

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL
CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

ALLUVIAL FUND, LP,
derivatively on behalf of
Nominal Defendant EACO
Corp.,

Plaintiff,

v.

GLEN F. CEILEY, WILLIAM L.
MEANS, STEPHEN
CATANZARO, ELLEN S.
BANCROFT, and DONALD S.
WAGNER,

Defendants,

EACO CORPORATION, a Florida
Corporation,

Nominal
Defendant.

Case No. _____

DEMAND FOR JURY TRIAL

VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT

**CONFIDENTIAL DOCUMENT FILED UNDER SEAL PURSUANT TO
FLA. R. GEN. PRAC. & JUD. ADMIN. 2.420**

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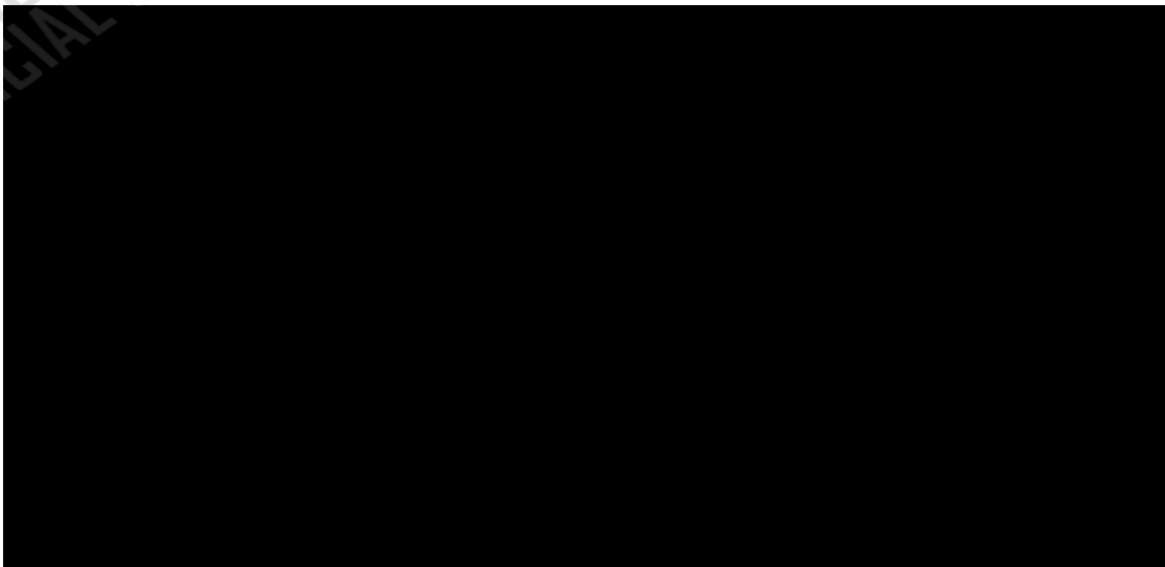
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Plaintiff Alluvial Fund, LP (“Alluvial” or “Plaintiff”), through its undersigned counsel, submits this Verified Shareholder Derivative Complaint pursuant to Fla. Stat. § 607.0742 derivatively on behalf of Nominal Defendant EACO Corporation (“EACO” or the “Company”) and against the defendants named herein for (a) violations of Fla. Stat. § 607.0832 through a director conflict of interest transaction that was unfair to the Company as to price and process, (b) breaches of the fiduciary duty of loyalty and fiduciary duty of care owed by defendants in their capacities as directors, officers, and/or controlling shareholders of EACO, and (c) aiding and abetting violations of Fla. Stat. § 607.0832 and breaches of fiduciary duties.

The allegations of the Complaint are made upon Plaintiff’s knowledge as to itself and, as to all other matters, upon information and belief, including the investigation of counsel, and the review of filings by the defendants with the U.S. Securities and Exchange Commission (“SEC”) and other publicly available information.

In addition, Plaintiff states, as required by the Confidentiality and Non-Disclosure Agreement between EACO, Plaintiff, and Plaintiff’s counsel, dated February 1, 2024, “One of the grounds for Plaintiff’s allegations is its review of books and records produced by

EACO Corporation [pursuant to Plaintiff's December 11, 2023 demand to inspect EACO's books and records pursuant to Fla. Stat. § 607.1602 (the "Demand")], all of which are incorporated by reference in this Complaint."

I. INTRODUCTION

1. Until recently, the Glen F. Ceiley and Barbara A. Ceiley Revocable Trust (the "Trust") owned an approximately 80,000 square foot office and warehouse building located at 5037/5065 East Hunter Avenue, Anaheim, Orange County, California 92807 (the "Hunter Property").

2. At all times relevant to the Complaint, Defendant Glen Ceiley beneficially owned and controlled the Trust, and also was the controlling majority shareholder, Chief Executive Officer ("CEO"), and Chairman of the Board of Directors ("Board") of EACO.

3. On July 26, 2019, EACO, through its wholly owned subsidiary Bisco Industries, Inc. ("Bisco"), entered into Commercial Lease Agreement ("Lease") with the Trust to lease the Hunter Property. The Lease had a term of ten years (through August 31, 2029), and could be extended by Bisco for an additional five years (through August 31, 2034). On August 1, 2019, EACO filed a Form

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8-K with the SEC that disclosed the Lease. A copy of the Lease was attached as Exhibit 10.1 to the Form 8-K.

4. On October 5, 2023, EACO, through Bisco, entered into a Purchase Agreement for Real Property and Escrow Instructions with the Trust (the “Purchase Agreement”) through which Bisco purchased the Hunter Property for \$31 million (the “Hunter Property Purchase”). On October 6, 2023, EACO filed a Form 8-K with the SEC that disclosed the Purchase Agreement. A copy of the Purchase Agreement was attached as Exhibit 10.1 to the Form 8-K.

5. According to EACO’s Form 10-Q for the first fiscal 2024 quarter ended November 30, 2023 (at p. 8), filed with the SEC on January 16, 2024 (“1Q 2024 10-Q”), Form 10-Q for the second fiscal 2024 quarter ended February 29, 2024 (at p. 8), filed with the SEC on April 9, 2024 (“2Q 2024 10-Q”), and Form 10-Q for the third fiscal quarter ended May 31, 2024 (at p. 8), filed with the SEC on July 15, 2024 (“3Q 2024 10-Q”), “[a]n appraisal, conducted in September 2023 by an independent third party, valued the Hunter Property at \$31.0 million, which was inclusive of tenant improvements previously purchased and recorded by the Company.” A copy of the appraisal of the Hunter Property conducted in September 2023 was

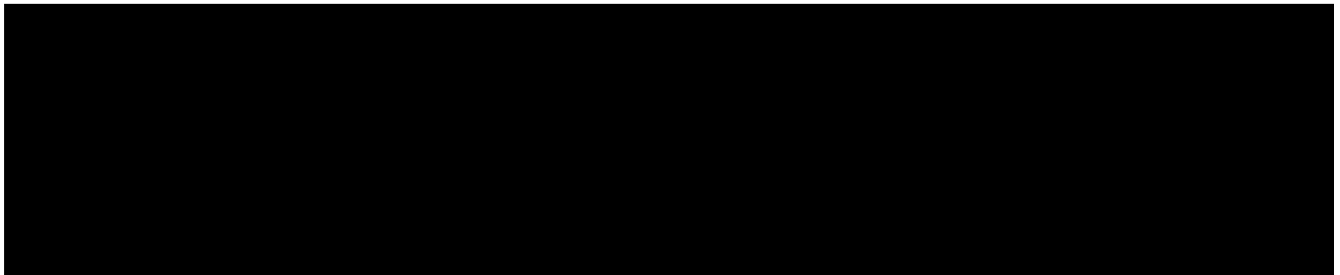
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produced by EACO in response to the Demand at EACO_0000001-107, and is referred to herein as the “Appraisal Report.”

6. The price and the process of the Hunter Property Purchase was not fair to EACO, and the Hunter Property Purchase was not comparable to what could have been obtained in an arm’s length transaction between unrelated parties.



9. As of the Appraisal Report’s valuation date of August 25, 2023, the Lease was in effect. The Company was in Year 4 of the Lease, and the Lease had a term that would continue for another 6 to 11 years.



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11. However, the Hunter Property was not owner-occupied. It was owned by the Trust, and occupied by Bisco and EACO subject to the Lease. Further, the Hunter Property was not a fee simple estate. Rather, because of the Lease, it was a leasehold estate.

12. Any purchaser of the Hunter Property in an arm's length transaction – a purchaser other than Bisco and EACO - would purchase a leasehold estate and have to take the property subject to the Lease for the next 6 to 11 years, and the rent set forth in the Lease to be paid during that time.



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15. The rent required by the Lease was the only potential rental revenue that the Hunter Property could generate for any owner of the Hunter Property until the Lease ended.



estate, not a fee simple estate, the appraisal's valuation for the Hunter Property of \$31 million was inflated by millions of dollars. For example, if the average rent for the remaining term of the Lease is used in the appraisal's Income Valuation, and all other elements of the appraisal's Income Valuation remain the same, then the fair market value of the Hunter Property is \$15,433,372.57 (using the average rent through August 31, 2029) or \$16,657,272.15 (using the average rent through August 31, 2034).

19. EACO therefore overpaid for the Hunter Property, to its detriment and the improper benefit of Ceiley, by millions of dollars. Using the example of the average rent for the remainder of the Lease set forth above, EACO overpaid for the Hunter Property by as much as \$15,566,627.43.

20. Therefore, the Hunter Property Purchase was not comparable to what would have been obtainable in an arm's length transaction.

21. The Hunter Property Purchase was also not comparable to what the Company would have received in an arm's length transaction. In an arm's length transaction with a third party, no tenant would ever give up a below market rent in exchange for paying

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full market value for the building it was leasing. Rather, the tenant would negotiate a lower purchase price that took into account the below market rent that would be paid for the remainder of the lease, or would negotiate a significant payment from the landlord in exchange for, and to compensate the tenant for, giving up its below market rent and Lease. EACO did neither, and Ceiley received an improper benefit through an inflated purchase price in excess of true market value as a result.



25. By selling the Hunter Property to Bisco and EACO at a materially inflated price, Defendant Ceiley violated Fla. Stat. § 607.0832 through a director conflict of interest transaction that was unfair to the Company as to price and process, and also knowingly and willfully violated his fiduciary duties of loyalty and care that he owed to EACO as EACO's Chairman of the Board ("Chairman"), CEO, and controlling majority shareholder.

26. Defendants William L. Means, Stephen Catanzaro, and Ellen S. Bancroft were, at all relevant times, directors of EACO and the only other members of the Board other than Ceiley. Through their actions, including by approving the Hunter Property Purchase and failing to properly supervise and evaluate the Hunter Property

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Purchase, which was a conflicted director transaction with EACO's controlling majority shareholder, Means, Catanzaro, and Bancroft knowingly and willfully violated their fiduciary duties of loyalty and care that they owed to EACO as directors, and aided and abetted Ceiley's violation of Fla. Stat. § 607.0832.



28. No demand was made on the Board to bring this suit because such demand would be futile. Ceiley received a material benefit from the Hunter Property Purchase, and therefore he cannot make an independent decision of whether to bring suit to recover

damages for EACO because any suit would be to recover million dollars from himself and/or the Trust, which he controls and beneficially owns, and any claim against any other defendant would concede that the Hunter Property Purchase unfairly benefited Ceiley at the expense of EACO.

29. Similarly, Means, Catanzaro, and Bancroft cannot make an independent decision of whether to bring suit to recover damages for EACO because they cannot independently evaluate whether to bring claims against themselves. Further, they all have decades-long business and personal relationships with Ceiley. They evidenced their controlled mindset and inability to ensure that Ceiley was not unjustly benefited at the expense of EACO by approving the Hunter Property Purchase without proper oversight or review. Therefore, they cannot independently decide whether to bring suit for millions of dollars against Ceiley, Wagner, who is Ceiley's subordinate and aided and abetted Ceiley's (and their own) statutory violations and/or breaches of fiduciary duty, or any other defendant, as any such claim would concede that the Hunter Property Purchase unfairly benefited Ceiley at the expense of EACO.

