark also uncovered David's self-dealing through his companies, Slo-Motion and Zeus. Ultimately, Mark terminated David from his position at TRM on October 28, 2022.

48. David's termination lit a match to the Cifani Family's long-term contingency plan to take TRM's business facilities, employees, clients and vendors as their own.

49. The Cifani Family began putting into effect steps to squeeze Mark out of TRM so that they could appropriate its facilities and operations, rebrand it, and continue to use it to benefit Perk and the Cifani Family's other businesses. Upon information and belief, the Cifani

Family intended to throw TRM out of its Crayton Avenue facilities—into which TRM had invested millions of dollars—and open the same operation the next day as a Cifani Family entity operated by David.

50. The fulcrum of the Cifani Family’s master plan to steal TRM from Mark was to evict TRM from its plant located at 5000 Crayton Avenue, Cleveland, Ohio 44104 (the “Plant”).

51. Although TRM has a small plant located in Akron, Ohio, TRM’s Cleveland Plant is its largest operation and life’s blood.

52. C.A.J. has been TRM’s landlord for over 16 years.

53. The Plant houses TRM’s Dual Lane REXCON Model S batch plant, which gives TRM the ability to supply 300-350 cubic yards of concrete per hour. TRM also runs its fleet of over 40 rear discharge ready mix trucks from the Plant.

54. On January 1, 2017, C.A.J. and TRM executed the Lease Agreement, which is attached as **Exhibit 2**.

55. Per the Lease Agreement’s terms, TRM was to pay C.A.J. \$36,000 annually to Lease the Plant. Although the Lease Agreement expired on December 31, 2019, TRM and C.A.J. continued to operate pursuant to its terms.

56. The Lease Agreement specifically contemplates TRM purchasing the Plant from C.A.J. so that C.A.J. cannot leverage its ownership of the Plant over TRM. *See* Ex. 2 at ¶ 3.

57. In addition, on July 2021, Mark and Anthony drafted, and agreed to, the LOI, which also contemplates C.A.J. selling the Plant “to a new entity that the Perkins and Cifani’s [will] each own 50% of.” *See* **Exhibit 3**.

58. Although both the Lease Agreement and LOI make clear that the parties agreed that Mark should own at least 50% of the Plant, the Cifani Family never fulfilled its promise to

Mark because it understood that it could leverage C.A.J.'s ownership of the Plant over TRM and Mark, and could use it to squeeze Mark out.

59. Regardless, Mark recently discovered that C.A.J. has inexplicably been charging TRM approximately \$57,000 per year in rent. For years, Lisa and David have been authorizing and paying the increased amount without explanation or disclosure to Mark.

60. Since TRM has been paying approximately \$57,000 per year, instead of \$36,000 per year—the price that TRM and C.A.J. agreed to—since at least 2018, it has paid at least 6 years' worth of rent. Stated differently, by January 2022, per the express terms of the holdover lease agreement that TRM and C.A.J. have been operating pursuant to, TRM paid in full rent through, and C.A.J. has accepted rent through, at least 2024.

61. On December 27, 2022, two months after David's termination, C.A.J. abruptly informed TRM that it was terminating the Lease Agreement and that TRM had only days to vacate the Plant. *See Exhibit 4.*

62. On December 28, 2022, per the Lease Agreement, TRM paid C.A.J. rent for 2022, and it also paid rent for 2023. *See Exhibit 5.* One of C.A.J.'s authorized agents accepted TRM's rent on C.A.J.'s behalf. Thus, taking into account the years of inexplicable overpayments, C.A.J. has been paid and accepted rent through at least 2026.

63. On December 29, 2022, an armed individual, who was hired by Anthony and Joseph, showed up to the Plant to intimidate TRM's employees, disrupt business operations and provide the promise of what was to come on January 1, 2023. In violation of Ohio law and TRM's no-weapons policy at the Plant, the armed individual repeatedly brandished his firearm.

64. On December 30, 2022, five more armed individuals showed up at the Plant to intimidate TRM's employees and disrupt business operations.²

COUNT I – BREACH OF CONTRACT
(TRM against C.A.J.)

65. Plaintiffs incorporate all previous paragraphs as if rewritten herein.

66. On January 1, 2017, TRM and C.A.J. executed the Lease Agreement. *See* Ex 2.

67. Although the Lease Agreement expired on December 31, 2019, the parties continued to act in a manner consistent with a year-to-year lease.

