

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

VERIJET HOLDING COMPANY, LLC, a
Delaware Limited Liability Company,
Plaintiff,

v.

CASE NO.:

MARK KAHAN,
Defendant.

_____ /

Complaint

Plaintiff, Verijet Holding Company, LLC, a Delaware Limited Liability Company (hereinafter “Plaintiff Verijet”), files this Complaint against Defendant, Mark Kahan (hereinafter “Defendant Kahan”). Plaintiff alleges as follows:

1. This is an action for damages in excess of \$50,000.00.
2. At all times material hereto, Plaintiff Verijet has been a Delaware Limited Liability Company, authorized to transact business in Florida, with its principal offices located at Opa Locka Airport, in the County of Miami-Dade, Florida.
3. Defendant Kahan is an individual residing in District of Columbia County, Washington, D.C., who conducts business in Florida.
4. This Court has jurisdiction since the Defendant currently engages and has engaged in substantial and not isolated contacts in and with the State of Florida, including, but not limited to, serving on corporate boards of companies with headquarters in Florida, executing leases as a lessor/Limited Liability Company (“LLC”) principal on aircraft physically located in Florida, advising lessors/LLC principals for compensation regarding aircraft physically located in Florida, and the filing of a pending lawsuit in Miami-Dade County (thus providing Miami-Dade County as

the proper venue) as a plaintiff and sole owner of an LLC against a company headquartered in Florida. (CASE NO: 2021-017367) (See Section 48.193(2)).

5. Plaintiff Verijet is an innovative start-up company that provides charter airplane service. Plaintiff Verijet's service has technological advantages over other charter companies based on artificial intelligence it utilizes, and a unique safety feature on its jet aircraft.

6. Defendant Kahan was a Board member of Plaintiff Verijet as it endeavored to acquire jets and begin providing service between March 11, 2020, and December 10, 2020. However, rather than assist Plaintiff Verijet, he was responsible for obstacles that diverted its path.

7. Through entities he owned or partly owned, Defendant Kahan, with the assistance of Greg Cirillo, negotiated to lease Plaintiff Verijet four jets. He also operated as the paid manager of a lessor group that included two other entities that leased Plaintiff Verijet jets. However, during the negotiations, Defendant Kahan misleadingly stated that he had a 50% ownership interest in three of the lessor interests without revealing that he had voting control of those entities. He also pretended he had no pecuniary interest at all in two leases he was being paid to manage. In fact, Defendant Kahan had effective control of four of the six potential lessors and managed the two others – control Defendant Kahan had deliberately established with Cirillo's help so Defendant Kahan would have leverage with Plaintiff Verijet after the leases were signed.

8. Ultimately, Defendant Kahan and Cirillo persuaded Plaintiff Verijet to enter one-sided leases, not reflective of arms-length negotiations. They then took advantage of the leverage Defendant Kahan had accumulated through his control of four lessors and influence over the two remaining lessors.

9. After inducing Plaintiff Verijet to enter these leases, Defendant Kahan proceeded to take steps with his own interest in mind, not Plaintiff Verijet, culminating in efforts to bankrupt

Plaintiff Verijet and take over its assets. Defendant Kahan undermined Plaintiff Verijet's Series A Membership Interests offering by persuading potential investors to consider joining him as lessors instead. In an effort to enable himself to buy a controlling share of Plaintiff Verijet's Membership Interests, he attempted to force Plaintiff Verijet to reduce the price of the Series A Membership Interests by threatening that, if Plaintiff Verijet did not reduce the price, he would not deliver the jets Plaintiff Verijet had leased from him. He repeatedly made derogatory comments about Plaintiff Verijet to key players in the industry. And ultimately, through his control of the lessors' group, he attempted to drive Plaintiff Verijet into bankruptcy, at which point he would have taken advantage to get Plaintiff Verijet's assets.

10. Although they did not succeed in bankrupting Plaintiff Verijet, the actions of Defendant Kahan and Cirillo did substantial damage. They delayed subscription to Plaintiff Verijet's Series A offering. Among the consequences was that lessors, including Defendant Kahan, claimed violations of covenants in the leases and used these claims to negotiate further concessions in their leases — one of which has now led to a lawsuit between Defendant Kahan and Plaintiff Verijet. Their actions also slowed Plaintiff Verijet's roll out of service, significantly reducing its revenue in early months.

