

IN THE SUPERIOR COURT
FOR THE DISTRICT OF COLUMBIA

**THEC International Corporation-Hamdard
Cordova Group-Nazari Construction
Company, Ltd. Joint Venture**
Gardiz City
Paktya Province, AFGHANISTAN

**Faizi Masroor Construction Company-
THEC International Corporation-Hamdard
Construction Company Joint Venture**
Khushal Khan, Street #5
Sarak-e-Takyahana
Near Kainat School
Kabul, AFGHANISTAN

Hamdard Cordova Group
Khushal Khan
Sarak-e-Takya Khana
Street 2, District 5
Kabul, AFGHANISTAN

Nazari Construction Company, Ltd.
Nazari House, Lane 4, Street 13
Wazir Akbar Khan
Kabul, AFGHANISTAN

Faizi Masroor Construction Company
Industrial Park
Block A, Street 5, Unit Last (North)
Kabul, Afghanistan

Dr. Abdullah Faizi
Industrial Park
Block A, Street 5, Unit Last (North)
Kabul, Afghanistan

Gul Rahman Hamdard
Khushal Khan, Sarak-e-Takya Khana, Street 2,
District 5
Kabul, AFGHANISTAN

Plaintiffs,

vs.

Case No. 2017 CA 002122 B
Judge Robert R. Rigsby

FIRST AMENDED COMPLAINT

for

Aiding and Abetting Fraud
Aiding and Abetting Conversion
Aiding and Abetting Breach of Fiduciary Duty
Tortious Interference with Contract
Breach of the Standard of Care
Breach of the Standard of Conduct
Fraud
Breach of Contract
Injunctive relief
Punitive Damages Requested
Bench Trial Requested

Cohen Mohr, LLP

1055 Thomas Jefferson Street, NW
Washington, DC 20007

Andrew K. Wible

6100 Nebraska Ave NW
Washington, DC 20015-1124

William F. Savarino

4138 23rd Street
North Arlington, VA 22207-3921

Defendants.

TABLE OF CONTENTS

| <u>Section</u> | <u>Description</u> | <u>Paragraphs</u> | <u>Page</u> |
|----------------------------------|---|-------------------|-------------|
| INTRODUCTION | | | 1 |
| PARTIES TO THE ACTION | | ¶¶1-11 | 2 |
| NON-PARTIES TO THE ACTION | | ¶¶12-13 | 3 |
| JURISDICTION AND VENUE | | ¶¶14-16 | 4 |
| GOVERNING LAW | | ¶¶17-19 | 4 |
| STATEMENT OF FACT | | ¶¶20-181 | 5 |
| | The Establishment of the FTH Joint Venture and its Decision-Making and Financial Controls | ¶¶21-28 | 5 |
| | FMCC is Replaced by NCCL and the THN Joint Venture supersedes the FTH Joint Venture | ¶¶29-40 | 6 |
| | THEC Fails to Establish Its Planned Kabul-Based Subsidiary | ¶¶41-43 | 8 |
| | The THN Joint Venture Agreement Creates Management Controls and Establishes Authorized Representatives for Each of the THN Joint Venture Participants | ¶¶44-54 | 9 |
| | The THN Joint Venture Opt to Use the Existing Performance Guarantee-Backed Account into Which IRD Already Made Payments | ¶¶55-59 | 11 |
| | IRD Terminates the Subcontract for Convenience | ¶¶60-62 | 12 |
| | Abdul Hadi Rakin Secretly Hires Defendants Who Assist THEC to Plaintiffs' Detriment | ¶¶63-103 | 13 |
| | More Than Six Months After Being Hired by THEC, Defendants' Secret Negotiations are Unveiled only Days | ¶¶104-160 | 17 |

| | | | |
|---|--|-----------|----|
| | Prior to the Final Payment of \$3,690,563.75 being wired into an account controlled exclusively by THEC; Conspicuous Irregularities and Protests are Manifest; Defendants Maintain Silence and Do Nothing. | | |
| | Defendants Refuse to Meet and Confer, Provide Access to FTH Joint Venture and THN Joint Venture Files; and Continue to Block Plaintiffs' Access to Files Memorializing Negotiations with IRD | ¶¶161-181 | 26 |
| CLAIMS BROUGHT BY FTH PLAINTIFFS | | ¶¶182-290 | 29 |
| By FTH Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the FTH joint venture | COUNT 1 Aiding and Abetting THEC's Fraud | ¶¶185-193 | 30 |
| By FTH Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the FTH joint venture | COUNT 2 Aiding and Abetting THEC's Conversion of \$3,690,563.75 | ¶¶194-203 | 32 |
| By FTH Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the FTH joint venture | COUNT 3 Aiding and Abetting THEC's Breach of Fiduciary Duty (Breach of Loyalty) | ¶¶204-212 | 34 |
| By FTH Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the FTH Plaintiffs | COUNT 4 Tortious Interference with Contracts between and among the FTH joint venture, IRD, FMCC, HCG, NCCL, and THN | ¶¶210-231 | 34 |
| By FTH Plaintiffs against all Defendants notwithstanding a lack of privity of contract | COUNT 5 Breach of the Standard of Care (Legal Malpractice/Negligence) | ¶¶225-236 | 38 |
| By FTH Plaintiffs against all Defendants notwithstanding a | COUNT 6 | ¶¶237-248 | 42 |