68. The Lease Agreement requires TRM to pay \$36,000 per year in rent.

69. Since at least 2018, TRM has been paying, and C.A.J. has been accepting, approximately \$57,000 per year in rent, meaning that, by January 2022, TRM's rent was paid in full through at least 2024.

70. Regardless, in December 2020 and December 2021, TRM paid C.A.J. the full amount due under the Lease Agreement (plus more due to TRM's fraudulent activities), and C.A.J. accepted that amount.

71. On December 27, 2022, C.A.J. anticipatorily breached the Lease Agreement by informing TRM that it was evicting TRM, and that TRM had only days to vacate the Plant.

72. On December 28, 2022, TRM paid C.A.J. additional rent for both 2022 and 2023 at the inflated rate of \$57,000 per year, and C.A.J., through an authorized agent, accepted TRM's rent payments.

73. To the extent C.A.J. makes good on its threat to evict TRM, it will be in breach of the Lease Agreement.

² The allegations in Paragraphs 63 and 64 of this Verified Complaint are supported by the Affidavit of Reggie Perkins (the "Perkins Aff."), which is attached as Exhibit A to Plaintiffs' Motion for Temporary, Preliminary, and Permanent Injunctive Relief (the "Motion"). The Motion is being contemporaneously filed with the Verified Complaint, and the Perkins Aff. is expressly incorporated by reference herein.

74. Moreover, if C.A.J. does evict TRM, it will cause irreparable harm to TRM and its employees, including by causing TRM to close its doors for an unknown amount of time, potentially forever, lay off approximately 70 employees, and cease operations and production needlessly.

75. C.A.J.'s anticipatory breach will also cause TRM damages in an amount to be proven at trial.

COUNT II – BREACH OF CONTRACT
(McTech against Perk)

76. Plaintiffs incorporate all previous paragraphs as if rewritten herein.

77. A valid and binding lease agreement between McTech and Perk whereby Perk is obligated to pay McTech \$240,000 annually for rent.³

78. Other valid and binding agreements exist between McTech and Perk whereby McTech provides certain accounting services to Perk in exchange for money.

79. McTech has performed pursuant to all of the agreements that exist between McTech and Perk.

80. Perk breached the lease agreement multiple times by failing to pay McTech rent for numerous years.

81. Perk breached the other agreements by failing to pay McTech for the services that it provided to Perk.

82. McTech has been damaged by Perk's breaches in an amount to be proven at trial.

³ The lease agreement that exists between McTech and Perk is not attached hereto pursuant to Civ.R. 10(D)(1) because this urgent filing was prepared over a holiday weekend and McTech's employees were not available to provide a copy to Plaintiffs' counsel. Plaintiffs will supplement this filing with a copy of the lease agreement as soon as possible.

COUNT III – BREACH OF FIDUCIARY DUTY

(Mark, in his capacity as the majority shareholder of both McTech and TRM, against
Lisa, in her capacity as the minority shareholder of both McTech and TRM)

83. Plaintiffs incorporate all previous paragraphs as if rewritten herein.

84. Under Ohio law, shareholders of closely held companies that are not traded on a public exchange owe one another a fiduciary duty to act in good faith and refrain from self-dealing.

85. As such, Lisa, as the minority shareholder of both McTech and TRM, owed Mark, the majority shareholder of McTech and TRM, a fiduciary duty to act in good faith and to refrain from self-dealing.

86. Lisa breached her fiduciary duties to Mark in a number of ways, including by: (i) funneling business opportunities away from McTech and towards C&S, one of the Cifani Family's many companies; (ii) selling ready-mix cement to Perk, from TRM, at a deep discount, which benefitted Perk and harmed TRM; (iii) giving Perk favorable terms when it purchased ready-mix cement from TRM, which benefitted Perk and harmed TRM; (iv) causing TRM to overpay C.A.J. for its annual rent; (v) causing TRM to over pay A.J.C. for services that A.J.C. provided to TRM; (vi) using her TRM company credit card to pay for personal expenses; (vii) refusing to provide various agencies and entities her personal information, which prevented TRM from getting certain certifications that would have made it more competitive in the market place; and (viii) sharing McTech's and TRM's confidential financial and other proprietary information with outsiders who are not privy to that information.