**BACKGROUND FACTS ABOUT PLAINTIFF, VERIJET, AND ITS INTRODUCTION
TO DEFENDANT KAHAN**

11. Plaintiff Verijet is a charter airline founded by Richard Kane in 2017, and managed by a Board of Directors. It began providing service in January 2021.

12. Plaintiff Verijet is groomed for success because of two significant advantages it has over competitors. First, through an agreement with RTI Tech Coastal, it is the only charter airline with access to RTI's patented artificial intelligence system that improves the management of routes, contracts, and other critical issues.

13. Second, until 2028, Plaintiff Verijet, as a practical matter, will be the only charter airline that has Vision Jet planes made by Cirrus, Inc. These are the only jet charter planes with a parachute for the whole plane. Such parachutes markedly decrease the risk of a fatal crash while flying, and help assuage customer concerns about flying in smaller planes. If it becomes necessary, the parachute can be deployed to safely bring the whole plane to earth, even if the aircraft loses complete power, hardware, software, firmware or engine failure. (This feature was on vivid display on Friday, November 25, 2022, when after experiencing an electronic malfunction, N15VJ, began to stall and lost power immediately. The Plaintiff Verijet pilot pulled the parachute and the entire aircraft floated harmlessly to the ground. There were no passengers on board, as it was being repositioned for revenue flights and the pilot walked away completely uninjured.)

14. In late summer of 2019, as it began trying to attract investors and acquire the resources to begin operations, Plaintiff Verijet was introduced to Defendant Kahan as a potential investor. Defendant Kahan was the former general counsel of Spirit Airlines and had substantial assets.

15. Through the fall of 2019, Plaintiff Verijet had multiple communications with Defendant Kahan about his potential investment. Defendant Kahan signed a non-disclosure agreement in conjunction with these negotiations.

16. Defendant Kahan purchased \$120,000.00 in Membership Interests.

17. On March 11, 2020, the Board asked Defendant Kahan to join the 5-person Board. There was optimism at the time that this would later lead to a much more substantial investment from Defendant Kahan.

DEFENDANT KAHAN'S FRAUDULENT AND DISLOYAL ACTIONS

18. Once Defendant Kahan joined the Board, he had a fiduciary duty to Plaintiff Verijet. Nothing in the LLC Agreement purports to limit the fiduciary duties Board Members have under Delaware law.

19. The Agreement permits transactions between Plaintiff Verijet and Board members, but places express limits on such transactions. They can only occur “so long as it is (a) reasonably determined by the Board in good faith, on commercially reasonable terms no less favorable to Plaintiff Verijet and/or Plaintiff Verijet Subsidiaries than would be obtainable in a comparable arms-length transaction with an unrelated third party and (b) approved by the Board in accordance with this Agreement and consented to as required under Section 4.06 (b).”

20. Defendant Kahan proceeded to engage in multiple critical transactions with Plaintiff Verijet that were inconsistent with those terms and with his underlying fiduciary duties. In late March 2020, Defendant Kahan broached the idea of leasing a jet to Plaintiff Verijet. Through an LLC he formed with the assistance of attorney Cirillo, he offered to order a new Vision Jet from Cirrus and lease it to Plaintiff Verijet so Plaintiff Verijet could begin providing service.

21. While Plaintiff Verijet was amenable to this idea, Defendant Kahan proceeded to negotiate a lease on terms much more favorable to him than he would have received in an arms-length transaction. The remedy provisions of that April 6, 2020 lease were skewed dramatically in his favor; the price was too high; and Plaintiff Verijet was required to wire Defendant Kahan a \$100,000.00 security deposit and \$200,000.00 in advanced rent many months before the jet would be delivered to Plaintiff Verijet.

22. Defendant Kahan subsequently informed Plaintiff Verijet that he had sold a 50% interest in the LLC to another individual – Frank Brumfield. He did not, however, inform Plaintiff

Verijet that he retained 2/3 of the voting shares in the LLC. That became important as Defendant Kahan negotiated other leases.

23. Soon thereafter, Defendant Kahan began discussing with Plaintiff Verijet five additional potential leases. Defendant Kahan informed Plaintiff Verijet that he was a 50% owner in two of the LLCs that would do the leasing and a 100% owner in the third. He did not indicate he had any pecuniary relationship to the remaining two lessors.