| | | | |
|---|---|-----------|----|
| lack of privity of contract | Breach of the Standard of Conduct (Breach of Fiduciary Duty) | | |
| By FTH Plaintiffs against all Defendants pled in the alternative were it to be determined that an attorney-client relationship existed between Defendants and the FTH joint venture | COUNT 7 Injunctive Relief | ¶¶249-258 | 45 |
| By FTH Plaintiffs against all Defendants pled in the alternative were it to be determined that an attorney-client relationship existed between Defendants and the FTH joint venture | COUNT 8 Fraud | ¶¶259-271 | 46 |
| By FTH Plaintiffs against all Defendants pled in the alternative were the Court to determine a bona fide attorney-client relationship existed between Defendants and the FTH joint venture | COUNT 9 Breach of the Standard of Care (Legal Malpractice/Negligence) | ¶¶272-278 | 48 |
| By FTH Plaintiffs against all Defendants pled in the alternative were the Court to determine a bona fide attorney-client relationship existed between Defendants and the FTH joint venture | COUNT 10 Breach of the Standard of Conduct (Breach of Fiduciary Duty) | ¶¶279-284 | 51 |
| By the FTH Joint Venture against all Defendants pled in the alternative were the Court to determine a bona fide attorney-client relationship existed between Defendants and the FTH joint venture | COUNT 11 Breach of Contract | ¶¶285-290 | 53 |

| | | | |
|---|---|-----------|----|
| CLAIMS BROUGHT BY THN PLAINTIFFS | | ¶¶291-364 | |
| By the THN Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the THN joint venture | COUNT 12 Aiding and Abetting THEC's Fraud | ¶¶291-301 | 54 |
| By the THN Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the THN joint venture | COUNT 13 Aiding and Abetting THEC's Conversion of \$3,690,563.75 | ¶¶302-313 | 57 |
| By the THN Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the THN joint venture | COUNT 14 Aiding and Abetting THEC's Breach of Fiduciary Duty (Breach of Loyalty) | ¶¶314-323 | 59 |
| By the THN Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the THN joint venture | COUNT 15 Tortious Interference with Contracts between and among the THN joint venture, IRD, NCCL, HCG, NCCL, and THN | ¶¶324-335 | 61 |
| By the THN Plaintiffs against all Defendants where, notwithstanding a lack of privity, Defendants breached their duty of care | COUNT 16 Injunctive Relief | ¶¶336-344 | 63 |
| By the THN Plaintiffs against all Defendants where, notwithstanding a lack of privity, Defendants breached their duty of care | COUNT 17 Breach of the Standard of Care (Legal Malpractice/Negligence) | ¶¶345-354 | 65 |
| By the THN Plaintiffs against all Defendants where, notwithstanding a lack of privity, Defendants breached their duty of care | COUNT 18 Breach of the Standard of Conduct (Breach of Fiduciary Duty) | ¶¶355-364 | 69 |

INTRODUCTION

Come now then the THN joint venture (formally known as “the THEC International Corporation-Hamdard Cordova Group-Nazari Construction Company, Ltd. Joint Venture” and also known as the “THEC-HCG-NCCL joint venture”), the FTH joint venture (formally known as the “Faizi Masroor Construction Company-THEC International Corporation-Hamdard Cordova Group joint venture,” or “the FMCC-THEC-NCCL joint venture”); Hamdard Cordova Group (“HCG”); Nazari Construction Company, Ltd. (“NCCL”); Faizi Masroor Construction Company (“FMCC”); Abdullah Faizi; and Gul Rahman Hamdard to the Superior Court for the District of Columbia to complain of the acts and omissions of William F. Savarino, Andrew Wible and the law firm Cohen Mohr, LLP.

This is the story of how Defendants aided THEC International Corporation of Virginia (“THEC”) in stealing money from Plaintiffs. Specifically, a payment of \$3,690,563.75 that was supposed to be paid into the customary account used by Plaintiffs to reconcile debts, accounts, and distribute profits for services they provided on a United States Agency for International Development road construction project was, with Defendants’ assistance, diverted into a bank account in the United States controlled exclusively by THEC. Through their substantial assistance, Defendants aided and abetted THEC’s fraud, conversion, and breach of fiduciary duty and also independently harmed Plaintiffs through independently inflicted torts and breaches of obligations.

PARTIES TO THE ACTION

1. The FTH joint venture was a contractual joint venture formed on or about October 17, 2009 for the exclusive purpose of bidding on and performing a subcontract with International Relief & Development, Inc. (“IRD”) for road construction in Afghanistan.

2. The THN joint venture was a contractual joint venture formed on August 8, 2010 when FMCC dropped out of the FTH joint venture and was replaced by NCCL. The substitution of NCCL for FMCC meant that the FMCC-THEC-HCG joint venture (the FTH joint venture) was superseded by the THEC-HCG-NCCL joint venture (the THN joint venture).