87. Lisa's breaches damaged Mark in an amount to be to be proven at trial.

COUNT IV – BREACH OF FIDUCIARY DUTY

(McTech and TRM, derivatively, against Lisa, in her capacity as officer of McTech and TRM)

88. Plaintiffs incorporate all previous paragraphs as if rewritten herein.

89. Under Ohio law, an officer of a company is required to perform his or her duties in good faith, in a manner the officer reasonably believes to be in or not opposed to the best interests of the corporation, and with the care that an ordinarily prudent person in a like position would use under similar circumstances.

90. Lisa, as an officer of both McTech and TRM, owed both companies this duty.

91. Lisa breached duties to McTech and TRM in a number of ways, including by: (i) funneling business opportunities away from McTech and towards C&S, one of the Cifani Family's many companies; (ii) selling ready-mix cement to Perk, from TRM, at a deep discount, which benefitted Perk and harmed TRM; (iii) giving Perk favorable terms when it purchased ready-mix cement from TRM, which benefitted Perk and harmed TRM; (iv) causing TRM to overpay C.A.J. for its annual rent; (v) causing TRM to overpay A.J.C. for services that A.J.C. provided to TRM; (vi) using her TRM company credit card to pay for personal expenses; (vii) refusing to provide various agencies and entities her personal information, which prevented TRM from getting certain certifications that would have made it more competitive in the market place; and (viii) sharing McTech's and TRM's confidential financial and other proprietary information with outsiders who are not privy to that information.

92. Lisa's breaches damaged Mark in an amount to be proven at trial.

COUNT V – TORTIOUS INTERFERENCE WITH A BUSINESS RELATIONSHIP
(TRM against Anthony)

93. Plaintiffs incorporate all previous paragraphs as if rewritten herein.

94. On June 1, 2022, Anthony tortiously interfered with TRM's business relationship with Huntington by sending Huntington an inaccurate letter which made unreasonable demands of Huntington, purported to revoke his personal guaranty and gave rise to concerns in Huntington about the structure of TRM.

95. On June 1, 2022, a business relationship existed between TRM and Huntington, and Anthony knew about that business relationship.

96. Anthony materially and intentionally interfered with TRM's and Huntington's business relationship by sending Huntington an intentionally inaccurate letter which purported to revoke his personal guaranty and suggested strife among TRM's shareholders.

97. Anthony's interference with TRM's and Huntington's business relationship was not justified.

98. As a result, TRM suffered damages in an amount to be proven at trial.

COUNT VI - CONVERSION/EMBEZZLEMENT
(TRM against David, Lisa, Anthony, and Joseph, C.A.J., and Perk)

99. Plaintiffs incorporate all previous paragraphs as if rewritten herein.

100. Defendant David wrongfully converted and/or embezzled funds from TRM by submitting phony and/or inflated invoices to TRM on behalf of Slo-Motion and Zeus. The invoices were then paid and/or approved by Lisa and/or David, even though they were phony and/or inflated. Thus, David wrongfully converted and/or embezzled funds that rightfully belonged to TRM, which damaged TRM in an amount to be proven at trial.

101. Defendants Anthony, Joseph, and Lisa wrongfully converted and/or embezzled funds from TRM by submitting phony and/or inflated invoices to TRM on behalf of Perk and other entities owned and controlled by the Cifani Family. The invoices were then paid and/or approved by Lisa and/or David, even though they were phony and/or inflated. Thus, Anthony, Joseph, and Lisa wrongfully converted and/or embezzled funds that rightfully belonged to TRM, which damages TRM in an amount to be proven at trial.

102. Defendants Anthony, Joseph, David, and Lisa wrongfully converted property that belonged to TRM by selling it to Perk and/or other entities that are owned and/or controlled by

the Cifani Family at extremely low prices. These actions harmed TRM in an amount to be proven at trial.

103. Defendant C.A.J. wrongfully converted TRM's funds by accepted increased rent payments that were paid by David and/or Lisa. These actions harmed TRM in an amount to be proven at trial.

104. Defendant Perk wrongfully converted TRM's funds by accepting and holdings funds that were stolen from TRM by David, Lisa, Anthony, and Joseph. Perk also converted TRM's property by accepting and holding ready-mix concrete that was sold to it, at a deep discount, by David and Lisa.