II. PARTIES AND RELEVANT NON-PARTIES

30. Plaintiff Alluvial is a limited partnership organized under the laws of the state of Delaware. Plaintiff was a shareholder of Nominal Defendant EACO when the conduct giving rise to this action occurred and has continually been a shareholder of EACO from that time through the date of the filing of this Complaint.

31. Nominal Defendant EACO is a corporation organized and existing under the laws of the State of Florida. EACO is a holding company, and is primarily comprised of its wholly-owned subsidiary Bisco and Bisco's wholly-owned Canadian subsidiary, Bisco Industries Limited. Substantially all of EACO's operations are conducted through Bisco and Bisco Industries Limited.

32. Bisco is a distributor of electronic components and fasteners with 51 sales offices and seven distribution centers located throughout the U.S. and Canada, and one other sales office in the Philippines. Bisco supplies parts used in the manufacture of products in a broad range of industries, including the aerospace, circuit board, communication, computer, fabrication, instrumentation, industrial equipment, and marine industries.

33. Defendant Glen F. Ceiley is, and at all times relevant to this Complaint was, the CEO and Chairman of EACO. Ceiley has served as a director of EACO since 1998, and as EACO's CEO and Chairman since 1999. Ceiley is also the CEO and chairman of the Board of Directors of Bisco ("Bisco Board"), and has held those positions since he founded Bisco in 1973. He also served as President of Bisco prior to June 2010.

34. Ceiley is, and at all time relevant to this Complaint was, the controlling majority shareholder of EACO. According to EACO's SEC filings, at all times relevant to this Complaint, Ceiley was EACO's majority shareholder, beneficially owned or controlled at least 95.9% of EACO's outstanding voting stock, and "[a]s such, Mr. Ceiley is able to exert significant influence over the outcome of almost all corporate matters, including the election of the Board of Directors..." *See, e.g.*, EACO's annual report on Form 10-K for the fiscal year ended August 31, 2023 (at p. 7), filed with the SEC on November 22, 2023 ("2023 10-K").

35. At all times relevant to this Complaint, the compensation for named executive officers who serve as officers of Bisco, including

Wagner, was determined by Glen Ceiley as chairman of the Bisco Board (“Bisco Chairman”).

36. Ceiley is, and at all time relevant to this Complaint was, a member of Bisco’s steering committee, which handles the day-to-day operations of the Company, and was intimately involved with decision-making that directly affects the financial statements of EACO.

37. The Trust is, and at all times relevant to this Complaint was, the grantor Trust of Ceiley. At all times relevant to this Complaint, Ceiley was a Trustee of the Trust and beneficially owned and/or controlled the Trust.

38. Defendant William L. Means is, and at all times relevant to this Complaint was, a Director of EACO. Means has served as a director of the Company since 1999. Means was employed continuously by Bisco for at least 21 years, from 1989 to June 2010. Means served as Director of Management Information Systems of Bisco from 1989 to October 1997, Vice President of Corporate of Bisco Development from November 1997 to 2001, and Vice President of Information Technology of Bisco from 2001 until his retirement in

June 2010. As an employee of Bisco, Means' supervisor, superior, and/or manager was Ceiley.

39. Defendant Stephen Catanzaro is, and at all times relevant to this Complaint was, a Director of EACO. Catanzaro has served as a director of the Company since 1999. Catanzaro was employed by Bisco for at least 10 years from 1992 to 2002. Catanzaro served as Controller of Bisco from August 1992 to August 1995, and as Chief Financial Officer ("CFO") of Bisco from August 1995 to March 2002. As an employee of Bisco, Catanzaro's supervisor, superior, and/or manager was Ceiley.

40. Defendant Ellen Bancroft is, and at all times relevant to this Complaint was, a Director of EACO. Bancroft has been a director of EACO since July 2022. Since April 2024, Bancroft has served as executive vice president and chief legal officer of Semtech Corporation, a publicly traded semiconductor, IoT systems and cloud connectivity service provider. Bancroft served as General Counsel and Secretary of indie Semiconductor, a publicly traded automotive semiconductor company, from March 2021 until May 2022. Previously, she was a partner at the law firm of Morgan, Lewis & Bockius LLP from 2013 to 2021, and a partner at the law firm of

Dorsey & Whitney from 2003 to 2013. Bancroft represented EACO as outside counsel in 2009 and 2010 in connection with EACO's merger with Bisco. Bancroft was carbon copied on correspondence between EACO and the SEC in January 2010. Dorsey & Whitney represented EACO's subsidiary Bisco in litigation in 2012 in *Birsa v. Bisco Industries, Inc.*, No. 12-cv-317 (W.D. Pa.). Morgan, Lewis & Bockius represented Bisco in litigation in 2017 through 2018 in *Bisco Industries, Inc v. Bright Lights USA, Inc.*, No. 17-cv-00549 (C.D. Cal.). Upon information and belief, Bancroft represented EACO as outside counsel until she left private practice in 2021. As outside counsel to EACO, Bancroft ultimately reported to Ceiley, EACO's CEO, Chairman, and controlling majority shareholder.

41. Defendant Donald S. Wagner is, and at all times relevant to this Complaint was, the President and COO of Bisco. Wager served as the President of Bisco since June 2010 and as its COO since November 2007. Prior to his promotion to President, Wagner also held the title of Executive Vice President of Bisco since November 2007. Wagner has worked for Bisco since 1994, or for the past 30 years, in a number of other capacities, including as Vice President of Product Management.

42. At all times relevant to this Complaint, Wagner's supervisor, superior, and/or manager was Ceiley. Further, Ceiley, as CEO and Chairman of EACO, and Bisco Chairman, had control over Wagner's continued employment and compensation.

III. JURISDICTION AND VENUE

43. Venue is proper in this Circuit because Bisco, EACO's wholly owned subsidiary that comprises the majority of EACO's business, has an office for the transaction of its customary business in this Circuit at 4101 Ravenswood Road, Fort Lauderdale, Florida, 33312. EACO's Registered Agent for service of process, as registered with the Florida Department of State, is also located in this Circuit at C T Corporation System, 1200 South Pine Island Road, Plantation, FL 33334.

44. This Court has personal jurisdiction over EACO pursuant to Fla. Stat. § 48.193(1)(a)(1) because EACO is a corporation organized and existing under the laws of the State of Florida, has an office for the transaction of business in this State, has an agent for service of process located in this State, and is operating, conducting, engaging in, or carrying on a business or business venture in this State.

45. This Court has personal jurisdiction over Ceiley, Wagner, Means, Catanzaro, and Bancroft pursuant to Fla. Stat. § 48.193(1)(a)(1) because they are officers, directors, and/or employees of EACO, a Florida Corporation, or Bisco, and therefore are operating, conducting, engaging in, or carrying on a business or business venture in this State.

IV. FACTUAL BACKGROUND

A. Ceiley Takes Control of EACO's Predecessor, Family Steak Houses of Florida, Inc.

46. EACO was formerly known as Family Steak Houses of Florida, Inc. ("FSH"). FSH was the sole franchisee of Ryan's Family Steak House restaurants ("Ryan's restaurants") in the State of Florida. As of January 1, 1997, FSH operated 25 Ryan's restaurants in Florida.

47. In 1997, Ceiley and Bisco engaged in a proxy contest with FSH and conducted a tender offer for FSH shares. Bisco's proxy proposed Catanzaro and Ceiley for election to the Board of Directors of FSH ("FSH Board").

48. The tender offer was withdrawn, and the proxy contest eventually ended through execution of a February 24, 1998 Standstill

and Settlement Agreement (“Standstill Agreement”) between FSH, on the one hand, and Bisco and its affiliates, on the other hand.

49. Among other things, the Standstill Agreement provided that Bisco would not acquire more than 19.9% of the outstanding share of FSH, and FSH would appoint two Bisco nominated directors to the FSH Board.

50. In addition, pursuant to the Standstill Agreement, Bisco purchased 706,700 shares of FSH common stock (on a post-split basis) directly from FSH, which increased Ceiley and Bisco’s ownership of FSH common stock to 19.9% of FSH’s outstanding shares of common stock.

51. Pursuant to the Standstill Agreement, FSH appointed Ceiley and Jay Conzen to the FSH Board.

52. In 1999, Ceiley and Bisco engaged in another proxy contest with FSH. The Bisco proxy nominated four directors to the FSH Board: Ceiley, Conzen, Catanzaro, and Means. Ceiley’s letter included with the Bisco proxy stated that “Steven Catanzaro and William L. Means [] are both experienced business executives whom I have known for many years.” Form DFRN 14A filed with the SEC by Bisco on June 8, 1999.

53. At the time of the 1999 proxy contest, Ceiley, Bisco, and the Bisco Industries, Inc. Profit Sharing Plan (the “Bisco Plan”) collectively beneficially owned and controlled approximately 19.8% of the outstanding shares of FSH common stock.

54. At FSH’s annual meeting of shareholders on or about July 21, 1999, Ceiley, Means, Catanzaro, and Conzen were elected as directors of FSH. Other board members of FSH resigned during the annual meeting such that there were three vacancies on the FSH Board.

55. From July 21, 1999 to March 15, 2020, the Board of FSH and the Board of EACO was composed of four directors: Ceiley, Means, Catanzaro, and Conzen.

56. On March 15, 2020, Conzen unexpectedly passed away. From that time to July 2023, the Board was composed of three directors: Ceiley, Means, and Catanzaro.

57. Ceiley, Means and Catanzaro signed EACO’s annual reports on Form 10-K filed with the SEC for the fiscal years ended (a) August 31, 2017, filed with the SEC on November 22, 2017 (“2017 10-K”), (b) August 31, 2018, filed with the SEC on November 28, 2018 (“2018 10-K”), (c) August 31, 2019, filed with the SEC on November

27, 2019 (“2019 10-K”), (d) August 31, 2020, filed with the SEC on November 30, 2020 (“2020 10-K”), (e) August 21, 2021 filed with the SEC on July 6, 2022 (“2021 10-K,”), and (f) August 31, 2022, filed with the SEC on November 4, 2022 (“2022 10-K,” collectively with the 2023 10-K, the “10-Ks”).

58. From July 2023 to present, the Board was composed of four directors: Ceiley, Means, Catanzaro, and Bancroft.

59. Ceiley, Means, Catanzaro, and Bancroft all signed EACO’s 2023 10-K.

B. Ceiley Becomes the Controlling Majority Shareholder and Obtains 95% Control of EACO Through Rights Offerings, Share Issuances, and a Merger With Bisco

60. Following his successful proxy contest in July 1999, Ceiley would increase his ownership of outstanding shares of FSH common stock and his control of FSH.

61. Ceiley, Bisco, the Bisco Plan, and Ceiley’s son Zachary Ceiley (collectively, the “Ceiley Group”), acquired additional shares of FSH common stock in open market transactions.

62. At all times, Ceiley had sole voting power over all of the Ceiley Group’s FSH shares.

63. In June 2001, FSH filed a preliminary Form S-3 registration with the SEC for the purpose of issuing up to 1,250,000 new shares of common stock to existing shareholders pursuant to a rights offering. The purpose of the rights offering was to raise an estimated \$1.33 million in capital needed to construct a new restaurant, and to remodel certain restaurants with any remaining funds. The registration statement for the offering stated that Ceiley committed to purchasing \$1 million of the proposed offering.

64. On October 1, 2001, FSH completed the rights offering for its shareholders of record as of August 10, 2001. FSH raised approximately \$817,000 net of offering costs from the Offering, and issued 827,583 shares of common stock to shareholders exercising rights. Ceiley, Bisco, and the Bisco Plan purchased 822,280 of the FSH shares issued in the rights offering.