24. In fact, however, Defendant Kahan was being paid to manage all of the leases. Thus, while Plaintiff Verijet believed Defendant Kahan's view of these final two leases was an objective one, the reality was that for these leases, like the others, Defendant Kahan had an economic incentive to support the interest of the potential lessors.

25. Defendant Kahan's statement that he was 50% owner of two of the prospective lessors, as well as of the existing lessor, was also entirely misleading. The strong implication was that Defendant Kahan had a 50% voting interest in these entities, and thus, did not have unilateral control of them. In fact, however, Defendant Kahan retained a substantial majority of the voting rights in each of these entities. That meant that if Plaintiff Verijet entered into each of the leases Defendant Kahan was discussing in May through July of 2020, Defendant Kahan would have full control of four of the first six jets Plaintiff Verijet planned to use for its operation, and would exert significant influence with respect to the other two.

26. These jets would be ones on which Plaintiff Verijet would be critically dependent for months if not years – not just because of economic constraints on acquiring additional jets, but also because of supply-chain constraints. Cirrus could only build **80-100** Vision Jets a year. If Plaintiff Verijet committed to the five additional leases Defendant Kahan was proposing, that was close to **but not** the sum total of the Vision Jets Plaintiff Verijet could acquire for quite some time.

27. Indeed, Defendant Kahan's plan from the beginning was to acquire leverage over Plaintiff Verijet through the leases. This is evident from Defendant Kahan's communications with yet another potential lessor (Steve Foley – hereinafter “Foley”). Defendant Kahan proposed to Foley a deal in which they would partner 50/50 in an LLC to buy a plane and lease it to Plaintiff Verijet. However, when Foley scrutinized the details of the written proposal from Defendant Kahan, he saw that it gave Defendant Kahan two-thirds of the voting rights, even though Foley was investing 50%. This was not something Defendant Kahan or Cirillo told Foley. It was something Foley discovered only because he carefully scrutinized the draft agreement.

28. The draft agreement was created by Cirillo who had been hired by Foley and Defendant Kahan jointly to create and then represent the proposed LLC. Cirillo was working with Defendant Kahan's entities on the other leases as well, all the while being a partner at the same law firm where Defendant Kahan was Of Counsel.

29. When Foley indicated to Cirillo his surprise and concern at the provision establishing uneven voting rights, he was told Defendant Kahan and all of the other lessors had agreed to this disparity in voting rights. He was told this was because it was important that Defendant Kahan have control across the group of lessors. Foley balked and demanded his money to be promptly returned, which Defendant Kahan did. Defendant Kahan never revealed this “caught in the act” fraudulent transaction to the Board that Defendant Kahan was forced to unwind.

30. Had Defendant Kahan simply lived up to his negotiated deal with Foley, Plaintiff Verijet would have likely started operations with seven (7) Vision Jets as opposed to six (6). This would have not only given Plaintiff Verijet greater revenue it would have led to a higher valuation and faster route to profitability.

31. Perhaps most importantly, Defendant Kahan had a fiduciary duty to disclose the failed Foley transaction to the Board without delay. Had he made this disclosure, the Board would certainly have scrutinized any dealings with Defendant Kahan, as the Foley transaction was rescinded not for mutual mistake, but fraud in the inducement.

32. Unlike Foley, Plaintiff Verijet did not learn of Defendant Kahan and Cirrilo's subterfuge before entering additional agreements with him. In May and June 2020, Plaintiff Verijet proceeded to discuss the five additional potential leases with Defendant Kahan and Cirillo.

33. The stated intent on both sides was to arrive at economic terms that would be sensible for both the lessors and for Plaintiff Verijet. In the end, they arrived at a rental payment amount of about \$55,000.00 a month. That payment was calculated based on a "lease factor rate" – premised on the amount that the lessors would invest in the aircraft, including both the purchase of the aircraft and the purchase of a premium maintenance plan, which cost about \$275,000.00. That premium maintenance plan was important to everyone.

34. Although the supposedly shared goal was to arrive at terms fair to Plaintiff Verijet, as well as lessors, this rental amount was skewed substantially in favor of the lessors. The leases were to cost Plaintiff Verijet approximately \$55,000.00 a month for the first 36 months, and \$43,000.00 thereafter, while the lessor's financing costs would be approximately \$12,000.00 a month. Moreover, the lessors would be able to offset those financing costs, because they would be getting a massive tax break for ownership of the planes as a result of a new provision on depreciation adopted to combat the economic effects of Covid.