105. TRM was harmed by these conversions in an amount that will be proved at trial.

COUNT VII – FAITHLESS SERVANT
(TRM against David)

106. Plaintiffs incorporate all previous paragraphs as if rewritten herein.

107. During the entirety of his employment with TRM, David was disloyal and deceitful to TRM and Mark, his supervisor.

108. David, among other things, prioritized the Cifani Family's businesses over TRM, he improperly gave the Cifani Family's businesses discounts, and he improperly ensured that phony and/or inflated invoices submitted to TRM by the Cifani Family were paid.

109. Because David was a faithless servant, he must forgo—and repay—the compensation he received from TRM in an amount to be proven at trial.

COUNT VIII - CIVIL CONSPIRACY
(Mark and TRM against Defendants)

110. Plaintiffs incorporate all previous paragraphs as if rewritten herein.

111. As detailed above, Defendants conspired to squeeze Mark out of TRM, which harmed both Mark and TRM.

112. Specifically, Defendants, unbeknownst to Mark, used TRM to benefit the Cifani Family's various business interests. When Mark realized what Defendants were doing, and he sought to stop their actions by, in addition to other things, terminating David, they started to squeeze Mark out.

113. As part of their conspiracy, Defendants caused C.A.J. to purport to evict TRM with only a few days' notice.

114. If TRM is evicted, Defendants plan on retaining the Plant, rebranding it, and continuing to use it to benefit the Cifani Family's various business interests.

115. As a result, TRM has suffered damages in an amount to be proven at trial.

COUNT IX – CLAIM FOR INJUNCTIVE RELIEF
(Mark and TRM against Defendants)

116. Plaintiffs incorporate all previous paragraphs as if fully rewritten herein.

117. Plaintiffs have demonstrated a substantial likelihood of proving that the conspiracy to evict TRM and to seize its operations and business enterprise are wrongful and contrary to Ohio law on many bases.

118. Plaintiffs will be irreparably harmed if Defendants are permitted to evict TRM from its Crayton Avenue facilities. Money could not compensate TRM and Mark for the loss of this thriving MBE.

119. Defendants would not be materially harmed by the entry of injunctive relief – merely deprived of the opportunity to wrongfully squeeze out the African-American, majority shareholder of TRM for their benefit.

120. Issuance of an injunction is in the public interest to vindicate the underlying purpose and tenets of Ohio's MBE statute and the interests of Ohio shareholders.

COUNT X – PROMISSORY ESTOPPEL
(TRM and Mark against C.A.J. and Anthony)

121. Plaintiffs incorporate all previous paragraphs as if fully rewritten herein.

122. C.A.J. clearly and unambiguously promised TRM that it would transfer, whether by sale or otherwise, the Plant to TRM.

123. C.A.J. also clearly and unambiguously promised TRM that it could develop and improve the Plant without having to worry about being evicted.

124. The promises that C.A.J. made are partially memorialized in the Lease Agreement.

125. Anthony, as a principal of C.A.J., clearly and unambiguously promised Mark that Anthony would transfer, whether by sale or otherwise, the Plant the Mark and/or TRM.

126. Anthony also clearly and unambiguously promised Mark that TRM could develop and improve the plant without having to worry about being evicted.

127. The promises that Anthony made are partially memorialized in the LOI.

128. TRM reasonably and foreseeably relied on C.A.J.'s promises to its detriment by developing and improving the Plant.

129. Mark reasonably and foreseeably relied to his detriment on Anthony's promises by causing TRM to develop and improve the Plant.

130. TRM has been injured by its reasonable reliance on C.A.J.'s promises in an amount to be proven at trial.

131. Mark has been injured by his reasonable reliance on Anthony's promises in an amount to be proven at trial.

WHEREFORE, Plaintiffs respectfully request that judgment be entered in their favor and against Defendants as follows:

- (A) That this Court issue a temporary restraining order, preliminary, injunction, and permanent injunction enjoining and restraining C.A.J. from evicting TRM from the Plant;
- (B) That this Court enter judgment in favor of TRM on Count I, and that it award TRM compensatory damages, punitive damages, attorneys' fees and costs in an amount greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case;
- (C) That this Court enter judgment in favor of McTech on Count II, and that it award McTech compensatory damages, punitive damages, attorneys' fees and costs in an amount greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case;
- (D) That this Court enter judgment in favor of Mark on Count III, and that it award Mark compensatory damages, punitive damages, attorneys' fees and costs in an amount greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case;
- (E) That this Court enter judgment in favor of McTech and TRM on Count IV, and that it award McTech and TRM compensatory damages, punitive damages, attorneys' fees and costs in an amount greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case;
- (F) That this Court enter judgment in favor of TRM on Count V, and that it award TRM compensatory damages, punitive damages, attorneys' fees and costs in an amount greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case;
- (G) That this Court enter judgment in favor of TRM on Count VI, and that it award TRM compensatory damages, punitive damages, attorneys' fees and costs in an amount

greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case;