65. Through the October 2001 rights offering and other purchases of FSH common stock in the open market, the Ceiley Group increased its ownership of FSH common stock such that as of April 1, 2002, the Ceiley Group collectively beneficially owned or controlled 49.6% of FSH outstanding common stock.

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66. In April 2002, FSH completed a private placement with Bisco for 435,000 shares at \$0.92 per share, which was primarily based on the average closing price of the Company's common stock on the ten trading days prior to the sale.

67. As a result of the April 2002 private placement and other open market purchases conducted by the Ceiley Group in the open market, as of April 1, 2003, the Ceiley Group collectively beneficially owned or controlled 59.1% of FSH's outstanding common stock.

68. On or about June 17, 2004, the name of the Company was changed to EACO Corporation. At that time, the Ceiley Group collectively beneficially owned or controlled approximately 61.76% of the outstanding shares of FSH common stock.

69. In June 2004, EACO sold 145,833 shares of its common stock directly to the Bisco Plan for a total purchase price of \$175,000 in cash.

70. On September 1, 2004, EACO completed a private placement of 36,000 shares of cumulative convertible preferred stock ("Series A Cumulative Convertible Preferred Stock") with Ceiley for \$25 per share and at a total cost of \$900,000.

71. As a result of the June 2004 and September 2004 private placements and other open market purchases by the Ceiley Group, as of April 20, 2005, the Ceiley Group increased its ownership stake to 62.1% of EACO's outstanding common stock, not including the shares of common stock issuable upon conversion of Ceiley's Series A Cumulative Convertible Preferred Stock.

72. On or about June 2005, EACO sold its operating restaurants. EACO's business model then changed to consist mainly of managing rental properties it owned and leased in Florida and California.

73. In December 2008, Bisco and Ceiley proposed that EACO and Bisco merge. In January 2009, the Board established a purportedly independent Special Committee of the Board ("2009 Special Committee") comprised of Jay Conzen and Stephen Catanzaro to review and evaluate Bisco's offer and negotiate and approve the terms and conditions of any merger.

74. However, both Conzen and Catanzaro were not independent of Ceiley. In fact, they were Ceiley associates, who had been nominated to the FSH Board in 1997 and 1999 by Ceiley, and re-nominated and re-elected each year after. Catanzaro also worked

for Ceiley and Bisco for 10 years as CFO and Controller of Bisco, from 1992 to 2002.

75. EACO retained Dorsey & Whitney LLP as its legal counsel to advise the Board with respect to its fiduciary duties and, if required, to represent EACO in connection with the merger transaction. Bancroft was one of the attorneys at Dorsey & Whitney LLP who represented EACO, and is listed in the Agreement and Plan of Merger between EACO and Bisco as a person to receive copies of notices directed to EACO or the post-merger surviving corporation.

76. At the time of the merger proposal, the Ceiley Group beneficially owned or controlled approximately 73.4% of the outstanding common stock of EACO, including the shares of common stock issuable upon conversion of Ceiley's Series A Cumulative Convertible Preferred Stock.

77. In December 2009, the 2009 Special Committee and the Board agreed to a merger with Bisco whereby Bisco Acquisition Corp. ("Merger Sub," which was a wholly-owned subsidiary of EACO), would merge with and into Bisco, with Bisco surviving the merger and becoming a wholly-owned subsidiary of EACO.

78. Upon consummation of the merger, the outstanding shares of Bisco would be converted into the right to receive an aggregate of 117,641,742 shares of EACO common stock (4,705,670 shares after giving effect to a proposed 1-for-25 reverse stock split that was proposed by the Board and approved by EACO shareholders), and all outstanding shares of the Merger Sub will be converted into shares of Bisco.

79. As a result of the merger and the EACO shares to be received by Bisco in connection with the merger, the Ceiley Group would beneficially own and control approximately 98.9% of the outstanding shares of EACO common stock, including the shares issuable upon conversion of Ceiley's Series A Cumulative Convertible Preferred Stock.

80. Approval of the merger was conditioned on a majority vote of all outstanding shares of EACO common stock. There was no condition that a majority vote of minority shareholders (those other than Ceiley and his affiliates) were required to approve the merger. Therefore, given Ceiley's then-majority control of EACO voting shares, Ceiley was able to approve the merger through a vote of the share that he owned or controlled.

81. On March 24, 2010, the merger was completed, EACO acquired Bisco, and Ceiley became the owner and controller of 98.9% of the outstanding shares of EACO, including the shares issuable upon conversion of Ceiley's Series A Cumulative Convertible Preferred Stock.

82. After the merger with Bisco, EACO's principal operations became the operations of Bisco. By the end of fiscal 2013, EACO sold most or all of its rental properties it owned and leased in Florida and California.

83. According to EACO's 2023 10-K (at 37), as of October 31, 2023, Ceiley beneficially owned or controlled 4,702,813, or 95.9%, of the 4,861,590 outstanding shares of EACO common stock.

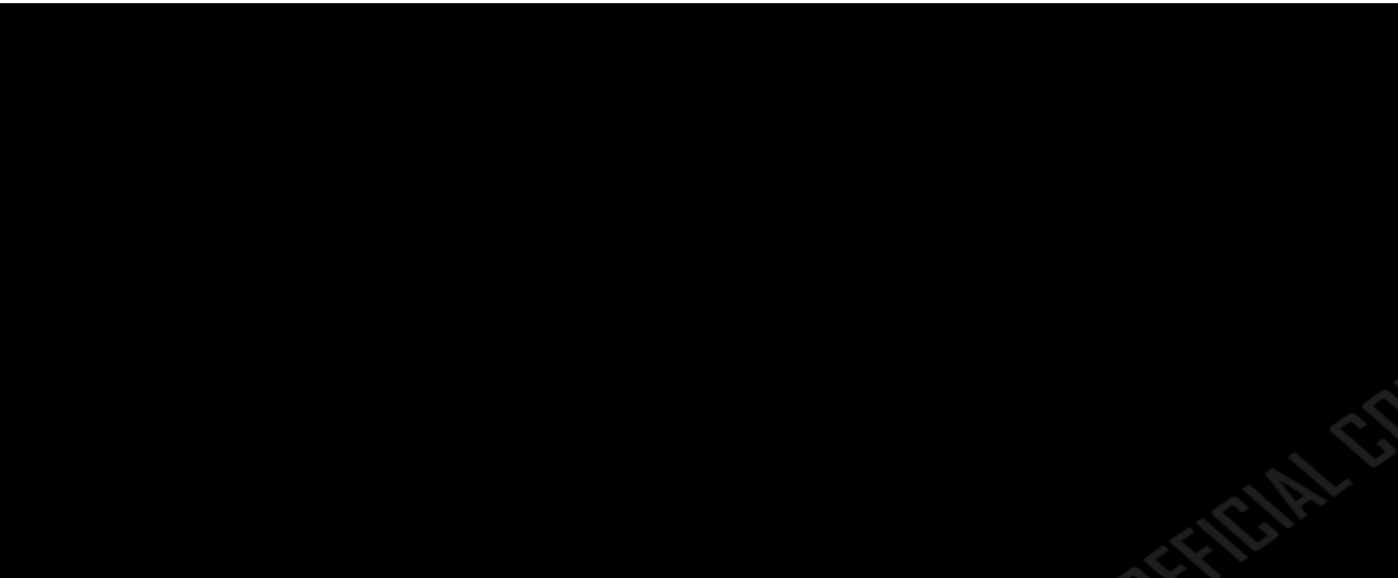
84. At all times relevant to this Complaint, Ceiley beneficially owned or controlled at least 95.9% of EACO's outstanding voting stock, and was the controlling majority shareholder and control person of EACO.

85. At all times relevant to this Complaint, Ceiley was able to exert significant influence over the outcome of almost all corporate matters, including the election of Means, Catanzaro, and Bancroft to the Board and significant corporate transactions.

C.



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D. Bisco's Leases the Hunter Property from the Trust

94. On July 26, 2019, Bisco and the Trust executed the Lease for the Hunter Property.

95. The Lease was executed by Wagner, in his capacity as President and COO of Bisco, and by Ceiley, as Trustee for the Trust. *Id.* at 12.

96. EACO moved its corporate headquarters to the Hunter Property in March 2020.

97. As of the date of this Complaint, EACO still uses the Hunter Property as its corporate headquarters.

98. The Lease commenced on September 2, 2019, and was for a ten-year term ending on August 31, 2029 (the "Term"). *Id.* ¶ 6.

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99. The Lease required payment of “Base Rent” of \$66,300 per month for the first year of the Lease. *Id.* ¶ 9. This would equal a yearly rent of \$795,600 per year (\$66,300 per month x 12 months).

100. The Lease Provided that Base Rent for the Hunter Property would increase by 2.5% per year as follows:

Year 2 - \$67,957.50 per month (September 2, 2020 to September 1, 2021),

Year 3 - \$69,656.40 per month (September 2, 2021 to September 1, 2022),

Year 4 - \$71,397.80 per month (September 2, 2022 to September 1, 2023),

Year 5 - \$73,182.70 per month (September 2, 2023 to September 1, 2024),

Year 6 - \$75,012.30 per month (September 2, 2024 to September 1, 2025),

Year 7 - \$76,887.60 per month (September 2, 2025 to September 1, 2026),

Year 8 - \$78,809.80 per month (September 2, 2026 to September 1, 2027),

Year 9 - \$80,780.00 per month (September 2, 2027 to September 1, 2028), and

Year 10 - \$82,799.50. per month (September 2, 2028 to August 31, 2029). [*Id.* ¶ 11.]

101. The yearly Base Rent for Years 2 through 10 of the Lease Term (the monthly Base Rents multiplied by 12 months) were:

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Year 2 - \$815,490.00 per year,
Year 3 - \$835,876.80 per year,
Year 4 - \$856,773.60 per year,
Year 5 - \$878,192.40 per year,
Year 6 - \$900,147.60 per year,
Year 7 - \$922,651.20 per year,
Year 8 - \$945,717.60 per year,
Year 9 - \$969,360.00 per year, and
Year 10 - \$993,594.00 per year.

102. The Lease also required Bisco, as the tenant, to pay “Additional Rent,” which was defined by the Lease to be “all amounts payable by the Tenant [Bisco] under this Lease except Base Rent, whether or not specifically designated as Additional Rent elsewhere in this Lease.” *Id.* ¶¶ 1(a), 55.

103. The Lease provided that “[i]t is the intent of this Lease and agreed to by the Parties to this Lease that rent for this Lease will be on a gross rent basis meaning the Tenant will pay the Base Rent and any Additional Rent and the Landlord will be responsible for all other service charges related to the Premises and the operation of the Building save as specifically provided in this Lease to the contrary.” *Id.* ¶ 2.

104. The Lease defined the sum of Additional Rent and Base Rent as “Rent.” *Id.* ¶ 1(f).

105. The Lease did not call for the tenant to pay any amounts other than the Base Rent to the Trust. Therefore, the Lease did not require the payment of any Additional Rent, and the total Rent under the Lease was the Base Rent.

106. The Lease was a triple net lease, where Bisco was responsible to pay for insurance, utilities, and maintenance for the Hunter Property. *Id.* ¶¶ 26-30, 40-42; 2023 10-K at 29. The Lease required Bisco to pay taxes related to its business, but did not require Bisco to pay real estate taxes on the Hunter Property. Lease ¶ 9. These additional payments were not made to the Trust, and therefore were not Additional Rent.

107. The Lease provided Bisco, as the tenant, with the right to renew the lease for an additional five-year term, or through August 31, 2034, and provided that “[a]ll terms of the renewed lease will be the same except for any signing incentives/inducements and this renewal clause.” *Id.* ¶ 25.