35. The other terms of the lease were also dramatically skewed. They included, for example, a remedy provision stating that "the Lessor's right to receive, all Rent in accordance with this Lease shall be absolute, irrevocable, independent and unconditional, and shall not be subject

to (and Lessee hereby waives and agrees not to assert) any abatement, reduction, setoff, defense, counterclaim or recoupment (collectively “Abatements”) for any reason or under any circumstance whatsoever as to any such Rent, and without limiting the foregoing, Lessee also hereby waives any and all existing and future claims to any Abatement against or with respect to such Rent.”

36. However, these terms were not enough for Defendant Kahan. After weeks of negotiation about price resulted in an agreement on an \$55,000.00 a month price, Defendant Kahan suddenly demanded that each lessor also get \$420,000.00 in Class A Membership Interests in addition to rental payments. He said this was take it or leave it for all of the leases.

37. Plaintiff Verijet CFO Steve Wagman emailed Defendant Kahan that acceding to these demands would bankrupt Plaintiff Verijet. Ultimately, it would become obvious this was Defendant Kahan’s goal.

38. In demanding last-minute concessions with a take it or leave it approach, Defendant Kahan was taking advantage of control of multiple lessors and of his inside knowledge. Defendant Kahan was well aware, through his financial knowledge as a Board member that, as a result of the months Plaintiff Verijet had spent negotiating these leases, Plaintiff Verijet could not afford to walk away from all of the leases, which would, at a minimum, mean a very substantial delay in ramping up service. Since Defendant Kahan controlled or influenced all of the leases, he could issue a collective demand that meant, if Plaintiff Verijet refused the demand for one lease, it would end up with no leases. Plaintiff Verijet would have to find new potential lessors (or investors who would finance Plaintiff Verijet’s purchase of Vision Jets) and start negotiations from scratch.

39. Ultimately, therefore, Plaintiff Verijet agreed to the terms its Board Member Defendant Kahan wanted under extreme duress. It entered all five leases on July 10, 2020.

40. At this point, Plaintiff Verijet still assumed Defendant Kahan was operating in good faith; wanted Plaintiff Verijet to succeed; and believed the terms he was demanding would still enable Plaintiff Verijet to do that. Moreover, Defendant Kahan assured Plaintiff Verijet he would offset some of the impact of the last-minute lease demands through a change in the lease he had already entered. In particular, he said that, in exchange for additional Membership Interests, he would assume Plaintiff Verijet's obligation in the original lease to pay Cirrus for all the maintenance on the original plane (a cost of \$385,900.00), leaving Plaintiff Verijet with more working capital as it geared up operations.

41. In September, 2020, the plane that was the subject of the original lease with Defendant Kahan was ready for delivery. However, Defendant Kahan now backed out of his promise to offer concessions on that loan. As a result, just as Plaintiff Verijet's operations were starting to take off, it had to make a payment to Defendant Kahan for maintenance of the aircraft, limiting its working capital.

42. Defendant Kahan also began attempting to gain control of Plaintiff Verijet through further steps inconsistent with his duty of loyalty as a Board member. For months, Plaintiff Verijet had been attempting to sell Series A Membership Interests to obtain working capital. The Board had approved a Series A financing offer on December 2, 2019, under which Plaintiff Verijet would raise up to \$15,000,000.00 in cash for Series A units. It began selling that Membership Interests in February, 2020; however, the timing was poor, because that was right when Covid hit.

43. The importance of the Series A Membership Interests offering to Plaintiff Verijet's success was recognized by Defendant Kahan and the other lessors. Due to the importance of Series A, the lessors demanded provisions in the lease covenants promising that more of the Membership Interests would be subscribed by the delivery date of the jets.

44. Defendant Kahan then undermined the Series A Membership Interests offering and Plaintiff Verijet's ability to pass that threshold. First, he attempted to persuade potential investors that they should not buy Series A Membership Interests. In the summer of 2020, interest in the Series A Membership Interests had picked up. However, Defendant Kahan significantly impeded that interest by steering potential investors away from Membership Interests purchases. He suggested they should instead enter deals with him to lease more jets to Plaintiff Verijet.

45. He then also began attempting to have the Board lower the price of the Series A Membership Interests offering. He used the power he had accrued over Plaintiff Verijet's six leases in support of this goal. He threatened that he would not deliver leased aircraft unless the Board agreed to lower the price.