- (H) That this Court enter judgment in favor of TRM on Count VII, and that it award TRM compensatory damages, punitive damages, attorneys' fees and costs in an amount greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case;
- (I) That this Court enter judgment in favor of Plaintiffs on Count VIII, and that it award Plaintiffs compensatory damages, punitive damages, attorneys' fees and costs in an amount greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case.
- (J) That this Court enter judgment in favor of Plaintiffs on Count IX, and that it enter the temporary, preliminary, and permanent injunctive relief requested by Plaintiffs, as well as award Plaintiffs damages, which will be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of this case.
- (K) That this Court enter judgment in favor of TRM and Mark on Count X, and that it award Mark and TRM compensatory damages, punitive damages, attorneys' fees and costs in an amount greater than \$25,000, but which will specifically be proven at trial, and any other relief the Court may determine is just and equitable under the circumstances of the case.

/s/ Amanda Martinsek

Amanda Martinsek (0058567)
Gregory C. Djordjevic (0095943)
ULMER & BERNE LLP
Skylight Office Tower
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113-1448
(216) 583-7000
(216) 583-7001 (Fax)
amartinsek@ulmer.com
gdjordjevic@ulmer.com

Counsel for Plaintiffs

JURY DEMAND

Plaintiffs hereby demand a jury trial on all claims so triable.

/s/ Amanda Martinsek

Amanda Martinsek (0058567)

Counsel for Plaintiffs

VERIFICATION

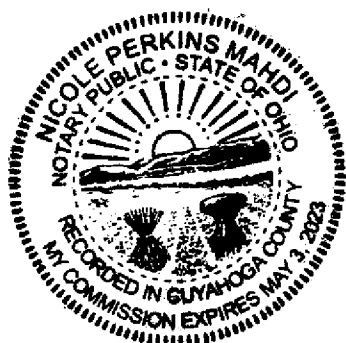
STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)


Mark Perkins, Tech Ready Mix, Inc.'s President and CEO, having been duly sworn, states that he has read the foregoing Verified Complaint and that the allegations set forth therein are, to the best of his knowledge and belief, true and accurate.



Mark Perkins

SWORN TO BEFORE ME, and subscribed in my presence, this 2 day, of January, 2023.





Notary Public

EXHIBIT 1

Anthony Cifani
6943 Father Caruso Dr., Cleveland, OH 44102
(216) 210-9050 * acifani@perkcompany.com



June 1, 2022

The Huntington National Bank
Mr. Howard Walters, Vice President
US - OH - Solon
34050 Solon Road, Suite 105
Solon, OH 44139
Email: howard.walters@huntington.com

RE: Business Loan Agreement (Asset Based)
Loan No. 4022540
Tech Ready Mix, Inc.
Revocation of Continuing Guaranty Until

Dear Mr. Walters,

I am one of the personal Guarantors for Tech Ready Mix, Inc.'s Business Loan Agreement with Huntington Bank. As a condition to me signing this personal guaranty, it was communicated to Huntington Bank, Mark F. Perkins, Lisa Cifani, and Tech Ready Mix's Controller, Mr. Jason Boros, that my signature and express written authorization would be required, in addition to that of Mr. Perkins or Ms. Cifani as Borrowers, when advances under the line of credit were requested and authorized by Huntington Bank. I recently discovered that this minimal two-signature requirement was not being adhered to by Huntington Bank in connection with advances made solely at Mr. Perkins' request.

Accordingly, please allow this letter to serve as written notice of revocation of my continuing personal guaranty of advances made by Huntington Bank under this line of credit at Mr. Perkins' sole request, without the required minimal authorization of two (2) of the three (3) parties permitted to request advances and borrow under this line of credit.