108. If the five-year extension clause was exercised by Bisco, then the annual 2.5% Base Rent increases would continue through

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the extended five-year term of the Lease, and the Base Rent for those additional 5 years (years 11 through 15) would be as follows:

Year 11 - \$84,869.49 per month (September 1, 2029 to August 31, 2030),

Year 12 - \$86,991.22 per month (September 1, 2030 to August 31, 2031),

Year 13 - \$89,166.01 per month (September 1, 2031 to August 31, 2032),

Year 14 - \$91,395.16 per month (September 1, 2032 to August 31, 2033), and

Year 15 - \$93,680.03 per month (September 1, 2033 to August 31, 2034).

109. If the five-year extension clause was exercised by Bisco, then the yearly Base Rent for Years 11 through 15 of the Lease Term (the monthly Base Rents multiplied by 12 months) would be:

Year 11 - \$1,018,433.88 per year,

Year 12 - \$1,043,894.70 per year,

Year 13 - \$1,069,992.06 per year,

Year 14 - \$1,096,741.87 per year, and

Year 15 - \$1,124,160.41 per year.

110. The Lease also granted Bisco, as the tenant, the right to purchase the Hunter Property, at a value set by the average of three independent appraisals:

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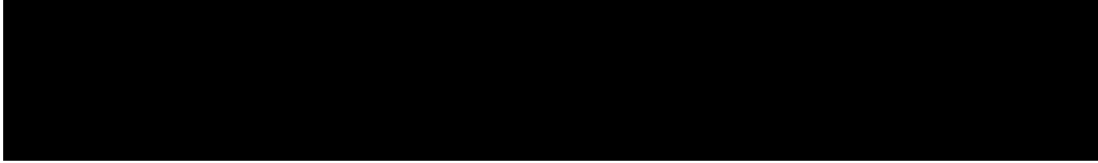
Provided the Tenant [the Company] is not currently in default in the performance of any term of this Lease, the Tenant will have the option to purchase (the “Option”) the Premises at fair market value as determined by the average of three independent appraisals made within 15 days of exercising the Option (the “Purchase Price”). The Landlord [the Trust] and Tenant will each select their own appraiser. If this option has been exercised, the Parties to this Lease may enter into a separate agreement to purchase the Premises. This agreement will incorporate all the key points provided in this option. [*Id.* ¶ 15.]

111. Bisco had the right to exercise the option to purchase the Hunter Property at any time after September 2, 2019 and prior to the end of the initial term of the lease in August 2029. *See Id.* ¶ 16.

112. The Lease did not allow the Trust to terminate the Lease if the Trust sold the Hunter Property during the term of the Lease. Therefore, if the Trust sold the Hunter Property to any party other than Bisco or EACO, the new owner would have taken possession of the Hunter Property with Bisco as a tenant until August 31, 2029, or if Bisco extended the Lease, through August 31, 2034, and subject to all the terms of the Lease, including the Rent to be paid under the Lease and the yearly 2.5% increases in Base Rent.

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E.





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137. The Trust did not own a fee simple interest in the Hunter Property because the Hunter Property was subject to the Lease, whose term did not expire until August 31, 2029, and could be

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extended at any time by the Company for an additional five years, or through August 31, 2034.



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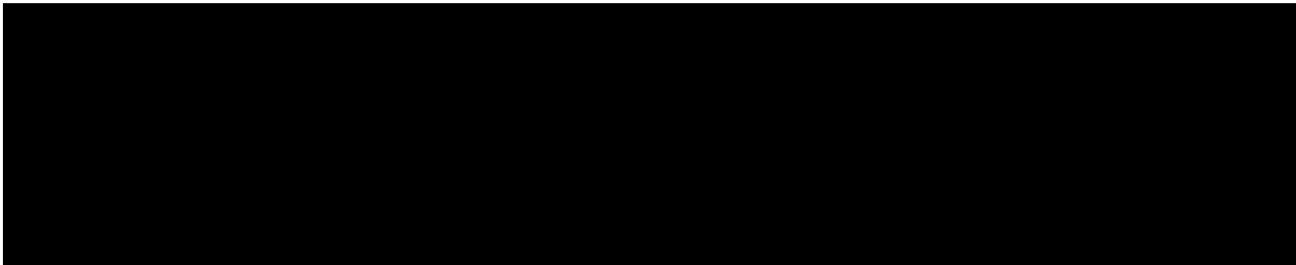




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158. On November 21, 2017, the Company entered into a lease with the Trust to rent a facility in Glendale Heights, Illinois (the “Chicago Lease”). Ex. 10.33 to 2017 10-K. The Company relocated its Chicago sales office and distribution center to this facility in December 2017. The Chicago Lease is a ten year triple net lease with an initial monthly rental rate of \$22,600, which is subject to annual rent increases of approximately 2.5% as set forth in the Chicago Lease.

159. The Chicago Lease was signed by Ceiley as Property Owner and Wagner as President of Bisco. They were therefore aware of its contents.

160. The 10-Ks, which were publicly available corporate documents signed by Ceiley, Means, Catanzaro, and Bancroft (who only signed the 2023 10-K), all contained disclosures about the Chicago Lease, what the rent in the first year of the Chicago Lease was (\$22,600 per month), and that the rent would increase 2.5% per year. *See, e.g.*, 2021 10-K at 8, 2022 10-K at 9, 2023 10-K at 9.

161. The Chicago Lease was a hyperlinked Exhibit to the 10-Ks, and was a publicly available document. See Ex. 10.20 to 2021 10-K, Ex. 10.20 to 2022 10-K, Ex. 10.20 to 2023 10-K.

162. Wagner, Ceiley, Means, Catanzaro, and Bancroft were therefore aware of the Chicago Lease, its terms, and the yearly rent set forth in the Chicago Lease.

163. According to the Chicago Lease, the rent for the Glendale Heights property for the 12 months starting October 1, 2022 was \$25,500 per month or \$306,000 per year.

164. According to EACO's 2023 10-K (at p. 38), during EACO's 2023 Fiscal year of September 1, 2022 to August 31, 2023, EACO paid a total of approximately \$1,162,000 to the Trust for the Lease and the Chicago Lease.

165. If the rent for the Glendale Heights property is subtracted from the total rent for the two leases that EACO disclosed in the 2023 10-K (\$1,162,000 - \$306,000), the result is \$856,000, or nearly exactly what the annual rent for the Hunter Property was for Year 4 of the Lease, \$856,773.60. Year 4 of the Lease ran from September 2, 2022 to September 1, 2023.



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6. The Hunter Property Purchase is Finalized

178. The Purchase Agreement was executed as of October 5, 2023 by Wagner as President and COO of Bisco, and Ceiley and Barbara Ceiley as Trustees for the Trust. *Id.* at 13.

179. On October 20, 2023, the Hunter Property Purchase closed.

180. On October 23, 2023, Bisco closed escrow on the Hunter Property Purchase.

181. The \$31 million purchase price was paid by cash, funded by EACO's available cash accounts and liquidated securities.

182. The Purchase Agreement and the Form 8-K did not refer to Bisco's option to buy the Hunter Property under the Lease.

183. The Purchase Agreement and the Form 8-K did not refer to the three independent appraisals required under the terms of Bisco's option to purchase the Hunter Property, or any appraisal conducted in connection with the Hunter Property Purchase.

184. On January 16, 2024, EACO filed 1Q 2024 10-Q, in which EACO disclosed (at p. 8) for the first time that EACO used only one appraisal to value the Hunter Property for purchase:

An appraisal, conducted in September 2023 by an independent third party, valued the Hunter Property at \$31 million, which was inclusive of tenant improvements previously purchased and recorded by the Company.

185. EACO's disclosure of the appraisal used in connection with the Hunter Property Purchase was first made after Plaintiff's December 11, 2023 Demand.

186. EACO has made no other public statement concerning what process was used to ensure that the Hunter Property Purchase was fair to EACO, or to ensure that the process to negotiate and agree on the Hunter Property Purchase was not controlled by Ceiley, who owned the Hunter Property through the Trust, and was also the controlling majority shareholder and controller of EACO.

V. THE HUNTER PROPERTY PURCHASE WAS A DIRECTOR CONFLICT OF INTEREST TRANSACTION UNDER FLA. STAT. § 607.0832

187. Fla. Stat. § 607.0832(2) requires that "director's conflict of interest transactions" be "fair to the corporation at the time it is authorized, approved, effectuated, or ratified."

188. Pursuant to Fla. Stat § 607.0832(1)(b), "Fair to the corporation" means "that the transaction, as a whole, is beneficial to the corporation and its shareholders, taking into appropriate account

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whether it is: 1. Fair in terms of the director's dealings with the corporation in connection with that transaction; and 2. Comparable to what might have been obtainable in an arm's length transaction."

189. Pursuant to Fla. Stat. § 607.0832(1)(a), a "Director's conflict of interest transaction" means "a transaction between a corporation and one or more of its directors, or another entity in which one or more of the corporation's directors is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a shareholder of the corporation, and has a direct or indirect material financial interest or other material interest."

190. Pursuant to Fla. Stat § 607.0832(1)(d), "A director is 'indirectly' a party to a transaction if that director has a material financial interest in or is a director, officer, member, manager, or partner of a person, other than the corporation, who is a party to the transaction."

191. Pursuant to Fla. Stat § 607.0832(1)(e), "A director has an 'indirect material financial interest'... if the transaction is with an entity, other than the corporation, which has a material financial

interest in the transaction and controls, or is controlled by, the director or another person specified in this subsection.”

192. Pursuant to Fla. Stat § 607.0832(1)(f), “Material financial interest” or “other material interest” means “a financial or other interest in the transaction that would reasonably be expected to impair the objectivity of the director’s judgment when participating in the action on the authorization of the transaction.”

193. The Hunter Property Purchase is a transaction between EACO, through its subsidiary Bisco, and the Trust.

194. At all relevant times, Ceiley was a director of EACO and the controlling majority shareholder of EACO.

195. At all relevant times, Ceiley was a Trustee of the Trust, and beneficially owned and/or controlled the Trust.

196. Ceiley was indirectly a party to the Hunter Property Purchase because he has a material financial interest in the Trust and/or is a director, officer, member, manager of the Trust, which was a party to the Hunter Property Purchase.

197. Ceiley had an indirect material financial interest in the Hunter Property Purchase because the Trust has a material financial

interest in the Hunter Property Purchase, the Trust was a party to the Purchase Agreement, and Ceiley controls the Trust.

198. The \$31 million purchase price for the Hunter Property is a material financial interest because it is significant such that it would reasonably be expected to impair Ceiley's objectivity in the Hunter Property Purchase.

199. The Hunter Property Purchase is therefore a director's conflict of interest transaction.

200. As alleged herein, the Hunter Property Purchase was not fair to EACO in terms of Ceiley's dealings with EACO concerning the Hunter Property Purchase and was not comparable to what might have been obtainable in an arm's length transaction.

201. Pursuant to Fla. Stat § 607.0832(3)(a):

In a proceeding challenging the validity of a director's conflict of interest transaction or in a proceeding seeking equitable relief, award of damages, or other sanctions with respect to a director's conflict of interest transaction, the person challenging the validity or seeking equitable relief, award of damages, or other sanctions has the burden of proving the lack of fairness of the transaction if:

1. The material facts of the transaction and the director's interest in the transaction were disclosed or known to the board of directors or committee that authorizes, approves, or ratifies the transaction and the transaction was authorized, approved, or ratified by a vote of a majority of

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the qualified directors even if the qualified directors constitute less than a quorum of the board or the committee; however, the transaction cannot be authorized, approved, or ratified under this subsection solely by a single director; or

2. The material facts of the transaction and the director's interest in the transaction were disclosed or known to the shareholders who voted upon such transaction and the transaction was authorized, approved, or ratified by a majority of the votes cast by disinterested shareholders or by the written consent of disinterested shareholders representing a majority of the votes that could be cast by all disinterested shareholders....