3. Though the FTH joint venture still has a skeletal existence, for all significant road construction obligations and most payment purposes, the FTH joint venture was replaced and superseded by the THN joint venture.

4. FMCC is an Afghanistan-based business that was a participant in the FTH joint venture. FMCC was replaced as a IRD Subcontract obligee by NCCL.

5. HCG is a Kabul, Afghanistan-located business which was a participant in both the FTH joint venture and the follow-on THN joint venture.

6. NCCL is a Kabul, Afghanistan-located business that was the successor to FMCC in performing the IRD Subcontract, and a participant in the THN joint venture.

7. Dr. Abdullah Faizi is citizen of Afghanistan and the owner of FMCC. Dr. Faizi enters his appearance as a Plaintiff in this action should there develop any defect in FMCC’s standing to bring suit in this action. In that event, Plaintiff Faizi asserts his personal interest and pleads his personal harms caused by the wrongful conduct herein described for those claimed by FMCC.

8. Gul Rahman Hamdard is a citizen of Afghanistan and the owner of HCG. Gul

Rahman Hamdard enters his appearance as a Plaintiff in this action should there develop any defect in HCG's standing to bring suit in this action. In that event, Plaintiff Hamdard asserts his personal interest and pleads his personal harms caused by the wrongful conduct herein described for those claimed by HCG.

9. Cohen Mohr, LLP ("Cohen Mohr") is a 14-attorney law firm in the District of Columbia with its only office at 1055 Thomas Jefferson Street, NW, Washington, DC 20007.

10. Defendant Andrew Wible is a non-partner attorney employed at Cohen Mohr who is a resident of the District of Columbia residing at 6100 Nebraska Ave NW, Washington, DC 20015-1124. Mr. Wible provided substantial assistance to THEC under the guise of representing the FTH joint venture.

11. Defendant William F. Savarino is a partner at Cohen Mohr who is a resident of the Commonwealth of Virginia residing at 4138 23rd Street, North Arlington, VA 22207-3921. Defendant Savarino executed the purported retention agreement between Cohen Mohr, LLP and the FTH joint venture and, on information and belief, was the supervising attorney with respect to the IRD/USAID termination for convenience settlement negotiations.

NON-PARTIES TO THIS ACTION

12. THEC is a Commonwealth of Virginia-based company that was a member of the FTH joint venture and a member of the follow-on THN joint venture. THEC is the Respondent in a Dubai, UAE-based International Chamber of Commerce International Court of Arbitration ("ICC ICA"), Case No. filed by HCG, NCCL, and the THN joint venture on June 27, 2016 ("the pending ICC arbitration"). Because THEC is already a party to ICC ICA arbitration in Dubai, THEC is not a party to this action.

13. IRD is a Commonwealth of Virginia-based company that was the counterparty to

the FTH joint venture and the THN joint venture for services provided for IRD's Prime road construction contract with USAID under "Subcontract No. SPR-T0-07-C09B-2010 Under USAID/IRD COOPERATIVE AGREEMENT No. 306-A-00-08-00509-00 Strategic Provincial Roads- Southern and Eastern Afghanistan" Construction Services for Road #9 (NH-10), Section B, from KM 50+000 to KM 92.281.531 from Kolalgu to Gardez in Paktya Province" (the "IRD Subcontract") As IRD Subcontract, Section 14.4.B requires arbitration of any disputes in Dubai, UAE, and Plaintiffs have covenanted against bringing "any action or proceed against the other party in any court or judicial forum concerning any matter under dispute, other than to seek entry of a judgment upon an award rendered by the arbitrator(s)" IRD is not subject to the jurisdiction of this Court. IRD has been named as an "Additional Party" to Arbitration No. ICC Case 22065/RD/MK

JURISDICTION AND VENUE

14. This Court has personal jurisdiction over Defendants pursuant to D.C. Code §§13-422 and 13-423 and because Defendants maintain an office and transact business in the District of Columbia.

15. Venue is proper as Defendant Wible is a resident of the District of Columbia; Cohen Mohr is located in the District of Columbia; and Defendant Savarino works in the District of Columbia.

16. Pursuant to the "forum defendant" rule found at 28 U.S.C. § 1441(b)(2), this case may not be removed to the United States District Court for the District of Columbia as Defendant Wible and Cohen Mohr are citizens of the District of Columbia.

GOVERNING LAW

17. Defendants practice law in the District of Columbia. The District of Columbia

has the most significant interest in Defendants' acts and omissions pursuant to the District of Columbia's obligations to safeguard its residents from harm inflicted by tort, breach of contract, or breach of contract.

18. Section 14.6 of the controlling IRD Subcontract to which the FTH joint venture, FMCC, THEC, HCG, NCCL, and the THN joint venture were obligated states that the subcontract "and all matters arising from or related to it shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, United States of America . . ."

19. Under this broad choice of law provision of the foundational IRD Subcontract, Plaintiffs agreed that their mutual obligations would be governed by the laws of the Commonwealth of Virginia.

STATEMENT OF FACT

20. On November 30, 2007, the United States Agency for International Development ("USAID") awarded SPR-SEA Cooperative Agreement No. 306-A-00-08-00509-00, Strategic Provincial Roads Project Southern and Eastern Afghanistan ("SPR-SEA"), (the "Prime Contract") to IRD in the amount of nearly \$400 million.