46. His efforts were purely self-interested. A company that is trying to raise money never wants to change the price in the middle of an offering. It also would have been illegal, in contravention of the disclosure, since the Series A offering was not yet complete.

47. Defendant Kahan made clear that he wanted a lower Membership Interests price, because he could then himself buy more Membership Interests – something that would help Defendant Kahan gain control of Plaintiff Verijet. Consistent with Defendant Kahan's desire for control, Defendant Kahan called another Board member and said he wanted to kick out founding member Richard Kane and COO/CFO Steve Wagman.

48. Defendant Kahan also interfered with Plaintiff Verijet's relationship with Cirrus. He told Cirrus to be careful about doing business with Richard Kane and Steve Wagman, as they were incompetent and not trustworthy.

49. Defendant Kahan had an alternative plan, if his efforts did not succeed, in getting Plaintiff Verijet to issue cheap securities he could buy to gain control: to drive Plaintiff Verijet

into bankruptcy and then obtain the assets. The lessors' group that Defendant Kahan managed hired bankruptcy counsel to assess such a possibility.

50. Although Defendant Kahan hired counsel for the lessor group to assess bankruptcy issues related to Plaintiff Verijet, he never informed Plaintiff Verijet that he had done so. Also, he certainly did not suggest to the Plaintiff Verijet Board that it hire bankruptcy counsel itself and begin assessing its own bankruptcy options – something he certainly had an obligation to do if he believed bankruptcy was likely, and if he had Plaintiff Verijet's interests at heart.

51. Defendant Kahan had only his own interest in mind. On information and belief, his goal in hiring bankruptcy counsel was to *induce* the bankruptcy of Plaintiff Verijet, buy the assets, and run the airline himself via a pre-packaged Chapter 11 bankruptcy.

52. Board Member Defendant Kahan, in contrast, led the charge in hiring bankruptcy counsel. In this, he was assisted by Greg Cirillo, who was counsel to each of the lessors.

53. While Plaintiff Verijet was unaware that Defendant Kahan had hired bankruptcy counsel on December 10, 2020, Defendant Kahan resigned from the Board. He said this was because he learned that Plaintiff Verijet's D&O insurance had not yet become effective. That was presumably a particular concern given his repeated breaches of his duties as a Director.

DAMAGES CAUSED BY THE ACTIONS DEFENDANT KAHAN TOOK

54. By the time he left the Board, Defendant Kahan's actions had harmed Plaintiff Verijet significantly. Defendant Kahan significantly delayed subscription of the Class A Membership Interests. He did so directly by pushing investors away from the Class A offering; and he did so indirectly both by degrading Plaintiff Verijet, and by forcing Plaintiff Verijet to divert substantial resources away from efforts seeking investors to efforts responding to Defendant Kahan's push that Plaintiff Verijet lower the price of Class A Membership Interests. and his related threats of non-delivery of the aircraft if Plaintiff Verijet did not lower the price.

55. The delay in sale of Class A Membership Interests increased lease costs for Plaintiff Verijet. In the leases that Defendant Kahan had induced Plaintiff Verijet to enter, Defendant Kahan had negotiated covenants requiring Plaintiff Verijet to sell a certain amount of Class A Membership Interests before delivery of planes to Plaintiff Verijet. As a result of Defendant Kahan's actions, Plaintiff Verijet had not sold the requisite amount of Membership Interests by the time the planes were scheduled to be delivered.

56. Defendant Kahan then extracted additional concessions from Plaintiff Verijet as a result in a desperate attempt. On September 10, 2020, Plaintiff Verijet agreed to add a \$100,000.00 deposit on the lease of Treitel that was later used in satisfaction of the financial covenant on Series A. On December 17, 2020, Plaintiff Verijet agreed to increase the security deposit on one lease and to reduce the lessor's obligation to pay maintenance from X to two years or 300 hours. On December 29, 2020, it agreed to the concessions required. The attorney negotiating concessions for each of these lessors was Cirillo.

57. The delay in sale of Class A Membership Interests also enabled Defendant Kahan to extract concessions on his own lease of a jet for delivery at the end of December 2019. For that lease, Defendant Kahan delayed delivery of the jet based on his assertion that the Class A Membership Interests was insufficiently subscribed to meet the covenant. That was incorrect by this time. But the contention was sufficiently colorable – and the potential harm to Plaintiff Verijet caused by delay significant enough – that Plaintiff Verijet was forced to negotiate. In the interim, it was unable to use the jet, costing it significant potential revenue.

