

**In the
Supreme Court of the United States**

Case No. _____

MICHAEL A. SUAREZ, TRUSTEE OF THE MAS FAMILY TRUST
PETITIONER,
V.
ALF J. AANONSEN,
RESPONDENT.

APPENDIX
PETITION FOR WRIT OF CERTIORARI

ON PETITION FOR A WRIT OF CERTIORARI TO THE THIRD DISTRICT
COURT OF APPEALS
AND
THE SUPREME COURT OF THE STATE OF FLORIDA

ARTHUR J. MORBURGER
Counsel of Record
19 WEST FLAGLER
STREET. SUITE 404
Miami, FL 33130
(305) 374-3373
Email:
amorburger@bellsouth.net

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PETITION FOR WRIT OF CERTIORARI

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¹ The number refer to the pages in this Appendix in which the referred documents are included.

APPENDIX A

Supreme Court of Florida

TUESDAY, DECEMBER 1, 2020

CASE NO.: SC20-1199

Lower Tribunal No(s).:

3D18-2466; 3D19-612; 132016CA009220000001

MICHAEL A. SUAREZ, ETC.

vs. ALF J. AANONSEN

Petitioner(s)

Respondent(s)

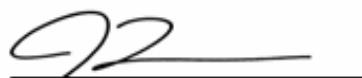
This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. *See* Fla. R. App. P. 9.330(d)(2).

LABARGA, LAWSON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur.

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Test:


John A. Tomasino
Clerk, Supreme Court



dl

Served:

ARTHUR J. MORBURGER
ALF J. AANONSEN
HON. MERCEDES M. PRIETO, CLERK
HON. BEATRICE AVGHERINO BUTCHKO, JUDGE
HON. HARVEY RUVIN, CLERK

APPENDIX B

Third District Court of Appeal

State of Florida

Opinion filed June 24, 2020.
Not final until disposition of timely filed motion for rehearing.

Nos. 3D18-2466 & 3D19-0612
Lower Tribunal No. 16-9220

Alf J. Aanonsen,
Appellant,

vs.

Michael A. Suarez, etc.,
Appellee.

Appeals from the Circuit Court for Miami-Dade County, Beatrice Butchko,
Judge.

Haber Law, P.A., and Roger Slade, and Rebecca N. Casamayor, for appellant.

Amethyst Law Group, and Amir Ghaeenzadeh, for appellee.

Before EMAS, C.J., and SCALES, and MILLER, JJ.

MILLER, J.

A True Copy
ATTEST:
MERCEDES M. PRIETO
Clerk, District Court of
Appeal, Third District
By: *Edrey N. Hayes*
Deputy Clerk



Appellant, Alf Aanonsen, challenges a final judgment awarding appellee, Michael A. Suarez, as Trustee of the Mas Family Trust, a substantial sum of punitive damages following a non-jury trial. Reaffirming the principle that, absent proof of a separate and independent tort, damages arising out of breach of contract are generally limited to the pecuniary loss sustained, or those which are the natural and proximate result of the breach, we reverse. See Lewis v. Guthartz, 428 So. 2d 222, 223 (Fla. 1982) (citing Griffith v. Shamrock Vill., Inc., 94 So. 2d 854, 858 (Fla. 1957)).

Here, the joint and several compensatory judgment, relied upon by Suarez as a basis for punitive damages, merely awarded the liquidated balance of the amount due and owing under a breached agreement. No further competent evidence of damages was forthcoming. Consequently, Suarez failed to adequately allege and prove both “a tort independent from the acts that breach[ed] the contract” and non-duplicative damages grounded in tort.¹ Ferguson Transp. Inc. v. N. Am. Van Lines, Inc., 687 So. 2d 821, 822 (Fla. 1996); see Ghodrati v. Miami Paneling Corp., 770 So. 2d 181, 183 (Fla. 3d DCA 2000) (“A plaintiff, however, may not recover damages for fraud that duplicate damages awarded for breach of contract.”) (citing Williams v. Peak Resorts Int’l, Inc., 676 So. 2d 513, 517 (Fla. 5th DCA 1996); Fla.

¹ Nor was there evidence of “wrongful conduct . . . [that] was motivated solely by unreasonable financial gain.” § 768.73(1)(b), Fla. Stat.

Temps, Inc. v. Shannon Props., Inc., 645 So. 2d 102 (Fla. 2d DCA 1994); Green Mountain Corp., Inc. v. Frink, 604 So. 2d 579 (Fla. 4th DCA 1992); Rosen v. Marlin, 486 So. 2d 623 (Fla. 3d DCA 1986)); see also Lewis, 428 So. 2d at 223 (“We reaffirm the rule and its underlying policy: an unwillingness to introduce uncertainty and confusion into business transactions as well as the feeling that compensatory damages as substituted performance are an adequate remedy for an aggrieved party to a breached contract.”) (citing Simpson, Punitive Damages for Breach of Contract, 20 Ohio St. L.J. 284 (1959)).

Thus, we reverse the final judgment under review and remand with instructions to enter judgment for Aanonsen on Suarez’s second amended complaint for punitive damages.

Reversed and remanded.

APPENDIX C



CFN 2018R0696281
DR BK 31221 Pgs 999-1010 (12Pgs)
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HARVEY RIVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

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

GENERAL JURISDICTION DIVISION

CASE NO.: 2016-009220-CA-01

MICHAEL A. SUAREZ, as Trustee
of the MAS Family Trust,

Plaintiff,

vs.

KLP HOLDINGS, INC. (LIBERIA), a foreign
corporation; SEA OIL TRADING, INC., a
foreign corporation; ALF J. AANONSEN,
individually; and CHRISTOF SCHLAUBITZ H.
a/k/a CRISTOBAL SCHLAUBITZ, individually,

Defendants.

FINAL JUDGMENT FOR PUNITIVE DAMAGES

THIS CAUSE having come before the Court for trial on July 30, 2018, on the determination
of the amount of an award of punitive damages in favor of Plaintiff, MICHAEL A. SUAREZ, as
Trustee of the MAS Family Trust ("Suarez"), and against Defendant, ALF J. AANONSEN
("Aanonsen"), and the Court having heard the evidence presented, having heard argument of
counsel and the parties, having reviewed the parties post-trial submissions, and being otherwise
fully advised in the premises, makes the following findings of fact and conclusions of law:

Facts and Procedural History

This action arises in connection with the sale of a Florida limited liability company, KLP
Industries, LLC ("KLP"), by Suarez to the Defendants. On March 19, 2014, Suarez, as seller, KLP
HOLDINGS, INC. (LIBERIA) ("KLP Holdings"), as purchaser, and SEA OIL TRADING, INC.

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(Sea Oil Trading”), as guarantor, entered into an agreement titled "Purchase/Sale of 100% Interest of KLP Industries LLC Agreement" ("the Purchase/Sale Agreement"), pursuant to which Suarez agreed to sell his 100% membership interest to KLP Holdings. Defendant paid the first part of the purchase price at the time of closing but never paid the balance due. On April 12, 2016, Suarez filed this action as a result to Defendants' failure to pay the balance of the purchase price and for damages incurred as a result of Aanonsen's fraudulent and tortious conduct in violation of his fiduciary duties owed to him by Aanonsen and others. The five count Amended Complaint included the following claims: (i) breach of contract against KLP Holdings; (ii) declaratory relief against KLP Holdings and Sea Oil Trading; (iii) breach of guaranty against Sea Oil Trading; (iv) breach of fiduciary duty against Aanonsen; and (v) breach of fiduciary duty against another defendant, CRISTOBAL SCHLAUBITZ (“Schlaubitz”), who subsequently settled with Suarez.

[No Docket # Assigned, Amended Complaint filed May 2, 2016]

On December 20th, 2016, after striking the Defendants' pleadings due to serial non-compliance with various Court orders, the Court entered a Default Final Judgment for Damages and Declaratory Relief as to all counts of the Amended Complaint against all the Defendants, jointly and severally (except Schlaubitz), in the amount of \$1,486,327.68 (the “Judgment”). [Docket # 28] This Judgment was never appealed, and a later motion to vacate the Judgment was denied. [Docket # 46] The final Judgment specifically reserved jurisdiction to consider claims for punitive damages against Aanonsen under section 768.72, Fla. Stat. (2016). On March 7th, 2017 this Court entered a Final Judgment for Attorney's Fees and Costs in the amount of \$199,893.53.

[Docket # 71]

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Plaintiff subsequently filed his Amended Motion for Leave to Assert Claim for Punitive Damages, and the Court granted the motion, finding the proffer of evidence sufficient to support a claim of punitive damages. [Docket # 128 and 132] Plaintiff filed his Second Amended Complaint against Aanonsen, to which he failed to respond. [Docket # 127] Therefore, on January 30th, 2018, this Court entered a default against Aanonsen on the punitive damages claim. [Docket # 143] On July 30, 2018, the Court held a non-jury trial for a determination of the amount of punitive damages (the “Hearing”). Aanonsen appeared at the Hearing in person, he made an opening statement, he made arguments to the Court, he introduced one document into evidence, he cross-examined witnesses, and he was given the opportunity to take the stand and testify, but chose not to testify under oath.