The Establishment of the FTH Joint Venture and its Decision-Making and Financial Controls

21. On or about October 17, 2009, Faizi Masroor Construction Company ("FMCC"), THEC International Corporation ("THEC"), and Hamdard Cordova Group ("HCG") entered into a joint venture agreement for the sole purpose of bidding upon and subsequently performing a subcontract with IRD in fulfillment of a portion of the SPR-SEA.

22. THEC at all times represented a minority 28.75% share in the FTH joint venture.

23. FMCC at all times represented a 38.75% share in the FTH joint venture.

24. HCG at all times represented a 32.5% share in the FTH joint venture.

25. The participants in the FTH joint venture established a management board composed of one manager each from FMCC, THEC, and HCG. The participants in the FTH joint venture agreed that all major decisions would be would be decided by the management board.

26. Dr. Abdullah Faizi and Gul Rahman Hamdard comprised the majority share, 71.25%, of the FTH joint venture and the majority managers of the FTH joint venture.

27. The participants in the FTH joint venture also agreed that HCG would have authority to sign, finalize and approve financial matters of the FTH joint venture.

28. On January 19, 2010, by signing the IRD Subcontract, the FTH joint venture became a subcontractor to IRD in performing the Kolalgu to Gardez portion of road construction.

**FMCC is Replaced by NCCL and the THN Joint Venture
Supersedes the FTH Joint Venture**

29. Not long after the IRD Subcontract was signed, disagreement arose among FMCC, THEC, and HCG. Specifically, FMCC stopped performing its construction obligations under the IRD Subcontract.

30. FMCC attempted to maintain its position in the FTH joint venture and in the IRD Subcontract as a silent partner with the FTH joint venture subcontracting FMCC's portion of the Subcontract to NCCL.

31. However, due to the investment necessary to perform the IRD Subcontract and FMCC's inability to make these investments, FMCC completely withdrew from the FTH joint venture.

32. NCCL replaced FMCC on the IRD Subcontract.

33. IRD knew about and consented to the replacement of FMCC by NCCL.

34. NCCL was not a mere subcontractor to the FTH joint venture, it was a full-fledged participant in the IRD Subcontract joint venture. NCCL's construction personnel replaced FMCC personnel for the day-to-day supervision of construction activities and took responsibility for long-term management and planning of IRD Subcontract contract performance activities.

35. NCCL took a 40% interest in the THN joint venture – the largest compared with HCG's 32% and THEC's minority interest of 28%.

36. Together HCG and NCCL held a 72% interest in the THN joint venture.

37. The sole purpose of the THN joint venture was to perform road construction and other services required by the IRD Subcontract.

38. The August 8, 2010 THN Joint Venture Agreement memorializes this history, stating explicitly:

PURPOSE OF THE JOINT VENTURE

FMCC one of the implementing partner of previous JV (FMCC-THEC and HCG JV), due to disagreement with the other partners on deploying its plants and machinery for implementation of the project decided to withdraw on April 2010 from JV and remain as inactive & silent partner. The other partners (HCG and THEC) suddenly faced with the huge task of implementation which required huge amounts of financial investments for buying plants and construction machinery. The remaining two partners of the JV took over the implementation aspect of the project to avoid additional schedule delays and to improve cash flow. However, the project progress was slow and the need for the cash infusion becomes critical for the success of the project. The JV members were informed of the problem and a meeting was convened on June 1, 2010. In this meeting Mr. Faizi agreed to withdraw from the JV and bring in a new partner as well as he agreed to forego his entire share to rescue the projects.

THEC and HCG decided to bring a new partner to take over the FMCC's responsibilities of the implementation of the project. After many interviews and discussions with potential companies, HCG-THEC decided to bring in Nazari Construction Company Limited (NCCL) as a new partner. NCCL has provided to THEC-HCG the complete list of equipments that they have access to for immediate deployment. The list is attached and includes the construction plants, machinery and equipment as well as NCCL has the construction team to move in and take over the day to day supervision of construction activities and the long term planning and management of the field activities.

The business of the new Venture shall be to perform: construction of the Ghanzi-Gardez Road

#9B project (The works include but is not limited to Construction of Embankments, Construction of the Culverts, Bridge and Retainings, Structures, Asphalt and DBST Shoulders etc.). All works should be constructed in accordance with the contract specifications & modifications signed with IRD under Contract Name: GHANZI-GARDIZ Road #9B – Kolalgu to Gardez (In Paktya Province) the subcontract # is SPR-TO-07-CO9B-2010 and also, the SPR-SEA Cooperative Agreement is 306-A00-08-00509-00, being entitled, and being in the dollar amount of USD \$35,822,792.00, in accordance with the contract documents for the Project and all such other business incidental to the general purposes herein set forth. NCCL's participation in performing the obligations of the IRD Subcontract as a full member of a joint venture is evidenced by the fact that NCCL provided access to HCG and THEC to construction plants, machinery, and equipment for use in performing the IRD Subcontract.