203. The Hunter Property Purchase was not approved by a vote of EACO's minority shareholders.

204. Therefore, Defendants bear the burden of proving that the Hunter Property Purchase was fair to EACO.

VI. THE HUNTER PROPERTY PURCHASE IS SUBJECT TO ENTIRE FAIRNESS REVIEW AND MUST BE ENTIRELY FAIR TO EACO AS TO PRICE AND PROCESS

205. At all relevant times, Ceiley was the controlling majority shareholder of EACO.

206. The Hunter Property Purchase was a transaction between EACO and the Trust, which is owned and controlled by Ceiley.

207. The Hunter Property Purchase is subject to entire fairness review because EACO's controlling majority shareholder, Ceiley, stood on both sides of the transaction.

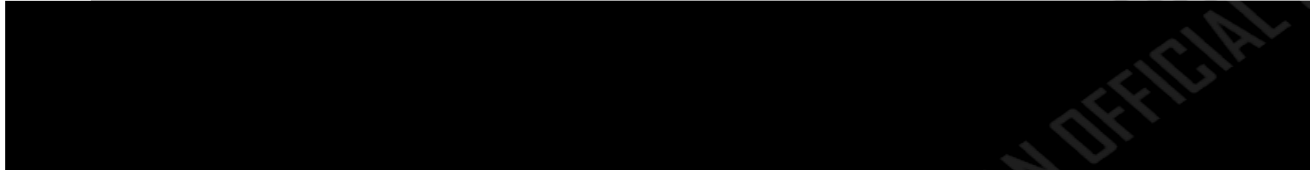
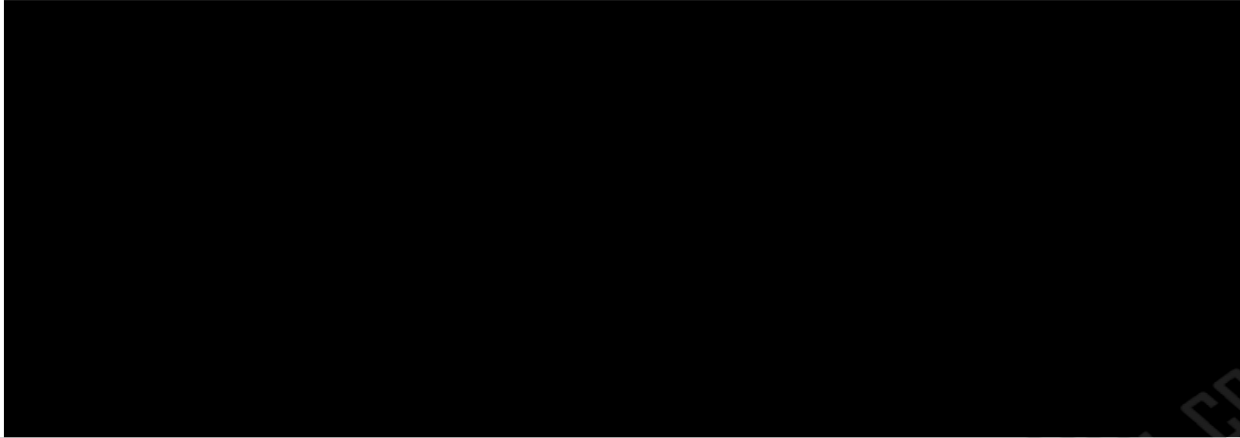
208. As alleged herein, the Hunter Property Purchase was not entirely fair as to price and process.

209. The Hunter Property Purchase was not conditioned from the outset by approval of an independent special committee of the Board or a vote of the majority of EACO's minority shareholders.

210. Thus, it is the Defendants burden to prove that the Hunter Property Purchase was entirely fair as to price and process.

211. By the acts, transactions and courses of conduct alleged herein, Ceiley unfairly deprived EACO of the true value of the Lease and unfairly overcharged EACO for the Hunter Property.

VII.



213. The Hunter Property Purchase was not comparable to what Ceiley or EACO would obtain in an arm's length transaction.

214. In an arm's length transaction, the parties are not related, and are negotiating in their own best interest.

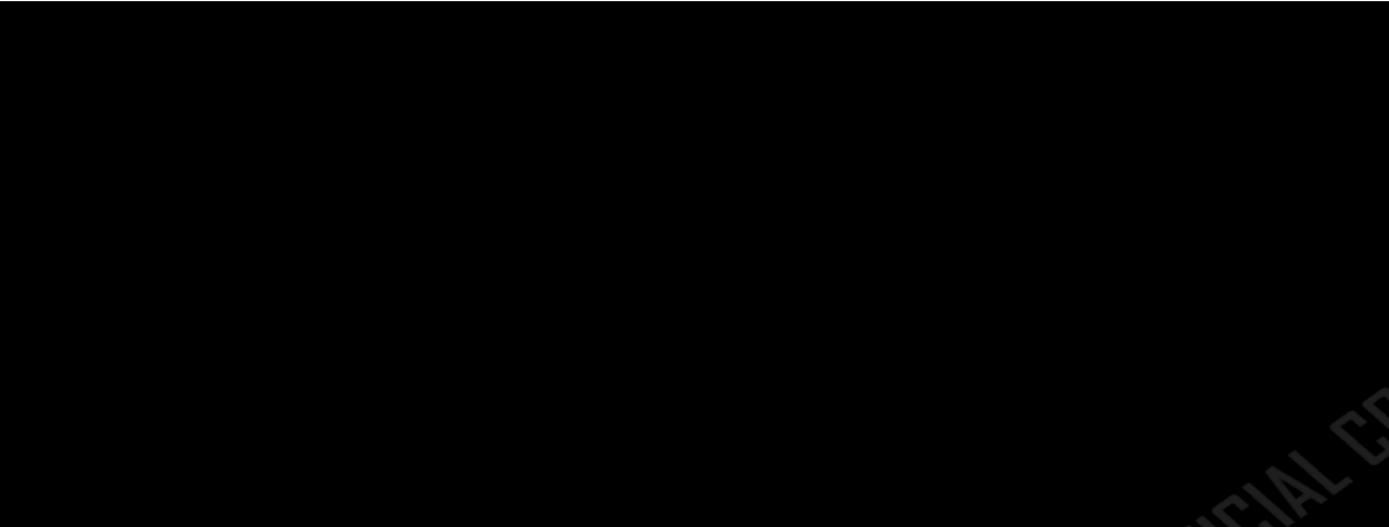
215. What Ceiley and the Trust would have received for the Hunter Property in an arm's length transaction must be evaluated as if the Hunter Property was marketed and sold in an open market transaction to an untreated third party - a party other than the Company.

216. In such a circumstance, the buyer would negotiate for the lowest possible purchase price, while Ceiley and the Trust would negotiate for the highest property purchase price.

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217. In the case of the Hunter Property Purchase, if Ceiley and the Trust were selling the property in an arm's length transaction, any purchaser would have to purchase the property with Bisco and EACO as a tenant under the express terms of the Lease, including the amount of Rent owed under the Lease and the 2.5% per year increases in Base Rent.





221. But the terms of the Lease and the Rent are highly material in determining the value of the Trust's interest in the Hunter Property for potential sale to a third party – or what Ceiley and the Trust would have received in a comparable arms' length transaction.





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228. EACO's public statements in its 1Q 2024 10-Q, 2Q 2024 10-Q, and 3Q 2024 10-Q rely on the Appraisal Report to justify the \$31 million purchase price for the Hunter Property Purchase.

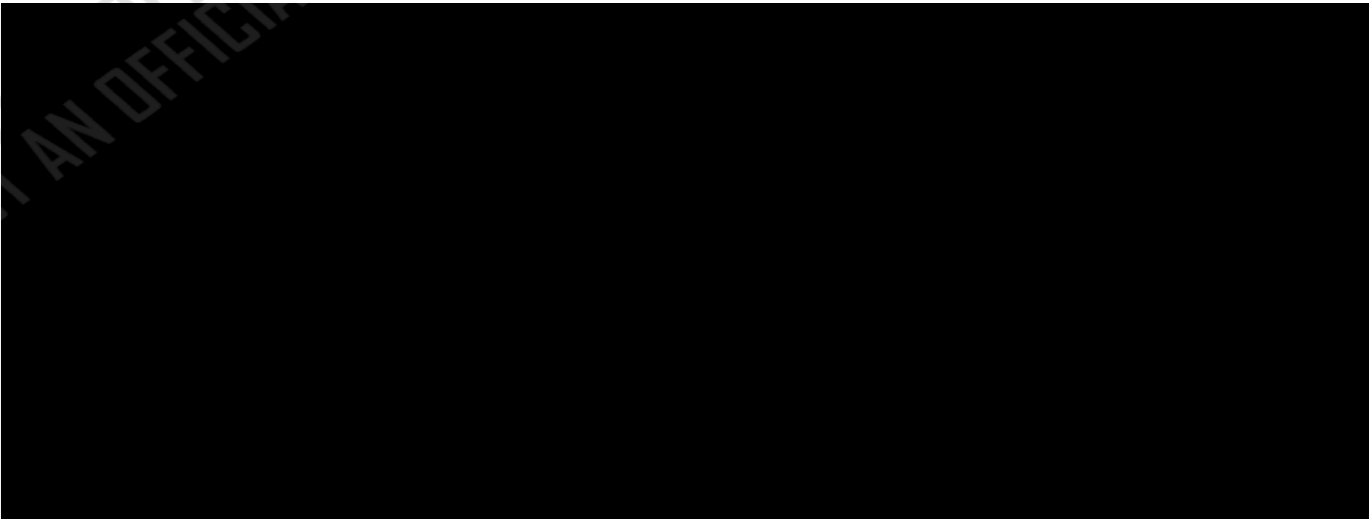
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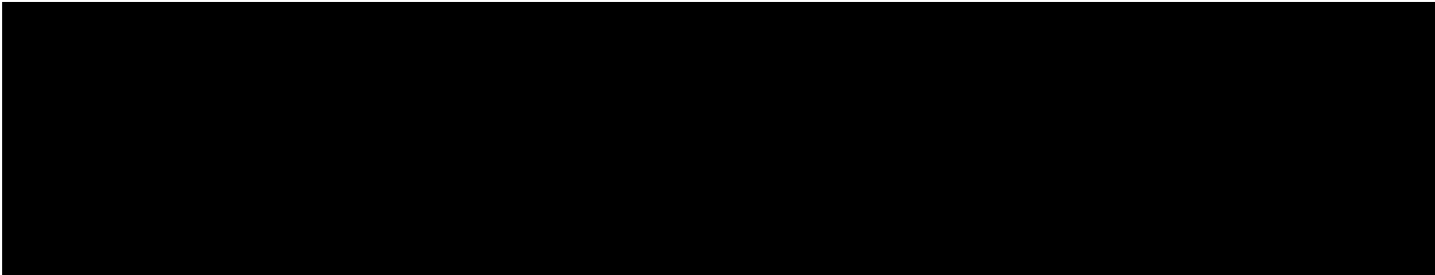
233. However, the Hunter Property was tenant occupied by EACO and Bisco, not owner occupied by the Trust.

234. In light of the Lease, the Trust owned only a Leased Fee Estate in the Hunter Property, not a Fee Simple Estate.





236. Any purchase of the Hunter Property in “a competitive and open market” would be of a Leased Fee Estate, and would be subject to the Lease and the Rent called for under the Lease, whose term ends on August 31, 2029, and whose term could be extended at the option of Bisco for an additional five years to August 31, 2034.







241. The Rent, or annual income, that the Hunter Property is capable of generating for the next six to 11 years was specified in the Lease.





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253. As of the Appraisal Report's valuation date of August 25, 2023, the Company was in Year 4 of the Lease, and the Lease would run for another 6 to 11 years. The average monthly Base Rent for the

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Hunter Property for Year 4 through Year 10 of the Lease was \$76,981.39 per month or \$923,776.63 per year. The average monthly Base Rent for the Hunter Property for Year 4 through Year 15 (if the Lease is extended by Bisco) was \$82,090.97 per month or \$984,971.61 per year.