Between Mr. Perkins, Ms. Lisa Cifani, and myself, two of the three of us must expressly authorize in writing advances on the \$2,000,000 line of credit and I am requesting in writing that Huntington Bank honor this agreement before dispersing or advancing any additional funds.

I also request that Huntington expressly clarify the language included in the "Advance Authority" section on page 1 of the attached Business Loan Agreement, so that it reflects those conditions and agreements made at the time the Business Loan Agreement was executed by myself as a Guarantor, and the other Borrowers. Until Huntington clarifies the language and enforces the minimal two signature express authorization condition agreed upon by and between the Borrowers, myself as a Guarantor, and as discussed and agreed with the representative from Huntington Bank, I am withdrawing my personally guaranty for any unauthorized advances made on the line of credit.

Please contact me at 216.210.9050 to discuss further. Thank you.

Sincerely,



Anthony Cifani

EXHIBIT 2

LEASE AGREEMENT

This agreement made and entered into this 1st day of January, 2017 by and between C.A.J. Properties, Inc. (Lessor) and Tech Ready Mix, Inc. (Lessee) until December 31, 2019.

TERMS AND CONDITIONS

1. In consideration of the terms and conditions herein set forth, Lessor hereby leases to Lessee the following: **Batch Plant located at 5000 Crayton Avenue, City of Cleveland, County of Cuyahoga, identified at Rex-Batch 150 Wet/Dry Batch Plant and adjacent Recycling Water Plant. Said lease includes Parking, Yard, Wash Racks and all plant appurtenances located on 4.84 acres of property.**
2. Lessee shall pay a sum of **Thirty-Six Thousand Three Hundred Sixty Dollars annually due on or before December 31 of each year.**
3. **Above amount payable shall remain unchanged through December 31, 2019. Prior to that time, it is the intent for Tech Ready Mix, Inc., to enter into negotiations with C.A.J. Properties, Inc., for the purchase of the Plant and Land included in this lease.**
4. Lessee shall place all utilities into their name. Lessee is responsible for paying all utilities (which include; but are not limited to, electric, natural gas, water, sewer).
5. The Tenant has been the Lessee on this property since 1999; Landlord shall deliver possession of the Leased Premises to Tenant on the Commencement Date in its "AS IS" condition as of the execution and delivery hereof, reasonable wear and tear excepted. Tenant acknowledges that it has fully inspected the Leased Premises and accepts the same in its "AS IS" condition as suitable for Tenant's purposes and that no representation or warranty whatsoever regarding the Leased Premises has been made by Landlord or any agent of Landlord. Upon termination or expiration of this lease, Tenant shall surrender the Leased Premises to Landlord in substantially the same condition as the Leased Premises were in as of the date of this lease, ordinary wear and tear excepted or loss by fire or other casualty.

6. Tenant shall have the right at its own sole cost and expense to make, at any time and from time to time during the initial Term, any alterations, additions, improvements and replacements in and to the Leased Premises which in the reasonable judgment of the Tenant shall be necessary or desirable for the purpose of the business of the tenant, provided that the value of the Leased Premises shall not be diminished and that said improvements shall be in accordance with all state and local building ordinances and permits. Tenant agrees to maintain the property and plant in good working condition at all times including plant and recycling facilities, land, parking areas, roadway and fencing and includes any necessary dust control, watering, snow removal, and street cleaning, or signage required to maintain a suitable business environment.
7. Tenant agrees that in the conduct of its business and occupancy of the Leased Premises it will comply with all valid laws, ordinances, rules and regulations of all public authorities having any jurisdiction over the Leased Premises or any part thereof to include all City of Cleveland Dept. of Utilities Inspections or EPA Inspections.
8. Tenant agrees to provide and keep in force, during the term of this lease, public liability and property damage insurance showing Landlord as an additional insured to afford protections to the limit of not less than \$ 1,000,000 with respect to injury or death of a single person and to the limit of \$ 1,000,000 with respect to any one accident and to the limit of \$ 1,000,000 with respect to property damage.
9. Tenant shall maintain at its sole cost, and Landlord shall have no duty to maintain, insurance against loss or damage by fire and all risks comprehended by standard extended coverage endorsements with respect to any personal property brought upon the Leased Premises.
10. **Termination:** If Tenant shall fail to pay within five (5) days of the due date set forth, with or without notice from the Landlord, any rent or other sums due under this lease; or if Tenant shall neglect or fail to perform or observe any of the other covenants contained in this lease on Tenant's part to be performed and shall not have remedied the same within 15 days after written notice thereof given by Landlord; or if any execution or attachment shall be issued against Tenant and such execution of attachment shall not be discharged within 60 days after levy or seizure hereunder; or if Tenant shall violate any provision of any of the insurance policies referred to herein so that such policy shall