Grounds for Award of Punitive Damages

The specific actions for which Suarez is seeking punitive damages against Aanonsen are fraudulent, tortious and reckless acts committed in breach of his fiduciary duty to Suarez and while acting in a fiduciary capacity. The acts are well articulated in Plaintiff's Amended Motion for Leave to Assert Claim for Punitive Damages (“Motion to Assert”) and the Second Amended Complaint are supported by the exhibits filed with the Court on November 3, 2017. [Docket # 127 and 128] The facts set forth in the Second Amended Complaint, which are deemed admitted based on the entry of a default against Aanonsen and which are incorporated herein by reference as findings of fact by the Court, confirm that Aanonsen breached his fiduciary duty, and while acting in a fiduciary capacity willfully engaged in fraudulent and potentially criminal conduct which directly and proximately caused damages to Suarez. Based upon the Court's review of the Motion to Assert and documents and testimony filed in connection therewith, the allegations contained in



the Second Amended Complaint, which are deemed admitted by Aanonsen, and the arguments and evidence presented at the Hearing, the Court makes the following findings of fact and conclusions of law:

1. Aanonsen, as a manager and officer of KLP, was in a special position of trust with respect to Suarez, the sole member, and possessed superior power, knowledge and control concerning the day-to-day operations of KLP and, as a result thereof, Aanonsen was in a fiduciary relationship with Suarez and owed Suarez statutory duties under §605.04091, Fla. Stat., as well as common law fiduciary duties;

2. Pursuant to the Purchase/Sale Agreement ¹, KLP was held in trust for the benefit of Suarez until such time as the Purchase/Sale Agreement was fully performed and, as a result of Aanonsen's assumption of control and management of KLP and his superior power, knowledge and control concerning the day-to-day operations of KLP, Aanonsen acted as trustee and fiduciary with respect to Suarez;

3. While acting in the foregoing fiduciary capacities, Aanonsen intentionally, knowingly and willfully, and with the intent to deceive and defraud Suarez, and with conscious disregard and extreme recklessness, and with the intent to cause harm to Suarez and without just cause or excuse, engaged in the following conduct as alleged in the Second Amended Complaint, causing harm to Suarez as a direct and proximate result thereof: (i) Aanonsen made an illegal

¹ Unless otherwise defined herein, capitalized terms used herein shall have the meaning ascribed to such terms in the Second Amended Complaint.



payment to a Venezuelan government official in violation of the Foreign Corrupt Practices Act,² and in violation of the Ethics Rules of *Petroleos de Venezuela, S.A.* ("PDVSA"), the Venezuelan government owned oil company, which destroyed KLP's primary asset, specifically its ability to do business with PDVSA; (ii) Aanonsen submitted false and fraudulent financial statements for the Year 2013 PDVSA,³ causing for the Company to be "blackballed" and disqualified from doing business with PDVSA, and removed from the "RUCCVE" List (*Registro Unico de Clientes Calificados para la Venta de Exportacion*); and (iii) Aanonsen failed to file Federal income tax returns for KLP while he was the Manager of the company and in complete control of its operation, causing penalties and damages yet to be determined.

Liability for Punitive Damages

In this case, the entry of the Order of Default dated January 30, 2018 in favor of Suarez and against Aanonsen [Docket # 143] established that all material facts and allegations contained in the Second Amended Complaint were deemed **admitted**. Rich v. Spivey, 922 So.2d 326 (Fla. 1st DCA 2006). "A default admits liability as claimed in the pleading by the party seeking affirmative relief against the party in default and operates as an admission of the truth of the well pleaded allegations of the pleading, except those concerning damages." Id. citing Sec. Bank N.A. v. BellSouth, 679 So.2d 795, 803 (Fla. 3d DCA 1996). *See also* Henry P. Trawick, Jr. Florida Practice & Procedure § 25-4 at 348 (1988 ed.); and United States Fire Ins. Co. v C & C Beauty

² An illegal payment in violation of the FCPA is considered a criminal fraud by the U.S. Department of Justice and carries with it criminal penalties. 15 U.S.C. §§ 78dd-1, et seq. ("FCPA").

³ In the Year 2013 Suarez had not yet sold the Company to Defendants. Aanonsen misrepresented the financial condition of the Company to PDVSA for that year.



Sales, Inc., 674 So.2d 169, 172 (Fla. 3d DCA 1996). “When a default is entered, the defaulting party admits all well-pled factual allegations of the complaint.” Kotlyar v. Metropolitan Cas. Ins. Co., 192 So.3d 562 (Fla. 4th DCA 2016) *citing Phadael v Deutsche Bank Trust Co. Ams.*, 83 So. 3d 893, 895 (Fla 4th DCA 2012) and Donohue v Brightman, 939 So. 2d 1162, 1164 (Fla. 4th DCA 2006). This legal principle is well understood and not subject to dispute. Florida law further provides that the failure to respond to a complaint that seeks punitive damages waives the provisions of §768.72 Fla. Stat. which give certain procedural protections to defendants in connection with claims for punitive damages. Fostock v. Lampasone, 711 So. 2d 1154 (Fla. 4th DCA 1998) *citing Solis v. Calvo*, 689 So. 2d 366, 368 (Fla. 3d DCA 1997). *See also Kraft General Foods, Inc. v. Rosenblum*, 635 So. 2d 106 (Fla. 4th DCA 1994). The facts which are deemed admitted by the entry of the Order of Default had already been deemed by the Court sufficient to support the claim for punitive damages. [Docket # 132]

Evidence Presented at the Hearing

At the Hearing, Suarez presented evidence of Aanonsen’s net worth for purposes of assessing the amount of punitive damages. Aanonsen chose not to testify under oath at the Hearing, and presented no sworn testimony of himself or any other witnesses. As a result, all of Aanonsen’s statements at the Hearing were either part of his opening statement or arguments, or were made during questioning of Suarez’s witnesses. This is not evidence. Further, the Court has significant doubt as to the truthfulness of Aanonsen’s unsworn statements at the Hearing.

For example, Aanonsen denied knowing anything about the false and fraudulent financial statements presented to PDVSA by KLP during the time he ran the company. He claims that the signature on the cover letter for the transmittal of the financial statements to PDVSA was a forgery.



Nevertheless, the Court could see the obvious similarity of this questioned signature with other admittedly legitimate signatures of Aanonsen. In response to this claim by Aanonsen, made for the first time at trial, Suarez has now filed with the Court a Forensic Handwriting Examiner's Report from a certified handwriting analysis expert confirming that the questioned signature is, in fact, a genuine signature of Aanonsen. Aanonsen also acknowledged making the payment to a known Venezuelan government official, but claimed that the money was for the payment of a pre-existing debt owed by Suarez to this official. Suarez denied this allegation under oath. In response to this claim by Aanonsen, Suarez has now filed with the Court the Affidavit of Isabel Gonzalez, a person who was physically present during these meetings in Panama, and who confirms, under oath, that Aanonsen's assertion is false, and that the payments were clearly bribes.

To be clear, the Court has **not** relied on the items filed with the Court by Suarez after the trial to rebut Aanonsen's claims at trial in order to determine liability for punitive damages. That liability is based on the entry of the Order of Default and the resulting admissions of the facts alleged in the Second Amended Complaint, the exhibits filed in support of the Motion to Assert and the evidence and testimony presented at the Hearing. However, the Court wishes to make clear that Aanonsen failed to present any sworn testimony at trial, and his unsworn arguments, claims and denials lack any credibility whatsoever.

Calculation of Amount of Punitive Damages

"Punitive damages may properly be imposed to further a State's legitimate interest in punishing unlawful conduct and deterring its repetition" BMW of N. Am., Inc. v Gore, 517 U.S. at 559, 568, 116 S. Ct. 1589, 134 L. Ed. 2d 809 (1996). "Extraordinary wrongdoing justifies



extraordinary civil punishment without limiting ratios" Lawnwood Medical Center Inc. v Sadow, 43 So. 3d at 732 (Fla. 4th DCA 2010).

An award of punitive damages is made by the Court, in this non-jury case, based on a preponderance of the evidence standard. The Court should award damages that would serve the dual purpose of punishing the defendant and deterring similar conduct in the future. The deterrence justification for punitive damages is motivated by two objectives: (1) to deter the specific defendant in the case from repeating or continuing his, her, or its offensive behavior; and (2) to deter, generally, other potential parties from committing similar offenses. See Restatement (Second) of Torts, section 908. This analysis can be based on a methodology using either a compensatory damages award multiplier or a percentage of the defendant's net worth.

Multiple of Compensatory Damage Award

Under Florida law, §768.73, Fla. Stat. provides parameters for an award of punitive damages. In most cases, it will limit an award of punitive damages to three times the award of compensatory damages or \$500,000.00, whichever is greater. §768.73(1)(a). However, the statute indicates that in cases where the Court determines that the wrongful conduct was motivated solely by unreasonable financial gain, and determines that the conduct was unreasonably dangerous, together with the high likelihood of injury resulting from the conduct, the limitation is raised to four times the amount of compensatory damages or \$2,000,000.00, whichever is greater. §768.73(1)(b). Lastly, in cases where there is specific intent to harm the claimant and defendant's conduct did in fact harm the claimant, there is no cap on the amount of punitive damages a Court can award. §768.73(1)(c). In this case, a multiplier would be based on the two judgments previously entered by the Court in the amounts of \$1,486,327.68 and \$199,893.53, respectively.



Percentage of Net Worth

Notwithstanding §768.7 of Fla. Stat., numerous cases in Florida have supported awards based on a percentage of defendant's net worth for the computation of the punitive damages.

In this regard, punitive damages equivalent to ten per cent (10%) of a defendant's net worth has been found reasonable. *See Young v. Becker and Poliakoff, P.A.*, 88 So.3d1002 (Fla 4th DCA 2012) (The maximum award that will not be excessive is \$2.0 million dollars which constitutes about 18% to 20% of the firm's net worth.) *citing TXO Production Corp. v Alliance Resources Corp.*, 509 U.S. 443,113 S. Ct. 2711, 125 L.Ed.2d 366 (1993) (Upholding a \$10 million punitive damage award on a \$19,000 compensatory damage award against a company's net worth \$2.0 billion.). "Even very large punitive damages award will be affirmed when they take but a small proportion of the defendant's net worth." *Bould v Touchette*, 349 So. 2d 1181, 1187 (Fla 1977) (affirming an \$800,000 punitive damage award when the defendant had a net worth in excess of \$13 million.). *See also Sperry Rand Corp. v A.T.O., Inc.*, 447 F.2d 1387 (4th Cir. 1971) (Court approved an award of punitive damages of \$175,000, against a net worth \$750,000.); *Fuchs v Kupper*, 22 Wis. 2d 360 (1963) (An award of punitive damages representing 12.5% of defendant's net worth approved); *Malco, Inc v Midwest Aluminum Sales*, 14 Eis.2d 57, 109 N.W. 2d 516 (1961) (An award of punitive damages representing 7.5% of defendant's net worth approved.).

Although this case is pending in Florida and is being tried in state court, the first action which serves as the basis for the claim of punitive damages is a violation of Federal law, the Foreign Corrupt Practices Act – 15 U.S.C. §78dd-1 et seq. for which there is no cap in fines and punitive damages.

The Foreign Corrupt Practices Act is a Federal statute. An illegal payment in violation of the FCPA carries criminal penalties. The failure to file federal income tax return is also a violation



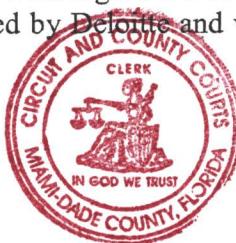
of Federal law. The violations for which punitive damages are being sought are clear violations of Federal statutes and the Court can follow Federal guidelines in making the award.