39. Though IRD had the option to terminate the Subcontract for default when it learned that NCCL had replaced FMCC, it did not do so. The IRD Subcontract remained in full force and effect notwithstanding the fact that NCCL replaced FMCC and, thus, the THN joint venture replaced the FTH joint venture.

40. IRD accepted the benefit of the THN joint venture's work on the IRD Subcontract as a substitute for the FTH joint venture's work on IRD Subcontract.

THEC Fails to Establish Its Planned Kabul-Based Subsidiary

41. The THN Joint Venture Agreement incorrectly identified THEC International Corporation as "THEC International" and described it as "a corporation organized and existing under the laws of the Islamic Republic of Afghanistan, with its head office at Khushal Khan, Sarak-e- Takay Khana, Street 4 District 5 Kabul, Afghanistan." In truth, no such entity ever came to exist. Though THEC International Corporation intended to establish a subsidiary that was organized and existing under the laws of the Islamic Republic of Afghanistan called "THEC International," and Abdul Hadi Rakin even solicited the assistance of the United States Department of State for assistance with this undertaking, no such subsidiary was ever established. As has been established under penalty of perjury, THEC International Corporation and THEC International were one and the same entity.

42. Though the THN Joint Venture Agreement identified "THEC International" as

being one of the members of the joint venture, this statement was inaccurate because U.S.-based THEC was the participating member of the THN joint venture.

43. For the purpose of interpreting the THN Joint Venture Agreement, the words “THEC International Corporation (THEC) (the ‘Second Joint Venturer’), a corporation organized and existing under the laws of the Commonwealth of Virginia” should be substituted for “THEC International (THEC) (the ‘Second Joint Venturer’), a corporation organized and existing under the laws of the Islamic Republic of Afghanistan.”

The THN Joint Venture Agreement Creates Management Controls and Establishes Authorized Representatives for Each of the THN Joint Venture Participants

44. The THN Joint Venture Agreement was signed and each page initialed by Abdul Hadi Rakin (owner of THEC, member of the FTH joint venture management board, and board member of the THN joint venture); Gul Rahman Hamdard (owner of HCG, member of the FTH joint venture management board, and board member of the THN joint venture); and Shir Mohammad Nazari (designated representative for NCCL and board member of the THN joint venture).

45. The THN Joint Venture Agreement, at Section 5.1, “Management,” stated, “The management of the Joint Venture shall be conducted pursuant to policy established by the Parties acting through a ‘Board of JV’ which is hereby established.”

46. Stated as an assertion, the THN joint venture management was to be conducted pursuant to a policy established by THEC, HCG, and NCCL acting through a joint venture board of directors.

47. The THN Joint Venture Agreement, at Section 5.2, “Authorities,” states, “All significant decisions shall be made by JV Board of Directors.” Section 5.2 then specifically identified the members of the JV Board of Directors by name as “Mr. Abdul Hadi Rakin, Gul

Rahman Hamdard and Shir Mohammad Nazari.”

48. Stated as an assertion, under Section 5.2 of the THN Joint Venture Agreement, all significant decisions with respect to the THN joint venture were to be made by the joint venture board of directors. The members of the joint venture board of directors were Abdul Hadi Rakin, Gul Rahman Hamdard, and Shir Mohammad Nazari.

49. Abdul Hadi Rakin was a U.S.-citizen, a resident of Virginia, was fluent in Pashto, Dari and English, and had more familiarity with U.S. business practices than any other member of the THN joint venture board of directors.

50. Section 5.2 of the THN Joint Venture Agreement was designed to prevent Abdul Hadi Rakin, through his superior fluency in spoken and written English, from making unilateral decision on behalf of the THN joint venture and to deter him from taking advantage the owners of HCG and NCCL.

51. The THN Joint Venture Agreement, Section 9, “Point of Contact,” states clearly that the persons previously identified as the members of the board of directors were also to serve as the points of contact for the operations of the THN joint venture. Specifically, such points of contact were Abdul Hadi Rakin, the owner of THEC; Gul Rahman Hamdard, owner of HCG; and Shir Mohammad Nazari member of the Nazari family which owned NCCL. Section 9 contained a variety of methods for communicating with each of these members of the joint venture board of directors.

52. Shir Mohammed Nazari was the NCCL-designated representative because he could speak, read, and write in English with relative fluency, yet his brother Abdul Rahman Nazari (the majority owner of NCCL) could not speak, read, or write in English. Moreover, Shir Mohammed Nazari had more education and was more familiar with U.S. business practices than

his brother Abdul Rahman Nazari.

53. The THN Joint Venture Agreement, at Section 7.1, “Deposits,” states, “All . . . funds received by the Joint Venture in connection with the performance of the project shall be deposited in a Checking Account, set up especially for the Joint Venture, and requiring the joint signatures of the parties for any withdrawals. Said accounts shall be kept separate and apart from any other accounts of the Venturers.”

54. Stated as an assertion, all funds that were to be received by the THN joint venture in connection with performance of the IRD Subcontract were to be deposited in a checking account, set up especially for the joint venture, and requiring joint signatures of the parties for any withdrawals. This joint account was to be kept separate and apart from any other accounts of THEC, HCG, or NCCL.