260. In addition, the Hunter Property Purchase was not comparable to what EACO and Bisco would have received in an arm's length transaction.

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261. In an arm's length transaction with a third party, no tenant would ever give up a below market rent for the next 6 to 11 years in exchange for paying full market value for the building it was leasing. A tenant with an under market rent would always negotiate to ensure the purchase price reflected the below market rent the tenant could continue to pay for the remainder of the Lease, and that the landlord would be unable to sell the property as a fee simple estate as long as the Lease was in effect.

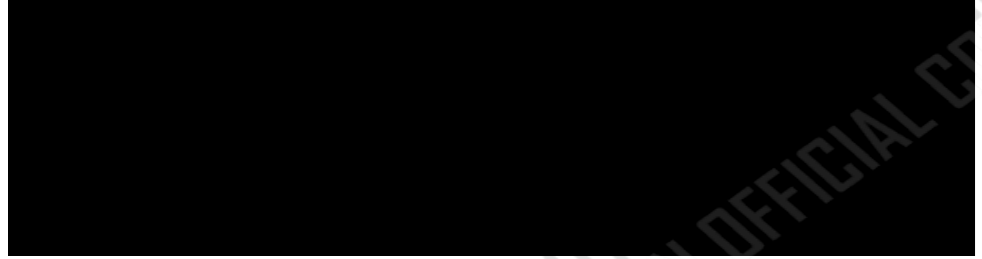
262. Further, the inflated \$31 million purchase price must be viewed against what the Company gave up to purchase the Hunter Property.



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264. EACO also could have used the \$31 million on corporate actions that would have benefited all shareholders, not just Ceiley, such as dividend payments to all shareholders or stock buybacks from all shareholders.

c)





271. However, the Hunter Property was a Leased Fee Estate subject to the Lease, and any buyer in a competitive and open market other than Bisco or EACO would have to purchase the Hunter Property subject to the Lease, the Rent set forth in the Lease, and Bisco's tenancy.

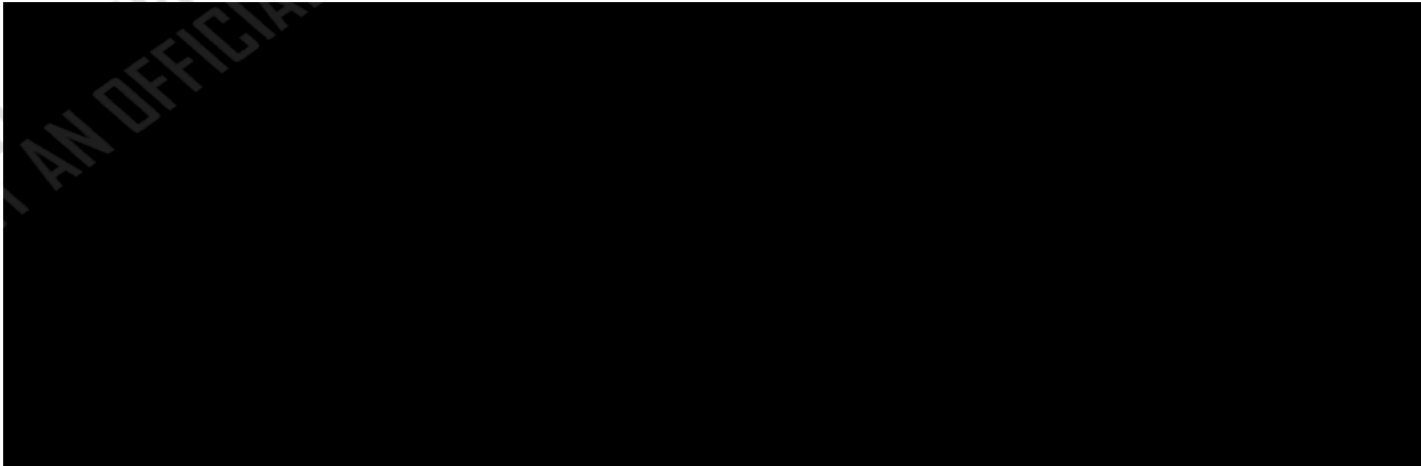
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272. The Lease Term was through August 31, 2029, and could be extended to through August 31, 2034 at the option of Bisco. The Lease was therefore not short term.





277. The Hunter Property Purchase was not fair in terms of Ceiley's dealings with EACO.





281. Further, that the \$31 million appraised value of the Hunter Property was inflated and grossly overstated what would be obtainable in an arm's length transaction would be obvious to anyone

who was familiar with the Lease and the annual Rent payments for the Hunter Property.

282. The cap rate for the Hunter Property at a \$31 million purchase price and the \$856,773.60 per year Rent paid as of the August 25, 2023 Appraisal Report valuation date was 2.76% (\$856,773.60 per year Rent / \$31 million). This simple calculation would reveal to anyone that the resulting cap rate was extraordinarily low and the purchase price of the Hunter Property was too high compared to the Rent.

283. Ceiley owned the Hunter Property through the Trust and was therefore aware of the Rent paid by Bisco for the Hunter Property.

284. Wagner and Ceiley signed the Lease, and were therefore aware of the terms of the Lease, that Bisco had a long-term Lease, the rental rate for that Lease, and that Bisco had the option to purchase the Hunter Property at the average of three independent appraisals.

285. The 10-Ks, which were publicly available corporate documents signed by Ceiley, Means, Catanzaro, and Bancroft (who only signed the 2023 10-K), all contained disclosures about the

Hunter Property Lease, that the owner of the Hunter Property was the Trust, what the Base Rent in the first year of the lease was (\$66,300 per month), and that the Rent would increase 2.5% per year. *See, e.g.*, 2021 10-K at 8, 2022 10-K at 9, 2023 10-K at 9.

286. The Lease was a hyperlinked Exhibit to the 10-Ks, and was a publicly available document. *See* Ex. 10.21 to 2021 10-K, Ex. 10.21 to 2022 10-K, Ex. 10.21 to 2023 10-K.

287. The Lease includes the specific per month Base Rent for Years 1 through 10 of the Lease, setting forth how the Base Rent would increase with each 2.5% yearly increase.

288. Wagner, Ceiley, Means, Catanzaro, and Bancroft were therefore aware of the Lease, its terms, the yearly Rent set forth in the Lease, and the option for Bisco to purchase the Hunter Property at a value set by the average of three appraisals.





297. Despite owing a fiduciary duty to EACO, Ceiley did not inform Wagner or the other members of EACO's Board that \$31 million was too much to pay for the Trust's interest in the Hunter Property.

298. Despite owing a fiduciary duty to EACO and despite knowing that \$31 million was far more than the value of the Trust's interest in the Hunter Property and what was obtainable in an arm's length transaction, Ceiley agreed to accept \$31 million for the Trust's interest in that property.

299. Further, the Voting Directors knew that paying \$31 million for the Trust's interest in the Property was excessive. The Voting

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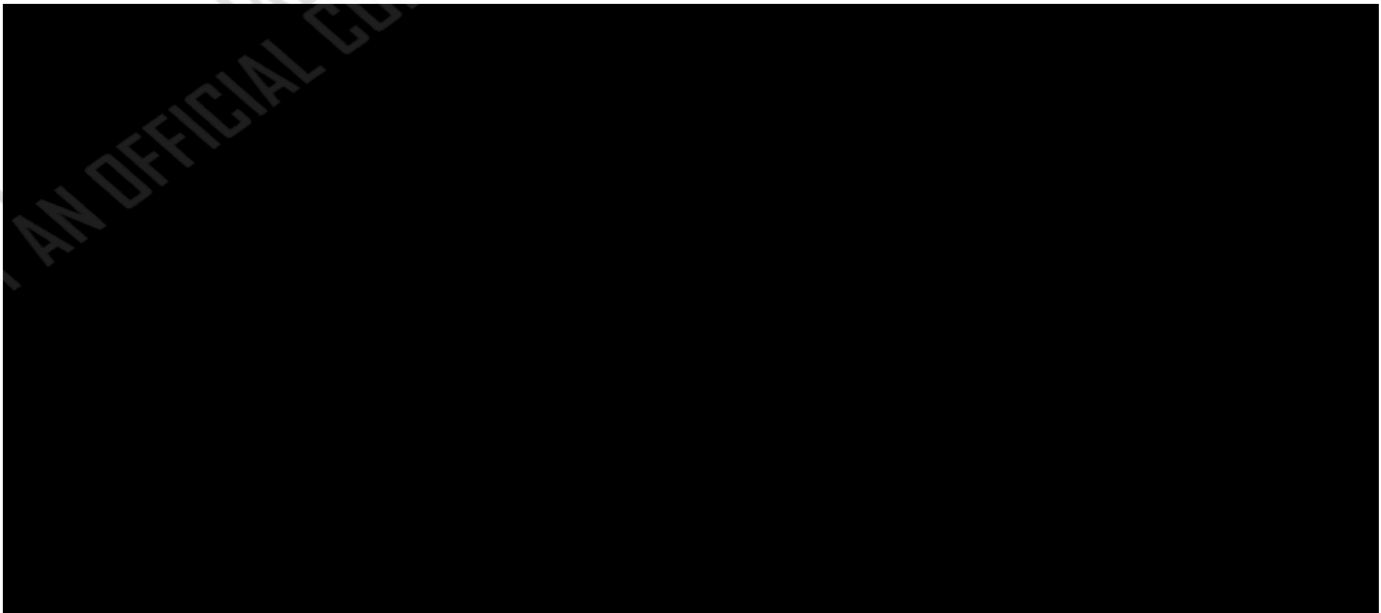
Directors were all aware of the terms of the Lease, including the Rent paid by Bisco under the Lease. A cap-rate calculation, which is simple math the Voting Directors would be able to complete, reveals that the cap rate for the \$31 million purchase price compared to the Rent Bisco was paying for the Hunter Property was 2.76% ($\$856,773.60 / \31 million). This cap rate was extraordinarily low and revealed that the purchase price was too high compared to the Rent that Bisco was paying and what would be obtainable in an arm's length transaction.



301. Under the terms of the Lease, if the Company wanted to purchase the Hunter Property, then the purchase price would be determined by the average of three independent appraisals of the Hunter property, with the Company and the Trust each choosing one appraiser.

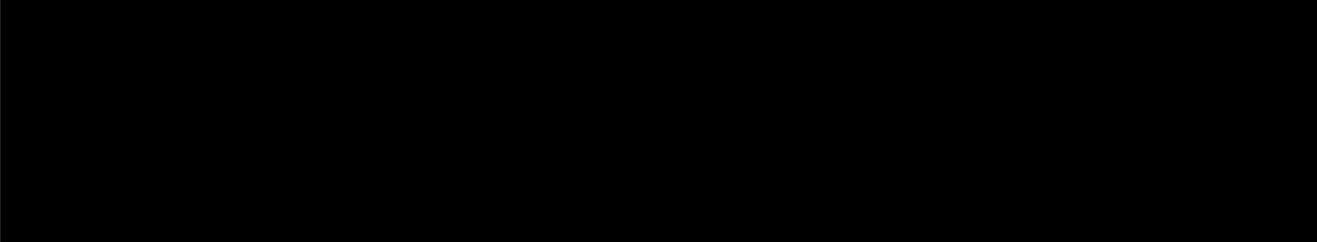
302. Ceiley, Wagner, Means, Catanzaro, and Bancroft were aware of the terms of the Lease.

303. Wagner, the Voting Directors, and the Company, knowingly and intentionally did not follow the procedure in the Lease to have the purchase value of the Hunter Property set by the average of three independent appraisals.