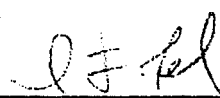
be void or unenforceable in whole or in part; or if there shall be filed against Tenant in any court, pursuant to any statute either of the United States or of any state thereof, a petition alleging bankruptcy or insolvency of Tenant. In the event of such termination, Landlord may reenter the Leased Premises and take possession of the same by summary proceedings, reentry or otherwise, and remove all persons and/or any property from the Leased Premises without being liable to indictment, prosecution or damages thereof, and without prejudice to any other rights which it may have by reason of such breach, default, matter or condition.

11. Subject to governmental or other security regulations, Landlord by any duly authorized agent or representative shall have access to the Leased Premises and each and every part thereof at any and all reasonable time or times during business hours to inspect the same for any purpose including, without limitation of the foregoing, the determination of the condition of the Leased Premises or any part thereof, the progress of any work undertaken by Tenant, and generally Tenant's performance of and compliance with the terms and provisions of this lease.
12. This lease is made subject to zoning, building and other government ordinances and resolutions and any amendments thereto and to restrictions, covenants, easements, encumbrances, reservations and rights of way, which may now affect the Leased Premises.

LEESEE:

TECH READY MIX, INC.

BY:


Mark F. Perkins, President


DATE:

1/3/17

LESSOR:

C.A.J. PROPERTIES, INC.

BY:


Anthony Cifani, Treasurer

DATE:

1-3-17

EXHIBIT 3

BINDING TERM SHEET EFFECTIVE JULY 19, 2021

- Tony will cause Mark to own 25% of AJC effective January 1, 2021.
- Tony will cause Fred Sr. to own 25% of AJC effective January 1, 2021.
- Pre-existing owner contributions by Tony and Joe prior to AJC hauling cement for TRM on 12/10/2018 will be reimbursed to Tony and Joe.
- Upon receipt of a full and final release of the Indemnitors by Travelers, CAJ will sell the plant/property at 5000 Crayton Ave. to a new entity that the Perkins and Cifani's each own 50% of the new entity. The new entity will absorb the balance of the CAJ loan owed to the City of Cleveland.
- 27.5 • Upon receipt of a full and final release of the Indemnitors by Travelers, Tony will cause Mark to own 20% of Perk (Nevada Operations to be spun off from Perk) effective when the three buildings at the test site for MSTs are completed and closed out.
- Mark will agree to purchase Lisa's shares of McTech for \$1.00, plus signing over title to her car (paid in full), and McTech agrees to indemnify Lisa personally for the balance of the Evergreen note (@ \$350,000), so long as she signs a non-compete that is mutually agreeable.
- Mark agrees to consent to the sale of Lisa's ownership of TRM prior to December 31, 2021 to Tony so long as Lisa signs a non-compete that is mutually agreeable. Once sale occurs, TRM will begin filing as an S-Corporation. A mutually acceptable Board of Directors will be established.
- Mark will sign the Travelers letter.
- Tony will consent to Mark signing the HOF contract after a review of the project schedule and LDs.
- Tony will sign the TRM Huntington line of credit documents, only if the credit documents require mutual consent for TRM to access the line of credit. If so, both Mark and Tony must agree on how and when to draw from the line of credit, with two signatures being required because of the shared personal liability.
- Tony will consent to and cause Lisa to consent to the Marblehead property being spun off into an entity owned solely by Mark or his designee, provided that Mark or this new entity pays off the balloon note due to Chemical/Huntington on or before December 31, 2022 and agrees that Tony may use the Marblehead property for 12 weekends per year (with 9 weekends being in the summer).

M. P.
A.C.

7
June 30, 2022

- Tony will consent to and will cause Lisa to consent to TRM funding McTech's operations through December 31, 2021. Thereafter, unanimous consent of the owners of TRM will be required to fund further McTech operations.
- Tony will cause Perk to pay \$2,000 a month in rent for the Grand Avenue space effective January 1, 2022. *split 11/23*
- Mark will cause TRM to pay \$1,000 a month in rent to CAJ Properties for the two offices located at the Perk Shop at 4999 Holyoke and the building and parking lot at 4900 Crayton Ave.
- All of the foregoing will be memorialized in final documentation no later than August 31, 2021.