The THN Joint Venture Opts to Use the Existing Performance Guarantee-Backed Account into Which IRD Already Made Payments

55. The separate account that was selected for meeting the requirement of Section 7.1 of the THN Joint Venture Agreement was the preexisting joint venture account maintained at the Kabul Bank. This account met the criteria of the THN Joint Venture Agreement and had the benefit of already having a performance guarantee from the Kabul Bank (as required by the IRD Subcontract) associated with it.

56. Though the Parties agreed to keep the existing bank account, the authorized signatories on this account were changed. FMCC owner Abdullah Faizi was removed as a signatory on the Kabul Bank account and Shir Mohammad Nazari of NCCL was added as a signatory on the Kabul Bank account.

57. IRD made payments for work completed by the THN joint venture into the same account at Kabul Bank that it had always used to compensate for joint venture work under the

IRD Subcontract. IRD made these payments for work that IRD knew was being performed by NCCL in place of FMCC.

58. Because the process of changing the business authorizations issued by the Afghanistan Investment Support Agency (“AISA”) Government of the Islamic Republic of Afghanistan was expensive and time-consuming, formally registering the THN joint venture with AISA might have required IRD to renegotiate and rewrite its Subcontract when time was of the essence, and because IRD regularly did business with and made payments to non-AISA-registered counterparties, all the parties, including IRD, agreed that the new THN joint venture would not register with AISA.

59. In reconciling all accounts pursuant to the termination for convenience, all of the interested parties – FMCC, THEC, HCG, and NCCL – had expenses to reimburse, vendors to pay, employees to compensate, debts to settle, and profit expectations to satisfy.

IRD Terminates the Subcontract for Convenience

60. On March 1, 2011, IRD notified Abdul Hadi Rakin that it was terminating the IRD Subcontract for convenience.

61. The Federal Acquisition Regulations, Termination for Convenience of the Government, 48 CFR 52.249-2 describes the continuing obligations that the party terminating for convenience has to the terminated party for cost of performance incurred plus a reasonable profit. This final payment must be negotiated.

62. Thus, notwithstanding the notice of termination, IRD had continuing contractual obligations to Plaintiffs to enter into a fair settlement to compensate its them for the work done and the preparations made for the terminated portions of the contract, including a reasonable allowance for profit.

**Abdul Hadi Rakin Secretly Hires Defendants
Who Assist THEC to Plaintiffs' Detriment**

63. On July 27, 2013, Abdul Hadi Rakin sent an email to Gul Rahman Hamdard to recommend that a lawyer be hired in order to secure monies still owed to it by USAID and IRD. Gul Rahman did not agree to hire an attorney consequent to this email.

64. On July 28, 2013, Abdul Hadi Rakin sent an email to Abdul Rahman Nazari of NCCL and Gul Rahman Hamdard urging them to agree to the terms of a promissory note so that he could hire a lawyer to assist with negotiation of a settlement with USAID and IRD.

65. Neither Gul Rahman Hamdard nor Abdul Rahman Nazari (or any member of the Nazari family) consented to hiring William Savarino or Cohen Mohr, LLP to assist with negotiation of a settlement with USAID and IRD.

66. Under 5.2 THN Joint Venture Agreement, the approval of the THN Board of Directors, provided at a noticed meeting of the THN of the Board of Directors, was needed for all significant decisions.

67. The hiring of an attorney to represent THN was a significant decision.

68. There was no meeting of the THN board of directors to consider the hiring of an attorney to represent THN in negotiations with IRD.

69. Neither Gul Rahman Hamdard or Shir Nazari, members of the THN board of directors, voted to hire an attorney to represent THN in negotiations with IRD.

70. On or about September 24, 2013, unbeknown to NCCL or HCG, Abdul Hadi Rakin executed a contract with Defendant William F. Savarino and Cohen Mohr for legal services.

71. This retention contract purported to be between Cohen Mohr, LLP and the FTH joint venture.

72. The purported retention agreement between Cohen Mohr, LLP and the FTH joint venture was addressed only to THEC's address in Burke, Virginia, 9667 Poindexter Ct; Burke, VA 22015. The retention agreement indicated that all invoices for legal services would be sent to this Poindexter Ct. address.

73. At the time that Abdul Hadi Rakin signed what purported to be a retainer letter between Defendants and the FTH joint venture, NCCL had replaced FMCC on the IRD Subcontract, and the THN joint venture had superseded the FTH joint venture.

74. Neither Gul Rahman Hamdard nor Dr. Abdullah Faizi, who had served as the majority managers of the FTH joint venture, had been consulted or consented to hiring a lawyer to represent the FTH joint venture.

75. The FTH joint venture managers were never presented for decision the hiring of Cohen Mohr, LLP or any of the Defendants.

76. Defendants made no attempt to communicate with the FTH management board.

77. The purported retention agreement stated "Cohen Mohr will advise and represent FTH JV in connection with its termination for convenience claim of the Subcontract by U.S. AID and IRD. This will involve initially establishing a negotiation and litigation strategy against both entities and implementing the strategies as needed in the best interests of FTH JV."