58. Plaintiff Verijet only gained access to the jet when it agreed to divide Defendant Kahan's maintenance obligation into two parts, in which he initially paid for maintenance of 2 years or 300 hours, and later – sometime before there had been 250 flight hours – had to increase

the maintenance program to three years or 1000 hours. The bulk of his obligation would be deferred until part of the initial maintenance period had passed.

59. That change has had severe consequences. Plaintiff Verijet learned from Cirrus – not from Defendant Kahan himself – that Defendant Kahan failed to make the delayed additional maintenance payment when it came due. Absent payment, the plane had a limited number of flying hours left with the maintenance plan in place.

60. Plaintiff Verijet then spent months discussing the issue with Defendant Kahan, during which Defendant Kahan continued to refuse to make the payments, using as an excuse that Plaintiff Verijet had not provided Defendant Kahan all of the financial information he demanded. That was so, even though: (1) under the Agreement, Defendant Kahan had no choice but to make the maintenance payment, rendering the financial information irrelevant to it, and (2) Plaintiff Verijet nonetheless provided Defendant Kahan with core financial information and withheld only information that went way beyond the ordinary course, and that Plaintiff Verijet had strong reason not to provide Defendant Kahan given the prior breaches of fiduciary duty he had already pulled when he had detailed knowledge while on the Board.

61. Eventually, the existing maintenance plan ran out, and Plaintiff Verijet did not want to fly the jet without renewal. Thus, it returned the jet to Defendant Kahan. Remarkably, Defendant Kahan then initiated a suit against Plaintiff Verijet in Florida for anticipatory breach of the lease, even though he was the one who chose not to fulfill his obligations. That lawsuit is just getting underway.

62. Defendant Kahan's actions harmed Plaintiff Verijet in another way as well. They significantly limited the scope of Plaintiff Verijet's initial operations. Defendant Kahan's temporary refusal to deliver one of the jets was only one source of the operational delay caused by

Defendant Kahan's actions in disregard of his duty of loyalty. His actions also rendered Plaintiff Verijet unable to hire pilots. This inability put Plaintiff Verijet months behind schedule, and delayed profitability by at least a year or more.

COUNT I
BREACH OF CONTRACT (DEFENDANT KAHAN)

63. Plaintiff Verijet repeats and realleges every allegation in paragraphs 1 through 62 above.

64. As a Plaintiff Verijet Board member, Defendant Kahan was contractually obligated to abide by the terms of Plaintiff Verijet's Operating Agreement.

65. Under those terms, Plaintiff Verijet can only enter a Related Party Transaction, including transactions in which a Board Member has an interest, "so long as it is (a) reasonably determined by the Board in good faith, on commercially reasonable terms no less favorable to Plaintiff Verijet and/or Plaintiff Verijet Subsidiaries than would be obtainable in a comparable arms-length transaction with an unrelated third party and (b) approved by the Board in accordance with this Agreement and consented to as required under Section 4.06 (b)."

66. For the five leases Plaintiff Verijet entered into July 2020, Defendant Kahan prevented the Board from making a good faith determination of commercial reasonableness. He misled Plaintiff Verijet about his interest in two of the potential lessors by conveying that he owned 50% of these entities, without conveying he had voting rights disproportionate to his equitable interests – voting rights that gave him full control of those lessors. He made similar misleading statements about his interest in the already-existing lessor; and he failed to reveal that, with respect to all five new potential leases (plus the original lease), he was being paid a fee to manage those leases. He certainly did not reveal that he had deliberately accrued this control in order to have leverage with Plaintiff Verijet.

67. Those omissions were critical, because they meant that Plaintiff Verijet entered the five July 2020 leases without knowing that they would give a single individual — Defendant Kahan — voting control over four of its six initial Vision Jets, and significant influence for the other two leases as well. Defendant Kahan’s failure to reveal his management fee also meant that Plaintiff Verijet negotiated two of the leases without knowing Defendant Kahan had any interest in these leases at all.

68. Defendant Kahan’s actions not only prevented good faith review by the Board and gave Defendant Kahan too much power collectively, it also caused Plaintiff Verijet to enter leases that were each substantively skewed against Plaintiff Verijet. Each of the six leases in which Defendant Kahan had an economic interest (either as an owner of the lessor or as a paid consultant), included terms that were not “commercially reasonable” and that were “less favorable to Plaintiff Verijet and/or Plaintiff Verijet Subsidiaries than would be obtainable in a comparable arms-length transaction with an unrelated third party.” The rent set in each of these agreements was too high, and the remedial and other terms were one-sided.