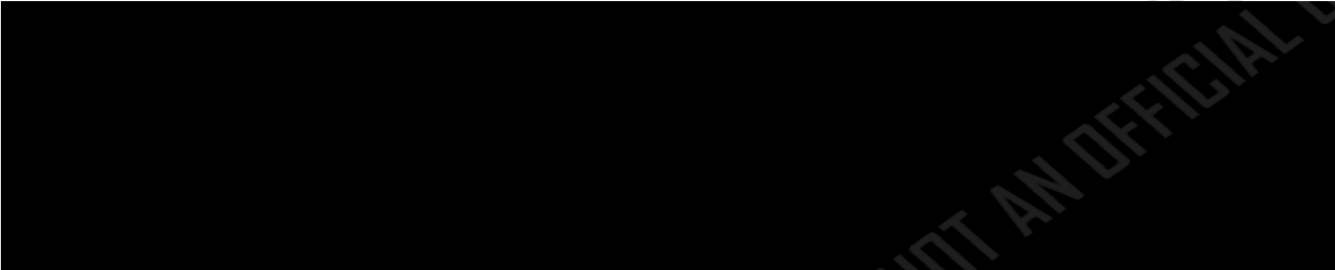





307. In comparison, the Company's interest is in obtaining an appraisal for the purchase of the Hunter Property. While the Company wants the appraisal to reflect fair market value, the Company's interest is also to secure the lowest possible valuation, ensuring that the Company can negotiate the lowest purchase price. Therefore, the Company should be particularly interested in assessing the Lease and its impact on the fair market value of the Hunter Property, as it sought to minimize the purchase price.



309. Wagner knew that the Appraisal Report grossly inflated the value of the Hunter Property for an arm's length transaction.



311. Further, the Voting Directors approved the Hunter Property Purchase without requiring three independent appraisals to be completed.



312. Any transaction involving Ceiley, on the one hand, and the Company, on the other hand, is subject to a conflict of interest in that Ceiley is the Chairman, CEO, and controlling majority shareholder of EACO, and can exert undue influence in the transaction and make the transaction unfair to EACO and unfairly beneficial to Ceiley.

313. Transactions between Ceiley and the Company therefore must be structured so that the process (and the price) equal how a non-conflicted third-party transaction would operate.

314. Wagner has worked as the COO and President of Bisco for nearly 17 years, since November 2007. During that time, Ceiley was, and currently is, Wagner's boss and supervisor.

315. Ceiley, as CEO, Chairman, and Bisco Chairman, had control over Wagner's compensation and Wagner's continued employment.

316. Therefore, any negotiation between Wagner, acting on behalf of EACO, and Ceiley is also subject to a conflict of interest in that Ceiley can exert undue influence over Wagner, and Wagner can be reluctant to negotiate the best deal for EACO and/or Bisco for fear of losing his job or having his compensation reduced.

317. Means and Catanzaro are familiar with conflicted transactions and the Board's responsibility to ensure conflicted transactions are fair to EACO because they were both members of the Board that created the 2009 Special Committee to consider Ceiley's proposal to merge Bisco with EACO, which was a conflicted

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transaction between EACO and Ceiley, and Catanzaro served on that committee.

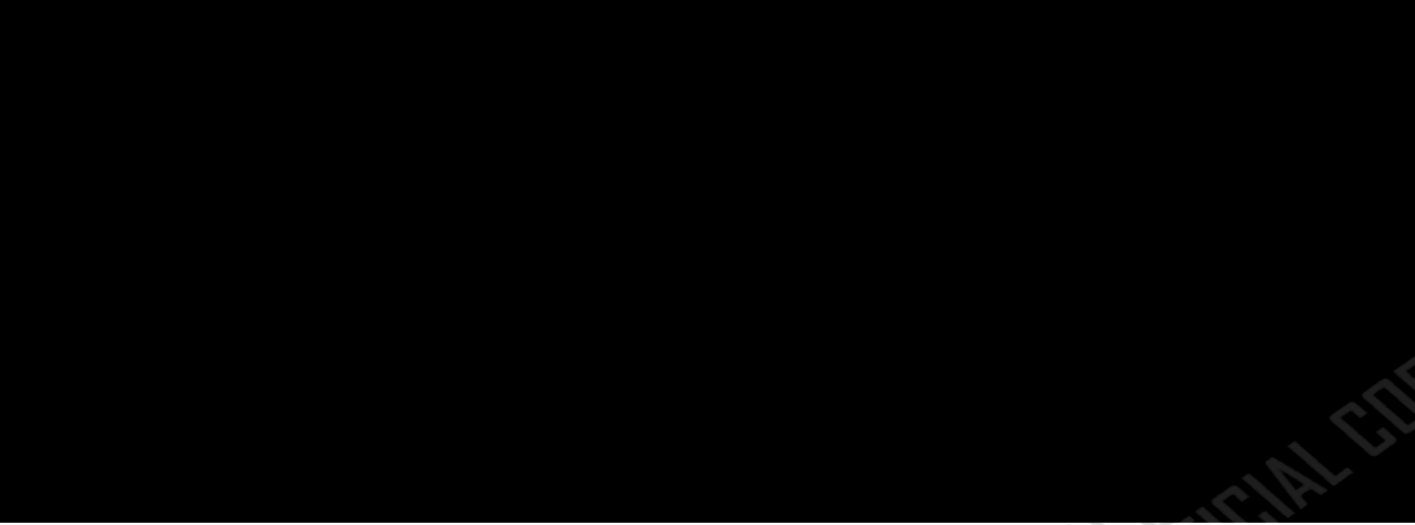
318. Bancroft was a transactional lawyer at large national law firms for decades and represented EACO in connection with the merger with Bisco. Bancroft would therefore also have been aware of the 2009 Special Committee created to consider that conflicted transaction and the duty of the board to ensure the transaction was fair to EACO and did not favor Ceiley.







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332. All of the Voting Directors were aware of the terms of the Lease.

333. Because the Voting Directors were familiar with the terms of the Lease, they knew that by approving the Hunter Property Purchase, they were approving the purchase on terms contrary to the purchase option set forth in the Lease.



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335. Further, because the Voting Directors were all aware of the terms of the Lease, including the Rent paid by Bisco under the Lease, they knew that the \$31 million purchase price was far too high and more than what was obtainable in an arm's length transaction due to the extraordinarily low cap rate of 2.76% resulting from the Rent that Bisco was paying for the Hunter Property compared to the purchase price.



VIII. DEMAND ON THE BOARD IS FUTILE

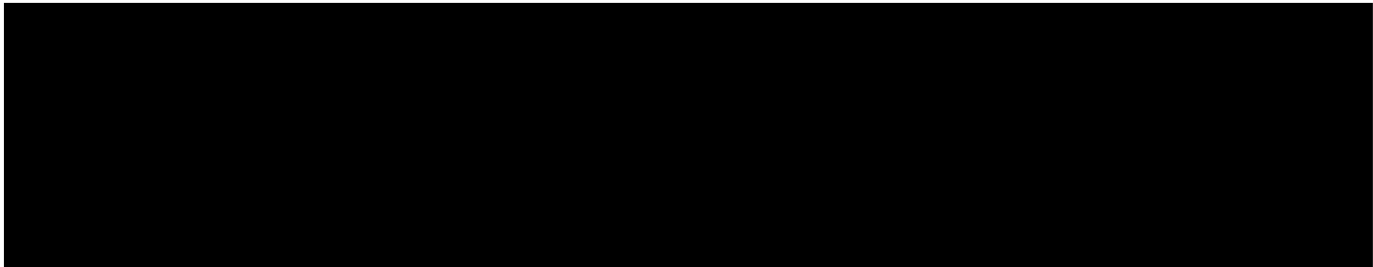
337. Plaintiff did not make a demand that the Board institute this lawsuit to recover damages to EACO from the Defendants prior to filing this lawsuit.

338. A pre-suit demand is futile, and therefore unnecessary, if there are not sufficient Board members who could properly evaluate the demand.

339. All current members of the Board – Ceiley, Means, Catanzaro, and Bancroft – are not independent and therefore cannot properly consider whether to institute this lawsuit.

340. Ceiley received a material personal benefit as a result of the Hunter Property Purchase – *i.e.* the Trust, which he beneficially owns and controls, was paid as much as \$21.7 million more than the market value for the Hunter Property in connection with the Hunter Property Purchase.

341. Ceiley cannot independently consider whether to bring a lawsuit against himself to recover up to \$21.7 million.



343. Ceiley is not independent and is not qualified to make any decision concerning the Hunter Property Purchase, including whether to institute a lawsuit against himself or any other party to recover damages related to the Hunter Property Purchase. Any such lawsuit would concede that the \$31 million purchase price paid for the Hunter Property improperly benefited Ceiley and the Trust at the expense of EACO.

344. Ceiley is also a director as to whom the Hunter Property Purchase is a director's conflict of interest transaction. Therefore he is not a qualified director to make any decision concerning whether to institute this lawsuit pursuant to Fla. Stat. § 607.0143(1)(b).

345. Ceiley has a material interest in the outcome of any legal proceeding related to the fair price and fair process of the Hunter Property Purchase. Therefore he is not a qualified director to make any decision concerning whether to dismiss this lawsuit pursuant to Fla. Stat. § 607.0143(1)(a).

346. Means, Catanzaro, and Bancroft are not independent to consider whether to institute a lawsuit against Ceiley, or any defendant concerning the Hunter Property Purchase.

347. Means, Catanzaro, and Bancroft each have a material relationship with Ceiley, who has a material interest in the outcome of any proceeding related to the Hunter Property Purchase. Therefore they are not qualified directors to make any decision concerning whether to dismiss this suit pursuant to Fla. Stat. § 607.0143(1)(a).

348. Means, Catanzaro, and Bancroft each have a material relationship with Ceiley, who is a director as to whom the Hunter Property Purchase is a director's conflict of interest transaction. Therefore they are not qualified directors to make any decision concerning whether to institute this lawsuit pursuant to Fla. Stat. § 607.0143(1)(b).

349. Means, Catanzaro, and Bancroft all have long-standing professional and/or personal relationships with Ceiley that preclude them from making an independent decision on whether to bring suit against Ceiley.

350. Means worked for Ceiley as an executive at Bisco for 21 years, from 1989 to 2010, and has been a Board member of EACO

since 1999. Means served as Director of Management Information Systems of Bisco from 1989 to October 1997, Vice President of Corporate of Bisco Development from November 1997 to 2001, and Vice President of Information Technology of Bisco from 2001 until his retirement in June 2010. Means was also one of Ceiley and Bisco's Board nominees in the 1999 proxy contest with FSH.

351. Catanzaro worked for Ceiley as an executive at Bisco for 10 years, from 1992 to 2002. Catanzaro served as Controller of Bisco from August 1992 to August 1995, and as CFO of Bisco from August 1995 to March 2002. Catanzaro was also one of Ceiley and Bisco's Board nominees in the 1997 and 1999 proxy contests with FSH.

352. Ceiley's letter included with the Bisco 1999 proxy for the proxy contest with FSH stated that "Steven Catanzaro and William L. Means [] are both experienced business executives whom I have known for many years."

353. Bancroft represented EACO in 2009 and 2010 in connection with the merger of Bisco and EACO, was carbon copied on correspondence between the SEC and EACO in 2010, and her law firms represented Bisco in litigation in 2012, 2017, and 2018. Upon information and belief, Bancroft represented EACO from 2009 until

she left private practice in 2021, during which time Ceiley was EACO's controlling majority shareholder.

354. According to the 2023 10-K (at p. 7), which was signed by Ceiley, Means, Catanzaro, and Bancroft, "Glen Ceiley, our Chairman and CEO, beneficially owns or controls approximately 96% of our outstanding voting stock. As such, Mr. Ceiley is able to exert significant influence over the outcome of almost all corporate matters, including the election of the Board of Directors and significant corporate transactions requiring a stockholder vote, such as a merger or a sale of the Company or our assets."

355. Means, Catanzaro, and Bancroft also owe their positions as directors on the Board to Ceiley, whose ownership of EACO shares allows him to elect all members of the Board.