78. Stated as an assertion, Defendants Savarino and Cohen Mohr, LLP contracted to advise and represent the FTH joint venture in connection with its termination for convenience claim of the Subcontract by U.S. AID and IRD. Defendants Savarino and Cohen Mohr, LLP contracted to establish a negotiation and litigation strategy against both IRD and USAID and implement strategies as needed in the best interests of the FTH joint venture.

79. Defendants have never produced the document that purports to provide the

evidence for its assertion that Abdul Hadi Rakin was the authorized representative of FTH.

80. Defendants have never provided an account for how it reached the conclusion that Abdul Hadi Rakin was the authorized representative of the FTH joint venture.

81. To the extent that Defendants relied upon JOINT VENTURE AGREEMENT FOR Road #9B Kolalgu To Gardez, Km 50+000 To Km 92+681 RFP#: SPR-T0-10-C09B-2009 17th October 2009, for its assertion that Abdul Hadi Rakin was the authorized representative of the FTH joint venture, Defendants should also have seen that this same document states, “After award of the Project JV partners will form a management board. All major decisions . . . shall be decided by the management board.”

82. The document signed by Abdul Hadi Rankin identified Abdul Hadi Rakin as an authorized signatory for the FTH joint venture.

83. Abdul Hadi Rakin was not authorized to hire Defendants to represent the FTH joint venture in connection with the termination for convenience claim of the IRD Subcontract.

84. Defendants never discussed negotiation and litigation strategy with the management board of the FTH joint venture, FMCC, or HCG.

85. Defendants never discussed negotiation and litigation strategy with the board of directors of the THN joint venture, HCG, or NCCL.

86. Defendants only discussed negotiation and litigation strategy with THEC.

87. Defendants did not act in the best interest of the FTH joint venture; instead, Defendants acted in the best interest of THEC.

88. Defendants did not act in the best interest of the THN joint venture; instead Defendants acted in the best interest of THEC.

89. Defendants did not send the purported retention agreement, or any other

document, to the FTH joint venture's office in Afghanistan, THN's joint venture's address, HCG's address in Afghanistan, FMCC's address in Afghanistan; or NCCL's address in Afghanistan.

90. Cohen Mohr, LLP was never paid from a the FTH joint venture bank account.

91. On information and belief, Cohen Mohr (and Defendants Savarino and Wible) were paid by THEC from THEC's bank account in Virginia and Defendants were on notice that their services were being paid by THEC and not the joint venture.

92. Defendants worked exclusively with Abdul Hadi Rakin of THEC to negotiate a "final" payment from USAID and IRD.

93. During the time that Defendants worked with Abdul Hadi Rankin to negotiate a purported "final" payment by USAID and IRD, it made no attempt to communicate with Dr. Abdullah Faizi, manager of the FTH joint venture and owner of FMCC or Gul Rahman Hamdard, manager of the FTH joint venture and owner of HCG.

94. During the time that Defendants worked with Abdul Hadi Rankin to negotiate a purported "final" payment by USAID and IRD, it made no attempt to communicate with Gul Rahman Hamdard, board member of the THN joint venture and owner of HCG, or Shir Mohammed Nazari, board member of the THN joint venture and authorized representative of NCCL.

95. Defendants never solicited any information from the FTH joint venture, HCG, FMCC, NCCL, or the THN joint venture in preparing for negotiations with USAID and IRD.

96. At some point in Defendants' negotiations with IRD, they reached a purported final settlement with USAID and IRD. Defendants never communicated any information regarding the proposed final settlement with USAID and IRD to the FTH joint venture, HCG,

FMCC, NCCL, or THN.

97. In sum, Defendants had allegedly contracted to provide legal services for the FTH joint venture yet only communicated with and obtained pertinent information from THEC.

98. A proposal was made to wire the purported “final” payment into a U.S.-based bank account controlled by THEC to the exclusion of the FTH joint venture, the THN joint venture, FMCC, HCG, and NCCL.

99. Under the governing structure of the FTH joint venture, this financial settlement was to have been approved by HCG.

100. Defendants prepared the legal documents necessary to affect the transfer of funds from IRD to the THEC Bank of America account in Virginia.

101. Defendants made no attempt to communicate directly with the management board of the FTH joint venture to investigate or determine whether the planned transfer of IRD funds directly into a U.S.-based bank account controlled by THEC to the exclusion of the members of the FTH joint venture, and the successors of the FTH joint venture was acceptable.

102. Defendants made no attempt to communicate directly with the board of directors of THN joint venture to investigate or determine whether the planned transfer of IRD funds directly into THEC’s U.S.-based bank account was acceptable to the other members of the joint venture.

103. The planned transfer was an explicit violation of the THN Joint Venture Agreement.

More Than Six Months After Being Hired By THEC, Defendants’ Secret Negotiations Are Unveiled Only Days Prior to the Final Payment of \$3,690,563.75 Being Wired into an Account Controlled Exclusively By THEC; Conspicuous Irregularities and Protests Are Manifest; Defendants Maintain Silence and do Nothing.

104. On March 30, 2014, Abdul Hadi Rakin sent an email to Mohmmad Omer asking

him to print two copies of a document he had attached to the email.

105. On information and belief, the document that Abdul Hadi Rakin had attached to the email was a document called “Authorization to Disburse Final Payment.”