In this case, for the purpose of computing the amount of a punitive damages award using the percentage of net worth methodology, the Court can use the self-declared value of the assets owned by Aanonsen and reflected in the audited financial statements for the Year 2014, certified by Deloitte, and validated by Aanonsen to PDVSA. These financial statements for the year 2014 reflect a net worth for KLP Industries LLC of \$708,657,709, and for Sea Oil Trading Company of \$450,200,140, with a combined net worth of \$1,158,857,849. Both of these companies were owned by Aanonsen. These financial statements were admitted as evidence in the trial.⁴

Conclusion

The Court finds that Aanonsen engaged in willful, illegal and fraudulent conduct while acting in a fiduciary capacity, and breached his fiduciary duty to Suarez by committing the following wrongful acts: (1) making an illegal payment to a foreign official in violation of the Foreign Corrupt Practices Act; (2) submitting false and fraudulent financial statements of KLP Industries LLC to PDVSA; and (3) failing to file Federal income tax returns for KLP Industries LLC during the time he was Manager of the company and controlled its operations. These actions damaged Suarez.

⁴ The allegation of fraud related to the financial statements made by Suarez in this case dealt solely with the information contained therein for 2013. With regard to 2014, there has been no claim or allegation that the financial statements as certified by Deloitte and validated by Aanonsen were incorrect, false or fraudulent.



The Court finds that Aanonsen's committed these acts while he knew, or should have known, that he was committing illegal acts punishable by law and had a conscious and willful disregard as to how his actions would affect others.

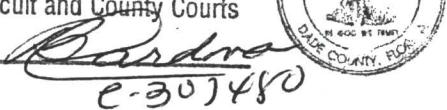
Accordingly, the Court having made the findings of fact and conclusions of law as stated above, it is hereby ORDERED AND ADJUDGED that a judgment for punitive damages is entered as to Count One of the Second Amended Complaint in favor of Plaintiff, **MICHAEL A. SUAREZ**, as Trustee of the MAS Family Trust, whose address is 5151 Collins Avenue, Apt. 832, Miami Beach, FL 33140, and against Defendant, **ALF J. AANONSEN**, whose present address is 362 Davis Avenue, Unit 4, Greenwich, CT 06830, in the principal amount of \$5,945,310.72, which is equivalent to 4 times the compensatory damages previously awarded in this case, in accordance with Florida Statutes §768.73(1)(b)1, for which sums let execution issue forthwith.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 11/05/18.

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that the foregoing is a true and correct copy of the
original on file in this office. 11/15/18 AD 20 18

HARVEY RUVIN, Clerk of Circuit and County Courts

Deputy Clerk


Barbara
e-303480




BEATRICE BUTCHKO
CIRCUIT COURT JUDGE

No Further Judicial Action Required on THIS MOTION
CLERK TO RECLOSE CASE IF POST JUDGMENT

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed original order sent electronically to the Clerk of Courts for filing in the Court file.



Suarez v. KLP Holdings et al.

Case No. 16-009220 CA 40

Final Judgment for Punitive Damages

Page 12

Copies to:

Javier J. Rodriguez, Esq. (jrodriguez@prmiamilaw.com; pleadings@prmiamilaw.com)

Alf J. Aanonsen (alf.aanonsen@klpindustries.com; alf@seaoilshipping.com; alf@oceanfc.com)

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that this is a true copy of the
original filed in this office on NOV 15 2018 day of
A.D. 20

WITNESS my hand and Official Seal
HARVEY RUVIN, CLERK, OF CIRCUIT AND COUNTY COURTS
By Pascal Shytle 5/21/2017
D.C.



APPENDIX D

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 2016-009220-CA-01

MICHAEL A. SUAREZ, as Trustee
of the MAS Family Trust,

Plaintiff,

vs.

KLP HOLDINGS, INC. (LIBERIA), a foreign
corporation; SEA OIL TRADING, INC., a
foreign corporation; ALF J. AANONSEN,
individually; and CHRISTOF SCHLAUBITZ H.
a/k/a CRISTOBAL SCHLAUBITZ, individually,

Defendants.

FILED FOR RECORD
2016 DEC 20 AM 11:37
CLERK, CIRCUIT & COUNTY CC'S,
MIAMI-DADE COUNTY, FL.
CIVIL DIVISION #150

**DEFAULT FINAL JUDGMENT FOR DAMAGES
AND DECLARATORY RELIEF**

THIS CAUSE having come before the Court for hearing on December 20, 2016, on the motion of Plaintiff, MICHAEL A. SUAREZ, as Trustee of the MAS Family Trust, for the entry of a Default Final Judgment for Damages and Declaratory Relief against Defendants, KLP HOLDINGS, INC. (LIBERIA), SEA OIL TRADING, INC., and ALF J. AANONSEN, and the Court having entered defaults against the defendants, having reviewed the motion, the Affidavit of Claim and other supporting documents, having heard argument of counsel, noting that the Defendants failed to appear for the hearing, despite being properly noticed, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED as follows:

1. A Default Final Judgment is hereby entered in favor of Plaintiff, MICHAEL A. SUAREZ, as Trustee of the MAS Family Trust, whose address is 5151 Collins Avenue, Apt. 832,

A TRUE COPY
CERTIFICATION ON LAST PAGE
HARVEY RUVIN, CLERK

Miami Beach, FL 33140, and against Defendants, **KLP HOLDINGS, INC. (LIBERIA)**, 101 Dingletown Road, Greenwich, Fairfield County, Connecticut, 06830, **SEA OIL TRADING, INC.**, 101 Dingletown Road, Greenwich, Fairfield County, Connecticut, 06830, and **ALF J. AANONSEN**, 101 Dingletown Road, Greenwich, Fairfield County, Connecticut, 06830, jointly and severally, on the claims for damages in the principal amount of ONE MILLION, THREE HUNDRED AND FIFTY THOUSAND DOLLARS (\$1,350,000.00), plus prejudgment interest since November 5, 2014 of ONE HUNDRED THIRTY SIX THOUSAND THREE HUNDRED TWENTY SEVEN DOLLARS AND 68/100 CENTS (\$136,327.68) (\$175.68 per diem for 776 days), for a total judgment of **ONE MILLION FOUR HUNDRED EIGHTY SIX THOUSAND THREE HUNDRED TWENTY SEVEN DOLLARS AND 68/100 CENTS (\$1,486,327.68)**, for which sums let execution issue forthwith.

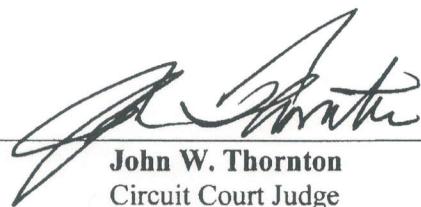
2. A Default Final Judgment is hereby entered in favor of Plaintiff, **MICHAEL A. SUAREZ**, as Trustee of the MAS Family Trust, whose address is 5151 Collins Avenue, Apt. 832, Miami Beach, FL 33140, and against Defendants, **KLP HOLDINGS, INC. (LIBERIA)**, 101 Dingletown Road, Greenwich, Fairfield County, Connecticut, 06830, and **SEA OIL TRADING, INC.**, 101 Dingletown Road, Greenwich, Fairfield County, Connecticut, 06830 on the declaratory relief claim. The Court declares that as a result of the Defendants' breaches of the Purchase/Sale Agreement between the parties which is the subject of this action, that Plaintiff is entitled to the return of the documents which were placed in escrow as part of the transaction, and which are identified on the list which is attached hereto as Exhibit "A." The escrow agent, Javier J. Rodriguez, Esq., Perez & Rodriguez, P.A., 95 Merrick Way, Suite 600, Coral Gables, FL 33134, is hereby authorized to release the escrowed documents to Plaintiff forthwith. *(*)*
3. The Court reserves jurisdiction to consider any of Plaintiff's claims for attorneys' fees and costs as allowed by the Purchase/Sale Agreement, as well as any claim for damages under

() The company domain www.Klpindustries.com shall also be returned to the control of Plaintiff.*

DET
A TRUE COPY
CERTIFICATION ON LAST PAGE
HARVEY RIVIN, CLERK

Section 768.72, Florida Statutes (2016). Any motions related to such claims must be filed within sixty (60) days of the entry of this Default Final Judgment.

DONE AND ORDERED in chambers at Miami-Dade County, Florida this 20th day of December, 2016.



John W. Thornton
Circuit Court Judge

ORIGINAL

JUDGE JOHN W. THORNTON JR.

KLP HOLDINGS, INC. (LIBERIA) (alf.aanonsen@klpindustries.com); **SEA OIL TRADING, INC.** (alf@seaoilshipping.com); **ALF J. AANONSEN** (alf@oceanfc.com); **B. J. Okcular, Esq.** and **Reid A. Schaeffer, Esq.** service@lgplaw.com; **PEREZ & RODRIGUEZ, P.A.** (Pleadings@prmiamilaw.com)

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that the foregoing is a true and correct copy of the
original on file in this office. 01-09-17 AD 20
HARVEY RUVIN, Clerk of Circuit and County Courts

Deputy Clerk CH

0176288





KLP INDUSTRIES

**List of Documents in Escrow
with Javier Rodriguez, Esq.
in Connection with the Sale of
100% Member Interest of
KLP Industries LLC**



1. Copy of "Sale of LLC Agreement" for the sale of 100% member interest of KLP Industries LLC.
2. Fully executed bill of sale for 100 percent (100%) Member Interest of KLP Industries LLC.
3. Corporate Books of KLP Industries LLC including Articles of Organization, Certificate of Incorporation, Statement of Registered Agent, Written Consent to Organize, and 100% member interest.
4. Certificate of Good Standing issued by the State of Florida Dept. of State dated May 2012.
5. Annual Report for the year 2012 filed by KLP Industries LLC with the Florida Department of State Division of Corporations.
6. PDVSA Registration Documents for KLP Industries LLC including R.U.C.C.V.E. certification.
7. KLP Industries Tax I.D. Number



P.O. Box 800806 Aventura, Florida 33280

Telephone: 305-868-9599 Fax: 305-864-1227 E-mail: britishoil@aol.com

APPENDIX E

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 2016-009220-CA-01

MICHAEL A. SUAREZ, as Trustee
of the MAS Family Trust,

Plaintiff,

vs.