69. Moreover, for the five July leases, Defendant Kahan took advantage of his insider knowledge to demand last minute additional concessions from Plaintiff Verijet that he knew Plaintiff Verijet could not refuse because of the delay that would be entailed by finding substitute leases or other methods of obtaining Vision Jets.

70. Defendant Kahan’s contractual violations damaged Plaintiff Verijet. The fact that Defendant Kahan induced Plaintiff Verijet to enter leases all controlled by – or influenced by Defendant Kahan – gave him the power to threaten that he would not deliver the jets if Plaintiff Verijet did not lower the price of its Membership Interests offering – necessitating huge efforts by Plaintiff Verijet to respond, delaying subscription of Series A Membership Interests, and enabling

the lessors to demand yet more concessions. Entering (and subsequently modifying) leases with less favorable terms than Plaintiff Verijet would have obtained in arms-length transactions also damaged Plaintiff Verijet. Plaintiff Verijet has been paying too much in rent and is facing (in the existing suit with Defendant Kahan) and potentially subject in other litigation – to arguments based on draconian remedy provisions in the Agreements. Finally, entering leases that gave Defendant Kahan huge leverage over Plaintiff Verijet enabled him to make threats that Plaintiff Verijet had to take seriously and to which it had to respond with significant resources. That contributed to significant operational delays that reduced Plaintiff Verijet’s revenue.

71. As a direct result of Defendant Kahan’s breach of contract, Plaintiff Verijet was damaged in an amount to be proven at trial, in both ultimate valuation and proximate profitability.

72. As a direct result of Defendant Kahan’s breach of contract, was damaged in an amount to be proven at trial, in both ultimate valuation and proximate profitability.

COUNT II
BREACH OF FIDUCIARY DUTY (DEFENDANT KAHAN)

73. Plaintiff Verijet repeats and realleges every allegation in paragraphs 1 through 62 above.

74. As a Plaintiff Verijet’s Board Member, Defendant Kahan had a fiduciary duty to Plaintiff Verijet that included both a duty of loyalty and a duty of care.

75. Defendant Kahan breached both duties by negotiating five leases with Plaintiff Verijet without informing Plaintiff Verijet that: (a) he had a controlling interest not just in the one potential lessor entity in which he had 100% ownership but also in two potential lessors in which he had a 50% interest, as well as in the lessor entity that had previously entered a lease with Plaintiff Verijet, and (b) he was being paid a managerial fee by the other lessors.

76. Defendant Kahan had a duty to fully and fairly inform the Board of this material information. Moreover, he affirmatively misled the Board by revealing that he had a 50% ownership interest in three of the entities without revealing his disproportionately higher voting share.

77. Defendant Kahan further breached both duties by inducing Plaintiff Verijet to enter leases, and subsequently amend those leases, on terms that were worse than would have been obtained in arms-length transactions, both because they were substantively skewed and because, collectively, they gave Kahan too much leverage over Plaintiff Verijet.

78. Defendant Kahan's acquisition of leverage over Plaintiff Verijet was deliberate. And, in further contravention of his fiduciary duty, he used that leverage to undermine Plaintiff Verijet's Series A offering by diverting potential lessors from buying Series A Membership Interests and inducing them to enter deals with him instead, by trying to force Plaintiff Verijet to reduce the price of its Series A offering so that he could gain still further control, by derogatory comments about Plaintiff Verijet to its critical business partners, and ultimately by draining Plaintiff Verijet's resources and seeking lease concessions in an effort to bankrupt Plaintiff Verijet, as an alternative way of gaining control. That is the very paradigm of a breach of fiduciary duty.

79. Defendant Kahan's actions harmed Plaintiff Verijet by causing it to enter (and subsequently modify) leases with less favorable terms than Plaintiff Verijet would have obtained in arms-length transactions, forcing it to pay too much in rent, and subjecting Plaintiff Verijet to potential and actual arguments based on draconian remedy provisions in the Agreements. Defendant Kahan's deceptive acquisition of leverage against Plaintiff Verijet – and subsequent use of that leverage to make demands -- forced Plaintiff Verijet to waste time and money in response, causing significant operational delays that reduced Plaintiff Verijet's revenue. Defendant Kahan's

actions undermining the Series A offering – by steering investors away from Series A, seeking to lower the price of Series A, and public derogatory comments of Plaintiff Verijet – also helped enable lessors to seek lease modifications in their favor, and led to financial constraints that caused operational delays.