357. Means and Catanzaro were also Board members during the time that Ceiley increased his ownership control from approximately 20% to over 96%, including through the Bisco merger and several direct sales and private placements of FSH and EACO securities to Ceiley, Bisco, or the Bisco Plan. They therefore helped create Ceiley's majority ownership through Board approval of, among other things, private placements and rights offerings where Ceiley purchased significant amounts of EACO common stock and the merger between EACO and Bisco.

358. Means, Catanzaro, and Bancroft are therefore unable to make an independent evaluation of whether to bring suit against Ceiley related to the Hunter Property Purchase.

359. Means, Catanzaro, and Bancroft are not able to make an independent evaluation of whether to sue Wagner or any other party, including themselves, related to the Hunter Property Purchase. Any such claim would concede that the price paid to Ceiley for the Hunter Property was unfair, far in excess of what Ceiley could have obtained

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in an arm's length transaction, improperly benefited Ceiley at the expense of EACO, and that Ceiley owes the Company millions of dollars. Therefore, for the same reasons that Means, Catanzaro, and Bancroft are unable to make an independent evaluation of whether to bring suit against Ceiley, they are unable to make an independent evaluation of whether to bring suit against Wagner or themselves.

360. Means, Catanzaro, and Bancroft are also unable to make an independent decision of whether to bring suit against themselves for breaches of fiduciary duty in connection with the Hunter Property Purchase.



362. Under Fla. Stat. § 607.0830(4) and (5) – General Standards

for Directors:

(4) In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (5).

(5) (a) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(b) Legal counsel, public accountants, or other persons retained by the corporation or by a committee of the board of the corporation as to matters involving skills or expertise the director reasonably believes are matters: 1. Within the particular person's professional or expert competence; or 2. As to which the particular person merits confidence; or

(c) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

363. Wagner was not an officer or employee of EACO. Rather, he was an officer and employee of Bisco. Therefore, Means, Catanzaro, and Bancroft were unable to rely on the statements of

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Wagner under Fla. Stat. § 607.0830(4) and (5) in discharging Board duties when not having independent knowledge.

364. Further, even if Wagner were an officer or employee of EACO, in this case, it was not reasonable for Means, Catanzaro, or Bancroft to rely on the “information, opinions, reports, or statements” of Wagner because the Hunter Property Purchase was a conflicted director transaction between EACO and its controlling majority shareholder Ceiley.





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373. For the reasons discussed above, each of the Voting Directors breached his or her duties, consciously disregarded the best interests of EACO, and engaged in willful misconduct by approving the Hunter Property Purchase. Thus, each of the Voting Directors is personally liable to EACO for the losses it suffered as a result of the Hunter Property Purchase. Accordingly, the Voting Directors could not properly evaluate a demand that EACO sue them to recover the millions of dollars it lost.

374. Given the foregoing, a pre-suit demand to take remedial measures was not sent to the Board, as such demand would be futile.

IX. CAUSES OF ACTION

**First Cause of Action
Violation of Fla. Stat. § 607.0832
Director Conflict of Interest Transaction
Against Defendant Ceiley**

375. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

376. The Hunter Property Purchase is a Director Conflict of Interest Transaction, as defined by Fla. Stat. § 607.0832.

377. As alleged herein, the Hunter Property Purchase was not fair to the Company, as defined in Fla. Stat. § 607.0832, because it was not fair in terms of Ceiley's dealings with the Company in connection with the Hunter Property Purchase and it was not comparable to what might have been obtainable by Ceiley or EACO in an arm's length transaction.

378. The Hunter Property Purchase is a transaction in which Ceiley, either directly or indirectly, received an improper benefit because the Hunter Property Purchase was not comparable to what

might have been obtainable by Ceiley or EACO in an arm's length transaction.

379. Ceiley's actions in connection with the Hunter Property Purchase constitute conscious disregard for the best interest of EACO and/or willful or intentional misconduct.

380. EACO is therefore entitled to damages from Ceiley in an amount to be determined at trial.

Second Cause of Action
Aiding and Abetting Violation of Fla. Stat. § 607.0832
Director Conflict of Interest Transaction
Against Defendants Wagner, Means, Catanzaro, and Bancroft

381. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

382. The Hunter Property Purchase is a Director Conflict of Interest Transaction, as defined by Fla. Stat. § 607.0832.

383. As alleged herein, the Hunter Property Purchase was not fair to the Company, as defined in Fla. Stat. § 607.0832, because it was not fair in terms of Ceiley's dealings with the Company in connection with the Hunter Property Purchase and it was not comparable to what might have been obtainable by Ceiley or EACO in an arm's length transaction.





385. Wagner therefore aided and abetted Ceiley's violation of Fla. Stat. § 607.0832.

386. EACO is therefore entitled to damages from Wagner in an amount to be determined at trial.



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388. Means, Catanzaro, and Bancroft therefore aided and abetted Ceiley's violation of Fla. Stat. § 607.0832.

389. The Hunter Property Purchase is a transaction in which Ceiley, either directly or indirectly, received an improper benefit because the Hunter Property Purchase was not comparable to what might have been obtainable by Ceiley or EACO in an arm's length transaction.

390. Means's, Catanzaro's, and Bancroft's actions in connection with the Hunter Property Purchase constitute conscious

disregard for the best interest of EACO and/or willful or intentional misconduct.

391. EACO is therefore entitled to damages from Means, Catanzaro, and Bancroft in an amount to be determined at trial.

**Third Cause of Action
Breach of Fiduciary Duty
Against Defendants Ceiley, Means, Catanzaro, and Bancroft**

392. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

393. Ceiley, as a director, the Chairman, CEO, and controlling majority shareholder of EACO, owed the fiduciary duties of loyalty and care to EACO and its shareholders.

394. Ceiley, as the controlling majority shareholder of EACO, had a fiduciary duty not to utilize his control of EACO to his advantage and to the detriment of minority shareholders of EACO.

395. As directors of EACO, Means, Catanzaro, and Bancroft all owed EACO the fiduciary duties of loyalty and care to EACO and its shareholders.

396. Fla. Stat. § 607.0830 requires directors to act “(a) In good faith; and (b) In a manner he or she reasonably believes to be in the best interests of the corporation.”

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397. The duty of loyalty mandates that the best interest of the corporation and its shareholders takes precedence over any interest possessed by a director, officer or controlling majority shareholder and not shared by the shareholders generally.

398. The duty of care requires that directors use that amount of care which ordinarily careful and prudent men would use in similar circumstances, and consider all material information reasonably available in making business decisions.



Hunter Property. Despite this, he did not reveal the inflated price to the Board.

- c. Ceiley put his own interests above those of EACO and its minority shareholders.
- d. Ceiley accepted a payment for the Hunter Property Purchase that was inflated by millions of dollars.

400. Therefore, Ceiley did not act in good faith, did not act in a manner he reasonable believed to be in the best interests of the Company, did not act with reasonable care, was grossly negligent in agreeing to and effecting the conflicted director transaction Hunter Property Purchase, utilized his control of EACO to his advantage and to the detriment of minority shareholders of EACO, and breached his duties of loyalty and care to EACO and its minority shareholders.

401. The Hunter Property Purchase is a transaction in which Ceiley, either directly or indirectly, received an improper benefit because the Hunter Property Purchase was not comparable to what might have been obtainable by Ceiley in an arm's length transaction.

402. Ceiley's breaches of fiduciary duty in connection with the Hunter Property Purchase constitute conscious disregard for the best interest of EACO and/or willful or intentional misconduct.

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403. EACO is therefore entitled to damages from Ceiley in an amount to be determined at trial.



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406. Means, Catanzaro, and Bancroft did not act in good faith, did not act in a manner they reasonable believed to be in the best interests of the Company, did not act with reasonable care, were grossly negligent in approving and effecting the conflicted director transaction Hunter Property Purchase, and breached their fiduciary duties of loyalty and care to EACO and its minority shareholders.

407. Means's, Catanzaro's, and Bancroft's breaches of fiduciary duty constitute conscious disregard for the best interest of EACO and/or willful or intentional misconduct.

408. EACO is therefore entitled to damages from Means, Catanzaro, and Bancroft in an amount to be determined at trial.

**Fourth Cause of Action
Aiding and Abetting Breach of Fiduciary Duty
Against Defendant Wagner**

409. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

410. As alleged above, Ceiley did not act in good faith, did not act in a manner he reasonable believed to be in the best interests of the Company, did not act with reasonable care, was grossly negligent in agreeing to and effecting the conflicted director transaction Hunter Property Purchase, utilized his control of EACO to his advantage and to the detriment of minority shareholders of EACO, and breached his duties of loyalty and care to EACO and its minority shareholders.

411. As alleged above, Means, Catanzaro, and Bancroft did not act in good faith, did not act in a manner they reasonable believed to be in the best interests of the Company, did not act with reasonable care, were grossly negligent in approving and effecting the conflicted

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director transaction Hunter Property Purchase, and breached their fiduciary duties of loyalty and care to EACO and its minority shareholders.



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413. Wagner therefore aided and abetted Ceiley's, Means's, Catanzaro's, and Bancroft's breaches of the duty of loyalty and duty of care and other wrongful actions alleged herein.

414. EACO is therefore entitled to damages from Wagner in an amount to be determined at trial.

X. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Alluvial respectfully demands relief as follows:

A. Issuance of an Order finding the Hunter Property Purchase to be a director conflict of interest transaction that was unfair to EACO in violation of Fla. Stat. § 607.0832;

B. Issuance of an Order finding that Ceiley violated Fla. Stat. § 607.0832 through the unfair Hunter Property Purchase;

C. Issuance of an Order finding that and Wagner, Means, Catanzaro, and Bancroft aided and abetted Ceiley's violations of Fla. Stat. § 607.0832;

D. Issuance of an Order finding that Ceiley, Means, Catanzaro, and Bancroft breached their fiduciary duties to EACO and its minority shareholders, acted in bad faith, and/or acted not in the best interests of EACO, in connection with their actions and/or inactions related to the Hunter Property Purchase;

E. Issuance of an Order finding that Wagner aided and abetted Ceiley's, Means's, Catanzaro's, and Bancroft's breaches of

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their fiduciary duties to EACO and its minority shareholders, bad faith actions, and/or actions that were not in the best interests of EACO, in connection with their actions and/or inactions related to the Hunter Property Purchase;

F. An award of damages to EACO in an amount to be determined at trial;

G. An award to Alluvial costs of suit, including reasonable attorneys' fees and expenses and expert fees; and

H. Such further relief as the Court may deem just and proper.

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XI. JURY DEMAND

Plaintiff requests a trial by jury of all claims that can be so tried.

Dated: August 22, 2024
Plantation, Florida

KLAUSNER KAUFMAN JENSEN &
LEVINSON

/s/ Robert D. Klausner

Robert D. Klausner
Florida Bar No. 244082
bob@robertdklausner.com
Lindsey Garber
Florida Bar No. 1036180
lindsey@robertdklausner.com
7080 NW 4th Street
Plantation, Florida 33317
Tel.: (954) 916-1202
Fax: (954) 916-1232

*Local Counsel to Plaintiff Alluvial
Fund LP*

WOLF POPPER LLP
Joshua W. Ruthizer
Florida Bar No. 92528
jruthizer@wolfpopper.com
Carl L. Stine (*pro hac vice* application
to be filed)
cstine@wolfpopper.com
Emer Burke (*pro hac vice* application
to be filed)
eburke@wolfpopper.com
845 Third Avenue
New York, NY 10022
Tel.: (212) 451-9600
Fax: (212) 486-2093

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Counsel to Plaintiff Alluvial Fund LP

KREHER & TRAPANI LLP
Peter J. Kreher (*pro hac vice*
application to be filed)
pete@krehertrapani.com
100 East Penn Square, Suite 400
Philadelphia, PA 19107
Tel.: (215) 907-7288
Fax: (215) 907-7287

Counsel to Plaintiff Alluvial Fund LP