KLP HOLDINGS, INC. (LIBERIA),
a foreign corporation;
SEA OIL TRADING, INC., a foreign corporation;
ALF J. AANONSEN, individually;

Defendants.

PLAINTIFF'S TRIAL MEMORANDUM OF LAW

*Honorable Judge Beatrice Butchko
Judge of the Circuit Court, 11th Judicial Circuit
Miami Dade County, Florida
Presiding*

PEREZ & RODRIGUEZ, P.A.
Attorneys for Plaintiff
95 Merrick Way, Suite 600 Coral Gables, Florida 33134
Tel:(305) 667-9878; Fax:(305) 667-9657
Service Email: Pleadings@prmiamilaw.com

INTRODUCTION

In this case, at this trial, Plaintiff, MICHAEL A. SUAREZ, as Trustee of the MAS Family Trust ("Suarez") is seeking an award of Punitive Damages. The Court already entered a default against Defendant, ALF J. AANONSEN ("Aanonsen") on the claim for punitive damages, meaning that the allegations in the Second Amended Complaint are accepted as admitted or proven, therefore, the trial is on **damages only**. This Trial Memorandum is intended to provide guidance to the Court in making the award.

An award of punitive damages is made by the Court in this non-jury case based on a preponderance of the evidence standard. The Court should award damages that would serve the dual purpose of punishing the defendant and deterring similar conduct in the future. The deterrence justification for punitive damages is motivated by two objectives: (1) to deter the specific defendant in the case from repeating or continuing his, her, or its offensive behavior; and (2) to deter, generally, other potential parties from committing similar offenses. See Restatement (Second) of Torts, section 908. This analysis can be based on a methodology using a multiple of the award of compensatory damages, or on a percentage of the Defendant's net worth.

Under Florida law, section 768.73, Fla. Stat. provides an additional parameters for an award of punitive damages. It begins by limiting punitive damages to three times the award of compensatory damages or \$500,000.00 in most cases. Section 768.73(1)(a). However, in cases where the Court determines that the wrongful conduct was motivated solely by unreasonable financial gain, and determines that the conduct was unreasonably dangerous, together with the high likelihood of injury resulting from the conduct, the limitation is raised to four times the amount of compensatory damages or \$2,000,000.00. Section 768.73(1)(b). Lastly, in cases where there is specific intent to harm the claimant and defendant's conduct did in fact harm the claimant, there is no cap on the amount of punitive damages a Court can award. Section 768.73(1)(c).

Under Federal Law, more specifically the Foreign Corrupt Practices Act - *15 U.S.C. §78dd-1 et seq.* ("the Foreign Corrupt Practices Act.") there is no cap or limit on the imposition of fines and punitive damages as more specifically set forth below and supported in Exhibits **A, B, C, and D.**

Consistent with other awards under Federal law, Suarez asks for an award for punitive damages equivalent to **10% of Defendant's self-declared assets**.

FACTS AND PROCEDURAL HISTORY

This action arises in connection with the sale of a Florida limited liability company, KLP Industries, LLC ("KLP"), by Suarez to the Defendants.

On March 19, 2014, Suarez, as seller, KLP Holdings, as purchaser, and Sea Oil Trading, as guarantor, entered into an agreement titled "Purchase/Sale of 100% Interest of KLP Industries

LLC Agreement" ("the Purchase/Sale Agreement"), pursuant to which Suarez agreed to sell his 100%-member interest to KLP Holdings.

Defendant paid the first part of the purchase price at the time of closing but never paid the balance due. On April 12, 2016, Suarez filed this action as a result to Defendants' failure to pay the balance of the purchase price. The five count Amended Complaint included the following claims: (i) breach of contract against KLP Holdings; (ii) declaratory relief against KLP Holdings and Sea Oil Trading; (iii) breach of guaranty against Sea Oil Trading; (iv) **breach of fiduciary duty against Aanonsen**; and (v) breach of fiduciary duty against another defendant, Cristobal Schlaubitz, who subsequently settled with Suarez.

Aanonsen was initially represented by counsel and vigorously challenged venue and service. The court ruled in Suarez's favor on both challenges. Subsequently Aanonsen fired his attorneys and chose to represent himself. He chose not to respond to the initial complaint. He also chose to ignore numerous other court orders. Nevertheless, throughout the proceedings, Aanonsen appeared by phone or personally at the hearings.

On December 20th, 2016, after striking the Defendants' pleadings due to serial non-compliance with various Court orders, the Court entered a Default Final Judgment for Damages and Declaratory Relief against all the Defendants except Schlaubitz in the amount of \$1,486,327.68. This judgment was never appealed, and a later motion to vacate the judgment was denied.

On March 7th, 2017 this Court entered a Final Judgment for Attorney's Fees and Costs in the amount of \$199,893.53. The remaining claim against Schlaubitz was thereafter settled. The final judgment specifically reserved jurisdiction to consider claims for punitive damages under section 768.72, Fla. Stat. (2016).

Plaintiff subsequently filed his Amended Motion for Leave to Assert Claim for Punitive Damages, and the Court granted the motion, finding the proffer of evidence sufficient to support a claim of punitive damages.

On January 30th, 2018 this Court entered a default against Aanonsen on the punitive damages claim. Pending before the Court is a non-jury trial for a determination of the amount of punitive damages.

GROUND FOR AWARD OF PUNITIVE DAMAGES

The specific actions for which Plaintiff is seeking punitive damages against Aanonsen are acts committed in breach of his fiduciary duty. The acts are well articulated in Plaintiff's Motion for Leave to Amend to Assert Punitive Damages and the Exhibits filed with the Court on November 3, 2017; all of which are incorporated herein by reference.

As detailed in the Second Amended Complaint, allegations which are deemed admitted based on the entry of a default against Aanonsen, Defendant Aanonsen breached his fiduciary duty, engaged in fraudulent, criminal, reckless and reprehensible behavior, as follows:

(1) Defendant made an illegal payment to a Foreign Official as defined under the Foreign Corrupt Practices Act in an attempt to gain an unreasonable financial gain;

(2) Defendant submitted false and fraudulent financial statements to *Petroleos de Venezuela, S.A.* ("PDVSA") which reflected a net worth in excess of \$700 million dollars; and

(3) Defendant did not file Federal Income Tax Returns for the Company while he was Manager of KLP Industries LLC and in control of the company;

Defendant Aanonsen committed these acts while he knew, or should have known, that he was committing illegal acts punishable by law. Defendant is guilty of gross negligence at best, but much more likely intentional misconduct. Defendant had actual knowledge of the wrongfulness of his conduct, and that injury to the Plaintiff would result from Defendant's conduct. (Plaintiff subsequently found out that Company was barred from doing business with PDVSA while under the control of Defendant Aanonsen - See internal email from PDVSA attached as **Exhibit M**)

Defendant's conduct was motivated by his own desire for unreasonable financial gain, and Defendant had a conscious disregard and indifference as to how his actions would affect others. He committed these acts which caused the erosion of the value of the stock of the company which was being held in escrow to guarantee his second payment for the balance of the purchase price; which he never paid.

The Foreign Corrupt Practices Act is a Federal statute. An illegal payment in violation of the FCPA is considered a criminal act by the U.S. Department of Justice. The failure to file federal income tax return is also a violation of Federal law. The submission of false and fraudulent supposedly audited financial statements prepared by the office of Deloitte in Panama on behalf of Defendant and submitted to Petroleos de Venezuela is a breach of his fiduciary duties to Plaintiff.

Although this case is being tried in state court, the violations for which punitive damages are being sought include violations of Federal statutes and the Court can consider Federal law in making the award. Under the Foreign Corrupt Practices Act - *15 U.S.C. §78dd-1 et seq.* there is no cap or arbitrary limit on the imposition of fines and punitive damages a Court can award. (See discussion below and support attached as exhibits **A, B, C and D**).

DISCUSSION

As discussed above, punitive damages serve the dual purpose of punishing the defendant and deterring similar conduct in the future. The deterrence justification for punitive damages is motivated by two objectives: (1) to deter the specific defendant in the case from repeating or continuing his, her, or its offensive behavior; and (2) to deter, generally, other potential parties from committing similar offenses. This rationale of deterrence is especially strong in cases in

which other measures of civil damages, and the unlikely prospect of criminal prosecution, are together insufficient to prevent an individual or entity from engaging in a wrongful act. Indeed, absent the fear of punitive damages, a defendant may have little incentive to discontinue the unlawful or harmful conduct.

As stated earlier, claims for punitive damages in Florida are governed by section 768.72, Fla. Stat., the provisions of which are described below:¹

I. Procedural Standard

The first step a claimant must take in an effort to recover punitive damages is a procedural step. A claimant must make “a reasonable showing by evidence in the record, or proffered by the claimant, which would provide a reasonable basis for recovery of such damages.” Section 768.72 (1) Fla. Stat. This procedural step has been discussed by the Florida Supreme Court in *Globe Newspaper Co. v. King*, 658 So. 2d 518 (Fla. 1995), where the Court held that the plain meaning of the statute “requires a plaintiff to provide the court with a reasonable evidentiary basis for punitive damages before a court may allow a claim for punitive damages to be included in a plaintiff’s Complaint.” *Id.* Once this hurdle has been successfully crossed, the substance of the evidence put forth by the plaintiff becomes the issue of paramount importance.

II. Substantive Standard

Although a “traditional standard” exists and has been utilized for many years, there are more recent standards that have been put in place by the courts as well as the legislature. The traditional standard was set forth by the Florida Supreme Court in *Winn & Lovett Grocery Co. v. Archer*, 171 So. 214, (Fla. 1936). In *Archer*, the Court held that in order to recover punitive damages the plaintiff must “allege some general facts and circumstances of fraud, malice, gross negligence, or oppression tending to show plaintiff’s right to recover such damages in addition to damages by way of compensation.” *Id.* at 222. The Court goes on to state that these damages are “left to the discretion of the jury, as the degree of punishment to be inflicted must always be dependent on the circumstances of each case, as well as upon the demonstrated degree of malice, wantonness, oppression, or outrage found by the jury from the evidence.” *Id.* at 221-222. The Court’s decision in *Archer* further clarified that as a general rule, the liability of a corporation regarding punitive damages for “wanton or malicious torts committed by an agent or servant” of the corporation is no different than the liability of an individual acting in the same manner. *Id.* at 221.