Mark F. Perkins

Anthony J. Cifani

*A.C.
M-P*

EXHIBIT 4

THE LINDNER LAW FIRM ^{LLC}
ATTORNEYS AND COUNSELORS AT LAW

December 27, 2022

Tech Ready Mix, Inc.
C/o statutory agent:
Calabrese & Associates, LLC
34305 Solon Road, Suite 40
Solon, Ohio 44139
By email: mcalabrese@clabreselawfirm.com

and

Mark Perkins
By email: MPerkins@techreadymix.com and Mark.Perkins@techreadymix.com

and

Lisa Cifani
By email: LCifani@techreadymix.com

Re: Notice of Termination of Holdover Tenancy and Notice to Leave the Premises

Dear Tech Ready Mix, Inc.,

Please be advised that I have been retained to represent your landlord, C.A.J. Properties, Inc., regarding the termination of your holdover tenancy at the real property commonly known as 5000 Crayton Avenue, Cleveland, Ohio ("Real Property").

As you know, the written lease between your company and the landlord terminated on December 31, 2019. Under Ohio Supreme Court law, you have been a holdover on the Real Property since January 1, 2020. *Gladwell v. Holcomb* (1899), 60 Ohio St. 427, 42 W.L.B. 105, 54 N.E. 473, paragraph one of the syllabus:

"As the assent of both parties is necessary to the creation of this new contract at the beginning of each year, it is obvious that if the tenant chooses not to hold over, and vacates the premises at the end of any year, the tenancy ceases without liability for rent for the ensuing year, though no notice of his intention to remove be given, as certainly as it does upon the expiration of a lease expressly made for a specific term. So it does, though he hold over, unless the landlord chooses to accept him as a tenant for another year. By remaining in possession without any new arrangement, the tenant is regarded as

offering to take the premises for another year upon the terms of his tenancy which has just expired. But the landlord is not bound to accept the offer; and, unless he does so, by receiving rent, or some other act of assent or acquiescence, the tenancy is thus terminated, and notice of his intention not to renew it for another year is unnecessary.

The holding over after the end of any year, without the landlord's consent, is equivalent to holding over after the expiration of a lease for a specific term; and, if the landlord does not choose to accept the proffered tenancy for another year, he is at liberty to treat the occupant as a trespasser, and may maintain ejectment against him, without previous notice of his intention not to prolong the tenancy." *Id at 436-437.*

This letter is notice to you that the Landlord will not be accepting or permitting your holdover tenancy to continue after December 31, 2022.

My client, your Landlord, hereby demands that you leave the Real Property by December 31, 2022.

However, having said that, my client also recognizes that due to the scope and enormity of your occupancy at the Real Property, you will require time beyond a few days to leave the property. Accordingly, if you will agree to voluntarily leave the Real Property by January 31, 2023, and you timely make your rental payment for 2022, and agree that the payment for 2022 is paid in arrears and is no way an indication of a desire to rent to you again for 2023, my client will hold off on eviction litigation until February 1, 2023.

In addition, McTech Corp. will be receiving correspondence imminently that gives them 30 day notice that Perk Company Inc. will not be renewing its lease at 8100 Grand Avenue after January, 2023. Therefore, as an additional condition to this extended move time, there must be no hostile action taken toward C.A.J. Properties, Inc., Perk Company, Inc. and/or any of their principals or affiliates by Tech Ready Mix, Inc., McTech Corp. and/or any of their employees, agents or affiliates.

If you do not agree to these terms, you will be served with a statutory 3 day notice on January 2, 2023, and litigation will ensue on the fourth business day thereafter.

Your prompt response is required. If I do not receive a written response from you by the end of business on December 30, 2022, this offer will be revoked and null and void, and the eviction process will commence immediately. I look forward to your prompt response.

Very truly yours,



Daniel F. Lindner

EXHIBIT 5

TRANSACTION RECEIPT

Deposit Transaction
Demand Deposit
Teller # 604 Seq # 8
12/28/2022 1:19:14 PM
Account # *****8300
TRANSACTION TOTAL: \$114,822.92

CFB-2050 10/15

STAPLES PRINT SOLUTIONS 823016