80. Defendant Kahan’s breach of fiduciary duty occurred with malice, with the purpose of injuring Plaintiff Verijet and its early shareholders, including, but not limited to, Gene Valentino. He was trying to reduce the share price so he could buy more Membership Interests, or alternatively to bankrupt Plaintiff Verijet and acquire the assets.

COUNT III
FRAUD (DEFENDANT KAHAN)

81. Plaintiff Verijet repeats and realleges every allegation in paragraphs 1 through 62 above.

82. Defendant Kahan perpetrated a fraud on Plaintiff Verijet by informing Plaintiff Verijet that he had a 50% ownership interest in the original lessor entity and two of the entities with which Plaintiff Verijet was negotiating leases in May and June, while failing to tell Plaintiff Verijet that (a) he had more than a 50% voting interest in these entities, and (b) failing to tell Plaintiff Verijet that he was also receiving payment to manage the other two leases Plaintiff Verijet was negotiating. These omissions made the information Defendant Kahan did disclose on his interests misleading, and Defendant Kahan’s fiduciary duty gave him a special obligation to provide accurate information on his interest in these entities.

83. Although Defendant Kahan’s fiduciary duty means Plaintiff Verijet has a constructive fraud claim even without a showing of intent, here, Defendant Kahan’s deception was deliberate. Defendant Kahan wanted to have control over the initial jets Plaintiff Verijet leased

and on which Plaintiff Verijet would depend. His purpose was to obtain leverage with Plaintiff Verijet. However, this was something he certainly did not want Plaintiff Verijet to know.

84. This deception was also a material one on which Plaintiff Verijet relied. The extent of Defendant Kahan's control and influence over the collective body of lessors was something a reasonable company considering the leases would have believed important, as was the fact Defendant Kahan was accruing that control for the purpose of leverage against Plaintiff Verijet. Plaintiff Verijet would have considered it important. If Plaintiff Verijet had known, it would not have entered all of these leases, but would have looked to diversify its initial lessors.

85. Defendant Kahan also committed fraud when, in order to somewhat assuage Plaintiff Verijet's concerns about last minute demands to sweeten the pot for each of the leases being negotiated in May through July, he indicated that he would offset some of the costs by paying for jet maintenance in the original lease, thereby freeing up some working capital for Plaintiff Verijet. Defendant Kahan clearly had no intent of fulfilling that promise and never did so. That promise was material in inducing Plaintiff Verijet to agree to the July leases, and important for the very reason indicated – it was important that Plaintiff Verijet have sufficient working capital as it got off the ground.

86. Defendant Kahan's fraud damaged Plaintiff Verijet. Through his fraud, Defendant Kahan induced Plaintiff Verijet to enter leases that gave him great potential leverage against Plaintiff Verijet, and that he subsequently used to threaten Plaintiff Verijet with non-delivery of the jets it needed. His actions led to skewed contract terms and amendments, and forced Plaintiff Verijet to waste resources that led to operational delays that reduced revenue.

87. Defendant Kahan's fraud involves a breach of trust.

COUNT IV
LIBEL

88. Plaintiff Verijet repeats and realleges every allegation in paragraphs 1 through 62 above.

89. Defendant Kahan made numerous false statements of fact about Plaintiff Verijet to Cirrus.

90. Defendant Kahan knew these statements to be false or recklessly disregarded their truth.

91. These statements damaged Plaintiff Verijet and in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks a judgment awarding compensatory damages in an amount of which will be proven at trial, and any other relief or damages as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all issues so triable.

Dated: December 11, 2023

Respectfully submitted,

/s/ Benjamin L. Reiss

Benjamin L. Reiss, Esq. (FBN: 985643)

breiss@pbyalaw.com

Stephen O. Ayeni, II, Esq. (FBN: 1012304)

sayeni@pbyalaw.com

**PERLMAN, BAJANDAS, YEVOLI &
ALBRIGHT, PL**

283 Catalonia Avenue, Suite 200

Coral Gables, Florida 33134

T: 305-377-0086 / F: 305-377-0781

Attorneys for Plaintiff