Another significant Florida Supreme Court case, which has important implications when deciding the issue of punitive damages, is *Ault v. Lohr*, 538 So.2d 454 (Fla. 1989). In *Ault*, the Court held that an award of nominal or compensatory damages is not required in order to award

¹ See, *Punitive Standards and Limitations Under Florida Law*, by David H Margol. The Florida Bar Journal March 12, 2012.

punitive damages. *Id.* at 454. Rather, all that is required is a finding of liability by the trier of fact. *Id.* This decision resolved conflicting lower court opinions and provided a clearer standard moving forward.

The “malice standard” or the existence of malice as a characteristic of the defendant’s actions is also commonly referred to by courts when the issue of punitive damages is raised. In most jurisdictions, including Florida, two types of malice exist: legal malice and actual malice. Legal malice has been defined as both “a wrongful act without reasonable excuse” and as “a wanton disregard for the rights of others.” *Farish v. Smoot*, 58 So.2d 534, 538 (Fla. 1952); *Richards Co. v. Harrison*, 262 So. 2d 258, 262 (Fla. 1st DCA 1972); *Adams v. Whitfield*, 290 So. 2d 49, 51 (Fla. 1974). Actual malice, on the other hand, is often defined as ill will, hatred, spite, and evil intent. The significant difference between actual and legal malice is that the latter does not require proof of the defendant’s ill will, hatred or spite, instead it is implied from the defendant’s conduct. In Florida, a showing of legal malice is all that is required in order to recover punitive damages. *Adams v. Whitfield*, 290 So. 2d 49 (Fla. 1974); *Farish v. Smoot*, 58 So. 2d 534 (Fla. 1952); *Montgomery Ward & Co., Inc. v. Hoey*, 486 So. 2d 1368 (Fla. 5th DCA 1986); *Johns-Manville Sales Corp. v. Janssens*, 463 So. 2d 242 (Fla. 1st DCA 1984); *Wrains v. Rose*, 175 So. 2d 75 (Fla. 2d DCA 1965).

The “intentional tort-malice rule” appears to be another standard that courts utilize in Florida. According to this rule, punitive damages are always recoverable in intentional tort cases where malice is one of the essential elements of the tort. According to the court in *Ciamar Marcy, Inc. v. Monteiro Da Costa*, the underlying rationale for this rule is that the proof of malice required to make out the cause of action is also sufficient evidence of malice on the part of the defendant to permit the jury to award punitive damages as punishment. *Ciamar Marcy, Inc. v. Monteiro Da Costa*, 508 So. 2d 1282, 1283 (Fla. 3d DCA 1987).

The Florida legislature has set forth a standard as well for the recovery of punitive damages. This standard can be found in section 768.72(2), Fla. Stat., and provides that the defendant must be “personally guilty of intentional misconduct or gross negligence.” The legislature went on to define “intentional misconduct” in section 768.72(2)(a) which provides that the defendant must have “intentionally pursued a course of conduct with actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result.” The legislature further defines “gross negligence” in section 768.72(2)(b) as conduct that is “so reckless or wanting in care that it constitutes a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.” This standard essentially codifies what the courts throughout Florida have already established, with regard to the recovery of punitive damages.

III. Limitations and Restrictions

In an effort to keep punitive damage awards at an appropriate level, the legislature set forth limitations and restrictions on this breed of damages within section 768.73, Fla. Stat. Under this provision, no cap exists on the amount of punitive damages if the fact finder determines that at the

time of the injury, the defendant had a specific intent to harm the claimant and further, determines that the defendant's conduct did in fact harm the claimant. Section 768.73(1)(c). In cases where specific intent to harm the claimant is not established, punitive damages may not exceed the greater of three times the amount of compensatory damages awarded to each claimant or the sum of \$500,000. Section 768.73(1)(a)(1)-(2). However, different limitations apply if the finder of fact determines that the wrongful conduct was motivated solely by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, were actually known by the defendant or the defendant's managing agent, director, officer, or other person responsible for making policy decisions on behalf of the defendant. Section 768.73(1)(b). In those instances, the award of punitive damages may not exceed the greater of four times the amount of compensatory damages awarded to each claimant or the sum of \$2,000,000. Section 768.73(1)(b)(1)-(2).

THE FOREIGN CORRUPT PRACTICES ACT ²

The first action listed in the Amended Complaint for which Defendant is liable is for a violation of the Foreign Corrupt Practices Act - *15 U.S.C. §78dd-1 et seq.* The violation is considered a criminal fraud and for which there is no cap in fines and punitive damages. (See support in **Exhibits A, B, C and D.**)

In fact, as recent as September 21, 2017 the Sweden-based telecommunications provider Telia Company AB agreed to pay \$965 million in a global settlement with the Securities and Exchange Commission, U.S. Department of Justice, and Dutch and Swedish law enforcement to resolve charges related to violations of the Foreign Corrupt Practices Act (FCPA) to win business contracts in Uzbekistan. See **Exhibit “A”**.

The Foreign Corrupt Practices Act of 1977, as amended, *15 U.S.C. §§ 78dd-1, et seq.* ("FCPA"), was enacted for the purpose of making it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. Specifically, the anti-bribery provisions of the FCPA prohibit the willful use of the mails or any means of instrumentality of interstate commerce corruptly in furtherance of any offer, payment, promise to pay, or authorization of the payment of money or anything of value to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a foreign official to influence the foreign official in his or her official capacity, induce the foreign official to do or omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person.

Since 1977, the anti-bribery provisions of the FCPA have applied to all U.S. persons and certain foreign issuers of securities. With the enactment of certain amendments in 1998, the anti-bribery provisions of the FCPA now also apply to foreign firms and persons who cause, directly

² See Department of Justice web page; Criminal Fraud; Foreign Corrupt Practices Act.

or through agents, an act in furtherance of such a corrupt payment to take place within the territory of the United States.

In this instant case in which Defendant violated the Foreign Corrupt Practices Act by making an illegal payment to a foreign official, did not file Federal Tax Returns and provided PDVSA with false and fraudulent supposedly “audited” financial statements, the award of punitive damages should follow the guidance Federal government in similar cases, and for which there is no cap in the imposition of fines and punitive damages. See support in **Exhibit “A” “B” “C” and “D”**.

DEFENDANT’S NET WORTH

To determine the amount of punitive damages to award, the Jury or the trier of the facts should consider: (i) the reprehensibility of the conduct of the defendant; and (ii) the amount of punitive damages which will have a deterrent effect on the defendant in the light of defendant’s financial condition.

As the Court knows, Defendant recently filed a bankruptcy proceeding in Connecticut in which he claims he has no assets. In reality, this is just another fraud, as will be shown below, and the Defendant has significant assets.

On June 26, 2017 the international accounting Firm of Deloitte Inc were served by Plaintiff with a Non-Party Subpoena Duces Tecum of all document related to the financial statement audit conducted by Deloitte Inc. of KLP Industries LLC for the years 2013 and 2014 respectively, on behalf of Defendant. See copy of Subpoena Duces Tecum attached herewith and made a part hereof as **Exhibit “E”**. As a result of the issuance of said subpoena the Panama office of Deloitte Inc. and BAS Contadores Publicos Autorizados have been fully cooperating with Plaintiff in its investigation of Defendant’s assets. The audited financial statements of KLP Industries for the year 2013 and 2014 indicate assets in the amount of **\$708,657,709** and **\$527,059,289** respectively. (See copy of Audited Financial Statements for year 2013 and 2014 attached as **Exhibit “F”**)

Additionally, the accountants in Panama have also provided Plaintiff with audited financial statements of Defendant’s Company, Sea Oil Shipping Ltd., registered in the Island of Anguilla in the Caribbean which was registered by Defendant in January 1999 and remains active. The financial statements for this company indicate “cash on hand” of Sea Oil Shipping Ltd. for the year ending 2014 and 2013 for the amounts of **\$450,200,140** and **\$416,994,411** respectively. (See copy of audited financial statements for Sea Oil Shipping Ltd for year end 2014 and 2013 attached as **Exhibit “G”**) Sea Oil Shipping Ltd. was listed by Defendant in his Financial Affidavit filed in the divorce to his first wife Kim Aanonsen in the Superior Court of the State of Connecticut. (See attached Sworn Financial Affidavit of Alf Aanonsen in his first divorce to Kim Aanonsen (Case No. FST-FA06- 4008838-S) in the Superior Court State of Connecticut as **Exhibit “H”**)

A further investigation into Aanonsen’s financial condition reveals the following:

Alf Aanonsen was born on July 25, 1956 in Arendal, Norway. He took his first job in 1976 with Mosvold Shipping in Norway. In 1980 he moved to Stolt-Nielsen and came to work in the United States. He was issued a social security card No. XXX-XX-0183 in Greenwich Connecticut between 1981 – 1983. He then moved to Odin Marine in 1985 and worked until 2000 before becoming a shipowner.

The investigation further reveals that early in the year 2000 right after President Chavez was elected, Defendant purchased six panama oil tankers for \$28,000,000.00 “en-bloc. This information is in the public domain as published by Trade Winds, a shipping industry publication.

By February 2, 2007, seven years after founding Sea Oil Shipping Ltd, public records reveal that Defendant had assembled a shipping fleet of fourteen (14) major oil tankers (Panamaxes). At the time Defendant declared to be worth at least **\$15,782,200** and to be involved with eleven (11) companies whose business were Shipping and Real Estate Development in the wealthy enclave of Greenwich, Connecticut. (See Financial Affidavit filed by Defendant in the Family Division of the Superior Court of Connecticut in *Aanonsen Kim A v Aanonsen Alf J, Case No. FST-FA06-4008838-S* filed attached as **Exhibit “H”**)

Relative to Defendant Aanonsen’s shipping business, the web page for www.klpoil.com which was set up by Defendant after closing on the purchase of KLP Industries, states as follows:³

Mr. Aanonsen has more than 30 years' experience in the energy and energy transportation business primarily as a ship-owner. He has owned more than a dozen tankers primarily Panamaxes. He was despondent owner to a similar number of tankers and dry bulk carriers which were primarily in the coal and grain trade. At one time he was the largest owner of “Lake Maracaibo” (shallow draft) Panamaxes, where he obtained an intimate knowledge of the Venezuelan oil trade, and established a closer relationship with the elite of the Venezuelan oil industry, which remain to these days. His fleet has done more than 5,000 voyages equivalent to 175,000,000 barrels of oil and oil products. The knowledge and experience acquired on the movement of crude oil and products has provided a knowledge base which no amount of research could duplicate Alf's reputation has provided access to an extremely large client base. His clients have included virtually all major oil companies, numerous state oil companies and independent traders including ExxonMobil, Pemex, Shell, Texaco, PDVSA, Petrobras, BP, Conoco-Philips, Koch and Many others.

By the same token the web page for Sea Oil Shipping Ltd. (<http://seaoilshipping.com/>) Defendant describes in the “History” section of the company as follows:

Sea Oil is an experienced vessel owner and chartering company controlled by Mr. Alf Aanonsen. Mr. Aanonsen, originally from Norway, has a long and successful history in the ownership and operation of vessels transporting crude and

³ We have original copies of the web page available for the Court's should they become required.

petroleum products dating back to 1999. Sea Oil has built a fleet of 14 owned ships (Panamax tankers) and a successful chartering operation managed which globally transported over 150,000,000 barrels of crude and petroleum products over 500 voyages. The fleet was successfully sold at the height of the market between 2007 and 2008.⁴ Mr. Aanonsen has concluded that after a long decline in the petroleum fleet transport business, there is now evolving a restructuring of crude trade patterns that will drive increased demand for the global crude tanker fleet.

The same History site provides an article by Trade Winds publications dated February 2001 titled “Sea Oil Sits Pretty After Deal of the Year” which describes in detail that Aanonsen is the majority shareholder of Sea Oil Shipping Ltd. and how the company acquired six oil tankers (Panamaxes) en block for \$28,000,000 in the year 2000. (See Defendant’s shipping background and articles from Trade Wind Publications attached as **Exhibit “I”**. **Also see Binder 4 – Exhibit List**). By the year 2007 Defendant had acquired a total of 14 major Oil Tankers and listed eight shipping companies in his sworn Financial Affidavit.

The information from the investigation also reveals thirty eight (38) privately held foreign and domestic companies controlled by Defendant Alf Aanonsen (**Exhibit “J”** **Also see Binder 2 and 4 Exhibit List**); Thirteen (13) “trophy real estate properties”, purchased, leased and/or developed by Defendant within the last ten years, one which was sold for over \$28 million dollars, and another prime Tribeca Apartment reportedly sold for \$7.0 million dollars “free and clear” without a mortgage (**Exhibit “K”** **Also see Binder 1 Exhibit List**); and last but not least, the public underwriting of a bond issue for up to 200 million British pounds by Sea Oil Tankers Ltd in Great Britain in 2016, a Company controlled by Defendant and incorporated in the Isle of Man. The Bond Issue offered through the Gibraltar Stock Exchange. (See **Exhibit “L”**)

More recently, in September 2017, Aanonsen signed a contract to purchase a home in Connecticut for approximately \$22,000,000.00.

The Audited Financial Statements of KLP Industries for the year 2013 and 2014 indicate assets in the amounts of **\$708,657,709 (US)** and **\$527,059,289 (US)** respectively. See copy of Audited Financial Statements for year 2013 and 2014 attached as **Exhibit “F”**

The Audited Financial Statements of Defendant’s Company Sea Oil Shipping Ltd. registered in the Island of Anguilla indicate **“cash in hand”** for the year ending 2014 and 2013 in the amounts of **\$450,200,140** and **\$416,994,411** respectively. (See **Exhibit “G”**).

⁴ The fleet was successfully sold at the height of the market between 2007 and 2008”, reportedly for **\$800 million dollars**. It is believed that the Carlyle Group acted as brokers to the transaction.

CONCLUSION

WHEREFORE, Suarez asks the Court to consider the applicable provisions of Federal and Florida law in awarding punitive damages based on a percentage of Defendant's net worth, and granting such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been EMAILED to **KLP HOLDINGS, INC. (LIBERIA)**, 101 Dingletown Road, Greenwich, Connecticut 06830, (alf.aanonsen@klpindustries.com); **SEA OIL TRADING, INC.**, 101 Dingletown Road, Greenwich, Connecticut 06830 (alf@seaoilshipping.com); and **ALF J. AANONSEN**, 101 Dingletown Road, Greenwich, Connecticut 06830 (alf@oceanfc.com); on this 27th day of July, 2018.

PEREZ & RODRIGUEZ, P.A.
Attorneys for Plaintiff
95 Merrick Way, Suite 600 Coral
Gables, Florida 33134
Tel: (305) 667-9878
Fax: (305) 667-9657
Service Email: Pleadings@prmiamilaw.com

By: Isl Javier J. Rodriguez
JAVIER J. RODRIGUEZ
Fla. Bar No. 827347
Jrodriguez@prmiamilaw.com

APPENDIX F

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 2016-009220-CA-01

MICHAEL A. SUAREZ, as Trustee
of the MAS Family Trust,

Plaintiff,

vs.

KLP HOLDINGS, INC. (LIBERIA),
a foreign corporation;
SEA OIL TRADING, INC., a foreign corporation;
ALF J. AANONSEN, individually;

Defendants.

PLAINTIFF'S POST TRIAL MEMORANDUM OF LAW

*Honorable Judge Beatrice Butchko
Presiding*

PEREZ & RODRIGUEZ, P.A.
Attorneys for Plaintiff
95 Merrick Way, Suite 600 Coral Gables, Florida 33134
Tel:(305) 667-9878; Fax:(305) 667-9657
Service Email: Pleadings@prmiamilaw.com

INTRODUCTION

This Post Trial Memorandum of Law is intended to provide guidance to the Court in quantifying and setting an award of punitive damages. Additionally, this Memorandum will discuss Florida law as it relates to the finding of liability for punitive damages, based upon Defendants failure to respond to the punitive damages claim in the Second Amended Complaint, the Court's entry of a default on this claim, and the technical admissions resulting from the default.

This Memorandum will make clear two important points regarding the trial. First, the Defendant cleverly chose not to testify under oath at the trial, and presented **no sworn testimony** of himself or any other witnesses, and presented **no evidence** other than one self-serving hearsay letter from Defendant's attorney to Defendant. All of Defendants statements and denials of wrongdoing at the trial were either part of his opening statement, or were made during questioning of Plaintiff's witnesses. This is not evidence. Second, this Memorandum, together with documents filed contemporaneously herewith will show that even these unsworn statements were absolute lies. Indeed, from the moment Defendant opened his mouth at the trial, he lied to the Court, and he did so continuously throughout the proceeding. This will be detailed below, but two examples are worth explaining here:

- (a) Defendant denied knowing anything about the false and fraudulent supposedly audited financial statements presented to PDVSA by KLP during the time Defendant ran the company. This, despite the cover letter under his signature, which he denied was his signature, but which even the Court stated looked exactly like his known signature on other documents. Plaintiff has filed with the Court a Forensic Handwriting Examiner's Report from a certified handwriting analysis expert confirming that the questioned signature is, in fact, a genuine signature of Defendant. His denial is false.
- (b) Defendant claimed that the money he paid to a known Venezuelan government official was payment of a pre-existing debt owed to this official by Plaintiff, who denied this allegation under oath. Plaintiff has filed with the Court the Affidavit of Isabel Gonzalez, a person who was physically present during these meetings in Panama, and who confirms, under oath, that this assertion is false. The payments were clearly bribes.

In sum, Defendant has throughout the underlying transaction, and throughout this case, shown his utter contempt for the Plaintiff, his counsel, and this Court. He has violated Court orders too numerous to recount, resulting in his pleadings being stricken by Judge Thornton, and multiple

defaults being entered against him in this case. He constantly misrepresents the facts to the Court with no conscience. Punitive damages are appropriate.

FACTS AND PROCEDURAL HISTORY

This action arises in connection with the sale of a Florida limited liability company, KLP Industries, LLC ("KLP"), by Suarez to the Defendants. On March 19, 2014, Suarez, as seller, KLP Holdings, as purchaser, and Sea Oil Trading, as guarantor, entered into an agreement titled "Purchase/Sale of 100% Interest of KLP Industries LLC Agreement" ("the Purchase/Sale Agreement"), pursuant to which Suarez agreed to sell his 100%-member interest to KLP Holdings.

Defendant paid the first part of the purchase price at the time of closing but never paid the balance due. On April 12, 2016, Suarez filed this action as a result to Defendants' failure to pay the balance of the purchase price. The five count Amended Complaint included the following claims: (i) breach of contract against KLP Holdings; (ii) declaratory relief against KLP Holdings and Sea Oil Trading; (iii) breach of guaranty against Sea Oil Trading; (iv) **breach of fiduciary duty against Aanonsen**; and (v) breach of fiduciary duty against another defendant, Cristobal Schlaubitz, who subsequently settled with Suarez. Aanonsen was initially represented by counsel and vigorously challenged venue and service. The court ruled in Suarez's favor on both challenges. Subsequently Aanonsen fired his attorneys and chose to represent himself. He chose not to respond to the initial complaint. He also chose to ignore numerous other court orders. Nevertheless, throughout the proceedings, Aanonsen appeared by phone or personally at the hearings.

On December 20th, 2016, after striking the Defendants' pleadings due to serial non-compliance with various Court orders, the Court entered a Default Final Judgment for Damages and Declaratory Relief against all the Defendants except Schlaubitz in the amount of \$1,486,327.68. This judgment was never appealed, and a later motion to vacate the judgment was denied. On March 7th, 2017 this Court entered a Final Judgment for Attorney's Fees and Costs in the amount of \$199,893.53. The remaining claim against Schlaubitz was thereafter settled. The final judgment specifically reserved jurisdiction to consider claims for punitive damages under section 768.72, Fla. Stat. (2016).

Plaintiff subsequently filed his Amended Motion for Leave to Assert Claim for Punitive Damages, and the Court granted the motion, finding the proffer of evidence sufficient to support a claim of punitive damages. The entitlement to punitive damages was established by this Court

when it entered an Order Granting Plaintiff's Motion for Leave to Assert Punitive Damages on November 30th 2017, and determined that the evidence presented in support of the claim for punitive damages was sufficient to establish entitlement. Thereafter, the well pleaded allegations of the Second Amended Complaint and the extensive exhibits thereto were **admitted** when defendant failed to answer as required, and the Court entered an Order of Default on January 30th, 2018. On July 31, 2018 a trial was held solely to establish and quantify the **amount** of Punitive Damages to be awarded.

As detailed in the Second Amended Complaint, allegations which are deemed admitted based on the entry of a default against Aanonsen, Defendant Aanonsen breached his fiduciary duty, engaged in fraudulent, criminal, reckless and reprehensible behavior, as follows:

- (1) Defendant made an illegal payment to a Foreign Official as defined under the Foreign Corrupt Practices Act in an attempt to gain an unreasonable financial gain;
- (2) Defendant submitted false and fraudulent financial statements to *Petroleos de Venezuela, S.A.* ("PDVSA") which reflected a net worth in excess of \$700 million dollars;¹ and
- (3) Defendant did not file Federal Income Tax Returns for the Company while he was Manager of KLP Industries LLC and in control of the company;

Defendant Aanonsen committed these acts while he knew, or should have known, that he was committing illegal acts punishable by law. Defendant is guilty of gross negligence at best, but much more likely intentional misconduct. Defendant had actual knowledge of the wrongfulness of his conduct, and that injury to the Plaintiff would result from Defendant's conduct.

Defendant's conduct was motivated by his own desire for unreasonable financial gain, and Defendant had a conscious disregard and indifference as to how his actions would affect others. He

¹ Plaintiff would like to clarify that in Paragraph 25 and 46(c) of the First, and Second Amended Complaint he alleges that Defendant filed "fraudulent" financial statements with PDVSA for the Year 2013. Plaintiff made this allegation based on the fact that in the Year 2013 Plaintiff had not yet sold the Company to Aanonsen, and the company did not have the assets indicated in those amounts for that year. The statement for 2013 is allegedly fraudulent because Aanonsen used the statement to misrepresent to PDVSA the financial condition of the company for that year; and not because those assets were nonexistent. In fact, the existence of the assets are authenticated by Deloitte's certification of the Audited Financial Statements.

committed these acts which caused the erosion of the value of the stock of the company which was being held in escrow to guarantee his second payment for the balance of the purchase price; which he never paid.

LIABILITY FOR PUNITIVE DAMAGES

In this case, under Florida law, the entry of the Order of Default in favor of Plaintiff established that all material facts and allegations contained in the Second Amended Complaint were accepted by the court as **admitted**. *See Rich v. Spivey*, 922 So.2d 326 (Fla. 1st DCA 2006). “A default admits liability as claimed in the pleading by the party seeking affirmative relief against the party in default and operates as an admission of the truth of the well pleaded allegations of the pleading, except those concerning damages” *Id.* citing *Sec. Bank N.A. v. Bellsouth*, 679 So.2d 795, 803 (Fla. 3d DCA 1996). *See also* Henry P. Trawick, Jr. *Florida Practice & Procedure* § 25-4 at 348 (1988 ed.)); *United States Fire Ins. Co. v C & C Beauty Sales, Inc.*, 674 So.2d 169, 172 (Fla. 3d DCA 1996). “When a default is entered, the defaulting party admits all well-pled factual allegations of the complaint”. *See Kotlyar v. Metropolitan Cas. Ins. Co.*, 192 So.3d 562 (Fla. 4th DCA 2016) citing *Phadael v Deutsche Bank Trust Co. Ams.*, 83 So. 3d 893, 895 (Fla 4th DCA 2012) and *Donohue v Brightman*, 939 So. 2d 1162, 1164 (Fla. 4th DCA 2006). This legal principle is well understood and not subject to dispute. Florida law further provides that the failure to respond to a complaint that seeks punitive damages waives the provisions of Fla. Stat. § 768.72 which give procedural protections to Defendants from claims for punitive damages. *See Fostock v. Lampasone*, 711 So. 2d 1154 (Fla. 4th DCA 1998) citing *Solis v. Calvo*, 689 So. 2d 366, 368 (Fla. 3d DCA 1997); see also *Kraft General Foods, Inc. v. Rosenblum*, 635 So. 2d 106 (Fla. 4th DCA 1994).

The Order of Default against Aanonsen established the legal admission of the facts which form the basis of the claim for punitive damages, facts which had already been deemed sufficient by Judge Thornton to support the claim. As such, the purpose of the trial was solely to establish a suitable amount of punitive damages. Notwithstanding, in consideration of the Court’s request to review substantiation of the claim beyond the technical admissions, Plaintiff has filed contemporaneously herewith the Affidavit of Isabel Gonzalez, supporting the facts as alleged and deemed admitted. These items are discussed below.

The **Forensic Handwriting Examiner's Report** by Michele Dresbold dated August 17, 2018, validates the signature of Alf Aanonsen in connection with financial statements audited by Deloitte, and which reflects assets of \$708,657,709 Million (US) Dollars. This report irrefutably establishes that Defendant signed the cover letter, and therefore that his denials during the trial that the signature on the cover letter was his were absolutely false.

The sworn **Affidavit of Isabel Gonzalez** with corresponding exhibits dated August 24, 2018 shows that Defendant's denial of the obvious bribery of a foreign official by claiming that the acknowledged payment was actually the satisfaction of an obligation of Plaintiff to this individual is also false. Isabel Gonzales was a Consultant retained by Defendant while he was in control of KLP Industries, and she was physically present during these meetings in Panama, as described in her affidavit. Her sworn affidavit gives testimony as to the illegal acts committed by Aanonsen, supports the technical admissions that a bribe by Aanonsen and his agents occurred, provides further support that the Foreign Corrupt Practices Act was violated, and that Aanonsen made substantial misrepresentations to the Court at the trial.

PUNITIVE DAMAGES AWARD AMOUNT

An award of punitive damages is made by the Court, in this non-jury case, based on a **preponderance of the evidence** standard. The Court should award damages that would serve the dual purpose of punishing the Defendant and deterring similar conduct in the future. The deterrence justification for punitive damages is motivated by two objectives: (1) to deter the specific Defendant in the case from repeating or continuing his, her, or its offensive behavior; and (2) to deter, generally, other potential parties from committing similar offenses. See Restatement (Second) of Torts, section 908. This analysis can be based on a methodology using either a compensatory damages award multiplier or a percentage of the Defendant's net worth.

Although Defendant has filed for bankruptcy under Chapter 7 of the Federal Bankruptcy Code in Connecticut, Plaintiff believes that said bankruptcy filing is a sham and is irrelevant as to a determination of an amount of punitive damages, as no amount awarded by this Court would cause defendant to file for bankruptcy. Ultimately, the Federal Bankruptcy Court in Connecticut will determine whether there are assets from which to pay any award of punitive damages made by this Court. Indeed, the Office of the U.S. Trustee has selected Defendant's case to be audited by

the U.S. Department of Justice in an effort to determine Defendant's true assets, because Defendant is a repeat "filer" in that Bankruptcy Court.²

A. Percentage of Self-Declared Net Worth

"Punitive damages may properly be imposed to further a State's legitimate interest in punishing unlawful conduct and deterring its repetition" BMW of N. Am., Inc. v Gore, 517 U.S. at 559, 568, 116 S. Ct. 1589, 134 L. Ed. 2d 809 (1996). "Extraordinary wrongdoing justifies extraordinary civil punishment without limiting ratios" Lawnwood Medical Center Inc. v Sadow, 43 So. 3d at 732 (Fla. 4th DCA 2010).

Although the case in Florida is being tried in State Court, the first action listed in the First and Second Amended Complaint for which Defendant is liable, is for a violation of the Foreign Corrupt Practices Act – *15 U.S.C. §78dd-1 et seq.* The violation is considered a criminal fraud under Federal law and for which there is no cap, in fines and punitive damages. The Foreign Corrupt Practices Act of 1977, as amended, *15 U.S.C. §§ 78dd-1, et seq.* ("FCPA"), was enacted for the purpose of making it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. Specifically, the anti-bribery provisions of the FCPA prohibit the willful use of the mails or any means of instrumentality of interstate commerce corruptly in furtherance of any offer, payment, promise to pay, or authorization of the payment of money or anything of value to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a foreign official to influence the foreign official in his or her official capacity, induce the foreign official to do or omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person.

In further support for the "no limit" award under Federal guidelines, additional material was provided to the court as Exhibits A, B, C, and D of Plaintiff's Trial Memorandum of Law filed on July 27, 2018, and these are included herein by reference. For example, punitive damages or fines under Federal guidelines for similar violations in the year 2017 include \$965 million dollars imposed against Telia, a Swedish-based telecommunication provider; \$29.2 million dollars against

² See docket in Bankruptcy **Case No 18-50762 of Alf J. Aanonsen**, Federal Bankruptcy Court of Connecticut.

Halliburton; \$30 million dollars against SQM a Chilean-based chemical and mining company; \$30 million dollars against Biomet, a medical device manufacturer. In the Year 2016 the amount of \$519 million dollars was imposed against Teva Pharmaceutical; \$957 million dollars against Braskem S.A. a Brazilian-based petrochemical manufacturer; \$264 million dollars against J.P. Morgan; \$205 million dollars against Embraer a Brazilian-based aircraft manufacturer; \$412 million dollars against Och-Ziff Hedge Fund among others. These are just a short list of companies on which punitive damages or fines were imposed in the years 2016 and 2017.

Consistent with other no limits awards made under Federal guidelines for similar violations as indicated in the above referenced cases, Plaintiff asks the Court to make an award for punitive damages equivalent to ten per cent (10%) of Defendant's self-declared assets. Ten per cent of defendant's assets has been established by Florida case law as a reasonable amount of punitive damages. See Young v. Becker and Poliakoff, P.A., 88 So.3d1002 (Fla 4th DCA 2012) ("The Court found that the maximum award that will not be excessive is \$2.0 million dollars which constitutes about 18% to 20% of the firm's net worth") citing TXO Production Corp. v Alliance Resources Corp., 509 U.S. 443,113 S. Ct. 2711, 125 L.Ed.2d 366 (1993), which upheld a \$10 million punitive damage award on a \$19,000 compensatory damage award against a company's net worth \$2.0 billion. "Even very large punitive damages award will be affirmed when they take but a small proportion of the defendant's net worth." Bould v Touchette, 349 So. 2d 1181, 1187 (Fla 1977) (affirming an \$800,000 punitive damage award when the defendant had a net worth in excess of \$13 million). See also Sperry Rand Corp. v A.T.O., Inc., 447 F.2d 1387 (4th Cir. 1971) (punitive damages \$175,000, net worth \$750,000, approved); Fuchs v Kupper, 22 Wis. 2d 360 (1963) (punitive damages 12 ½ per cent net worth approved); Malco, Inc v Midwest Aluminum Sales, 14 Eis.2d 57, 109 N.W. 2d 516 (1961) (punitive damages 7 ½ per cent net worth approved).

For the purposes of computation of the award using the percentage of net worth methodology, Plaintiff asks the court to use as basis the self-declared asset values reflected in the Audited Financial Statement submitted by Defendant to PDVSA, and prepared by Deloitte for KLP Industries LLC for Year 2014 (\$708,657,709), and the Audited Financial Statements for Sea Oil Trading Company (\$450,200,140), which reflect a combined net worth of over \$1.0 billion, both of which were admitted as evidence in the trial. Suarez asks the Court to set the award at no less than ten percent (10%) of Defendant's self-declared assets, consistent with the cases cited above.

B. Multiple of Compensatory Damage Award

However, in the event the Court finds that the Federal guidelines are inapplicable in connection with imposing punitive damages in this case, and determines to follow the guidelines in the Florida Statutes for the computation of the punitive damages, then in such case, Suarez asks for the court to set an award at no less than \$5,945,310.72, which is equivalent to 4 times the compensatory damages previously awarded in this case. See Fla. Stat. § 768.73(1)(b).

Under Florida law, section 768.73, Fla. Stat. provides an additional parameter for an award of punitive damages. It begins by limiting punitive damages to three times the award of compensatory damages or \$500,000.00 in most cases. Section 768.73(1)(a). However, in cases where the Court determines that the wrongful conduct was motivated solely by unreasonable financial gain, and determines that the conduct was unreasonably dangerous, together with the high likelihood of injury resulting from the conduct, the limitation is raised to four times the amount of compensatory damages or \$2,000,000.00 whichever is greater. Section 768.73(1)(b). Lastly, in cases where there is specific intent to harm the claimant and defendant's conduct did in fact harm the claimant, there is no cap on the amount of punitive damages a Court can award. Section 768.73(1)(c).

CONCLUSION

WHEREFORE, Suarez moves for the entry of a Final Judgment against Aanonsen for Punitive Damages in the amount the amount the Court determines is appropriate and granting such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been EMAILED to **KLP HOLDINGS, INC. (LIBERIA)**, 101 Dingletown Road, Greenwich, Connecticut 06830, (alf.aanonsen@klpindustries.com); **SEA OIL TRADING, INC.**, 101 Dingletown Road, Greenwich, Connecticut 06830 (alf@seaoilshipping.com); and **ALF J. AANONSEN**, 101 Dingletown Road, Greenwich, Connecticut 06830 (alf@oceanfc.com); on this 10th day of September, 2018.

PEREZ & RODRIGUEZ, P.A.

Attorneys for Plaintiff

95 Merrick Way, Suite 600 Coral Gables,
Florida 33134

Tel: (305) 667-9878

Fax: (305)667-9657

Service Email: Pleadings@prmiamilaw.com

By: Isl Javier J. Rodriguez

JAVIER J. RODRIGUEZ

Fla. Bar No. 827347

Jrodriguez@prmiamilaw.com

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ADDENDUM TO PLAINTIFF'S POST TRIAL MEMORANDUM

SUMMARY OF DEFENDANT'S MISREPRESENTATIONS AT TRIAL AND

PLAINTIFF'S REBUTTAL

Plaintiff incorporates by reference the FORENSIC HANDWRITING EXAMINER'S REPORT by Michele Dresbold dated August 17, 2018, and the SWORN AFFIDAVIT OF ISABEL GONZALEZ with corresponding Exhibits A thru I, dated August 24, 2018, which were filed contemporaneously herewith.

It should be pointed out that none of the statements made by Defendant at the trial were made under oath as he never took the stand on his own behalf. All the statements were cleverly made as part of his opening statement or during his questioning of Plaintiff's witnesses.

We cite and rebut Defendants misrepresentations to the Court at the trial as follows:

1. *Throughout the trial defendant repeatedly denied his signature in the transmittal letter which validates the authenticity of the audited financial statements by Deloitte for the Year 2014 in excess of \$708,657,709 million dollars.*

Plaintiff's Response: This is a false statement and a misrepresentation to the Court by Defendant. Even the Court acknowledged at trial that the signature looked legitimate. For a complete rebuttal *See FORENSIC HANDWRITING EXAMINER'S REPORT* by Michele Dresbold dated August 17, 2018 which **authenticates** Aanonsen's signature after evaluating 19 other signature specimens signed by Aanonsen.

2. *Defendant denies he made a bribe to a foreign official in violation of the Foreign Corrupt Practices Act. Defendant alleges that the money transferred to the Foreign Official was to pay for "commissions owed by Suarez" for a previous transaction.*

Plaintiff's Response: This is a transparent attempt by Defendant in what appears to be an attempt by Defendant to justify his illegal actions and at the same time shift the blame to his accuser. Plaintiff uses in support a self-serving letter from his attorney Christopher Keane, who is the person that made the illegal payment out of his Law Firm's trust account, and who also participated in the second meeting in Panama with the PDVSA official. Keane is thereby also implicated in this

violation of the Foreign Corrupt Practices Act. As a complete rebuttal, see paragraph 6 thru 12 of the SWORN AFFIDAVIT OF ISABEL GONZALEZ.

3. *Defendant alleges that he had to pay in order to get a letter from PDVSA certifying that KLP Industries LLC was registered and in good standing. Defendant further alleges it was the responsibility of the Seller (Plaintiff) to provide said letter as a condition of the sale.*

Plaintiff's Response: KLP Industries LLC had been registered and in good standing with PDVSA since the year 2002. As a complete rebuttal see paragraph 5, and Exhibit "C" of the SWORN AFFIDAVIT OF ISABEL GONZALEZ. A letter from PDVSA dated March 21, 2014, along with all of PDVSA's previous registration documents certifying that the Company was registered and in good standing were provided to Defendant as part of the condition of the sale. There was no charge for getting PDVSA to issue any of said documents, including the letter issued March 21, 2014.

4. *Defendant alleges that the Refining Agreement between KLP Industries and the Liaoning Province Panjing Petro Chem Refinery in China was not valid.*

Plaintiff's Response: This is a false statement and a misrepresentation to the Court. See paragraph 13 to 21, and Exhibits "D" thru "H" of SWORN AFFIDAVIT OF ISABEL GONZALEZ. Additionally, see paragraph 2.1.2(b) Purchase and Sale of 100% Interest of KLP Industries LLC Agreement attached as Exhibit "D" in the First Amended Complaint, which states:

Purchaser acknowledges that has it has received and carefully reviewed that information provided by Seller to enable Purchaser to evaluate his purchase of the Member Interest of the Company prior to entering into this Agreement. Purchaser has been given the opportunity to ask questions of and to receive answers from the Company concerning its business and the Interest, and to obtain such additional written information necessary to verify the accuracy thereof prior to entering into this Agreement".

The Refining Agreement with the Liaoning Province Panjing Petro Chem Refinery in China was valid and it is still valid to this day. It was procured by Tarah Singh of Nuada Holdings in London on behalf of KLP Industries prior to the sale of the Company, with the understanding that the sale any crude oil to be sold to the Refinery would be through her company. The Refining Agreement

with the Liaoning Province Panjing Petro Chem Refinery in China was **never submitted** by Aanonsen to PDVSA for approval. Instead Aanonsen procured a refining agreement with a different refinery from (UAE) in the Middle East by the name of Kapco Petroleum Industries and submitted it to PDVSA for approval. See paragraphs 13 to 21 and Exhibits “D” thru “H” of SWORN AFFIDAVIT OF ISABEL GONZALEZ.

5. *Defendant introduced at trial a self-serving letter from his attorney Christopher Keane in an attempt to justify the illegal payment made out of the law firm trust account.*

Plaintiffs’ Response: This letter is a self-serving sham of a letter. Christopher Keane is not a credible witness. He is intimately involved with the violation of the Foreign Corrupt Practices Act that are the subject of the claim. First, the illegal payment of \$180,000 was made out of Keane’s escrow account. Second, according to Isabel Gonzalez, Keane **attended** and **participated** in the negotiations in the second meeting in Panama held on May 6 and May 7th when an additional bribe of \$0.50 cents per barrel was offered to Mario Ruda for every supply contract awarded by PDVSA. See paragraphs 10, 11 and 12 of SWORN AFFIDAVIT OF ISABEL GONZALEZ. Interestingly, Keane provided Aanonsen with the letter dated January 27, 2018 only after Aanonsen threatened him, as Keane himself later acknowledged, as follows:

After a few emails to me containing no so veiled **threats**, and additional phone messages to the same effect, my partner, Mary Ann, spoke with him on my absence given that he was trying to implicate not only me but Keane & Marlowe.

In other words Keane provided Aanonsen the letter dated January 27, 2018 under the threat that Aanonsen would implicate Keane and his law firm in the case. That is the letter that Aanonsen provided to the court at the trial.

6. *Repeatedly throughout the trial Aanonsen alleged that he has no money and he has filed for Bankruptcy.*

Plaintiff’s Response. This is not a credible statement. Plaintiff believes that Aanonsen has an asset protection program in place and substantial assets hidden overseas. See Plaintiff’s Trial Exhibits P-1 to P12. His net worth is best represented by the self-declared assets in the audited financial statements which he authenticated in his transmittal letter to PDVSA.

Additionally, please note that Aanonsen is a repeat “filer” of bankruptcy in Connecticut. He filed for Bankruptcy in 1998 in a similar circumstance to avoid the payment of a judgment against him; only to go out and buy six oil tankers for \$28 million dollars within six months after being granted his discharge. See Trial’s Exhibit 3 and Trial’s Exhibit 4. See the remaining Trial Exhibits P-1 to P-12 which substantiate Aanonsen’s assets. Additionally, See Trial Exhibit P-12 property located at 22 Conyers Farm Drive, Greenwich, Connecticut which Aanonsen attempted to purchase for \$22 million dollars on November 2017.

7. *Aanonsen alleges that the filing of tax returns for KLP Industries while he was in control of the Company was not his responsibility.*

Plaintiff’s Response: See paragraph 1.7 of the Purchase/Sale of 100% Interest Agreement attached as **Exhibit “D”** of the First Amended Complaint.

Purchaser will assume responsibility with compliance with all legal requirements of the Company.