106. On information and belief, “Authorization to Disburse Final Payment” was prepared by Defendants.

107. In the alternative, “Authorization to Disburse Final Payment” was prepared by IRD and approved by Defendants.

108. The amount of the purported final payment by USAID and IRD negotiated by Defendants was \$3,690,563.75.

109. Defendants never communicated with the managers of the FTH joint venture, the board of directors of THN, FMCC, NCCL, or HCG to determine whether a final payment of \$3,690,563.75 from USAID and IRD would satisfy the FTH joint venture, the THN joint venture, FMCC, NCCL, or HCG with respect to the money owed by IRD.

110. In the March 30, 2014 email to Mohammad Omer, Abdul Hadi Rakin asked Omer to take one copy of the document referenced to Gul Rahman Hamdard of HCG for his signature.

111. In the March 30, 2014 email to Mohammad Omer, Abdul Hadi Rakin asked Omer to take one copy of the document referenced to Abdul Rahman Nazari of NCCL for his signature.

112. Abdul Hadi Rakin called Abdul Rahman Nazari (who could not read the documents that were being sent to him) and instructed him to sign them. Abdul Hadi Rakin assured Abdul Rahman Nazari that Gul Rahman Hamdard had already read and signed the same documents.

113. In the March 30, 2014 email, Abdul Hadi Rakin instructed Omer to send the

Nazari and Hamdard-executed documents to him by noon the next day.

114. On March 31, 2014, Omer Mohammad Omer forwarded Abdul Hadi Rakin's email of March 30, 2014 to Gul Rahman Hamdard with a request that Gul Rahman Hamdard sign the document and send the signed copy to Abdul Hadi Rakin.

115. Gul Rahman Hamdard did not sign the document. Instead, Gul Rahman Hamdard telephoned Barazan Ismaeel, Chief of Party, IRD. In the telephone call, Gul Rahman Hamdard objected to the fact that IRD was going to send money directly into THEC's bank account in the United States.

116. In response to Gul Rahman Hamdard's telephone call to him, Barazan Ismaeel of IRD urged Gul Rahman Hamdard to put his objections in writing in the form of an email to IRD.

117. Immediately, on March 31, 2014, Gul Rahman Hamdard sent an email to Barazan Ismaeel of IRD objecting, in writing, to the fact that IRD was going to send money into an account other than the joint venture account.

118. Mr. Ismaeel of IRD answered Gul Rahman Hamdard immediately. He stated, "Dear Gul Rahman, Thank you for your email. I suggest you get in contact with our General Counsel, Mr. Jason Matechak, to address the issue quickly today. I hope the proces[s] goes smooth with the agreement of all partners."

119. On information and belief, Defendants received a copy of this March 31, 2014 email prior to IRD transferring the "final" payment by USAID and IRD to THEC's Bank of America account in the U.S.

120. On information and belief, as of the time Barazan Ismaeel sent the above email, IRD had not yet sent money to THEC consistent with the Authorization to Disburse Final Payment.

121. On March 31, 2014, acting on Barazan Ismaeel's advice, Gul Rahman forwarded the entire email trail described above to Jason Matechak, General Counsel to IRD. In the email, Gul Rahman Hamdard insisted that any payments by IRD under the Subcontract should be made into the usual joint venture account and not into a different account.

122. On information and belief, Defendants received a copy of this email.

123. On the same day, March 31, 2014, Mr. Matechak wrote back to Gul Rahman Hamdard. In his email to Gul Rahman Hamdard, Mr. Matechak claimed that IRD was being very careful with respect to where the "final" amount should be sent. Mr. Matechak stated that he had requested a letter signed by all of the joint venture partners indicating where the final amount should be paid.

124. On information and belief, Defendants received a copy of this email.

125. On information and belief, the "letter" to which Mr. Matechak referred was the Authorization to Disburse Final Payment described above.

126. On information and belief, Defendants were informed of Gul Rahman Hamdard's objection to the planned payment by IRD of joint venture-earned funds into the THEC bank account at Bank of America in the United States prior to the time that the money was actually transferred to THEC's Bank of America account in the U.S.

127. On April 2, 2014, Gul Rahman Hamdard emailed Jason Matechak to tell him that HCG had not signed any document consenting to an IRD payment going directly to THEC.

128. Cohen Mohr attorney Andrew Wible received a copy of this email prior to the transfer of the "final" payment by USAID and IRD to THEC's Bank of America account in the U.S.

129. After receiving this email, Cohen Mohr attorney Andrew Wible, William F.

Savarino, and Cohen Mohr maintained their silence and otherwise took no corrective action with respect to the planned direct IRD payment of joint venture-earned funds into THEC's U.S.-bank account.

130. On April 3, 2014, THN Board Member Hamdard received a reply email from Jason Matechak that stated that he had, in fact, been provided with a copy of a release signed by each of the joint venture members indicating where payment should be paid. Mr. Matechak also stated that the documentation had been provided by Defendants. Specifically, the email stated, "Dear Mr. Gul – I have been provided a copy of a released signed by each of the Joint Venture partners indicating where the payment should be made. The release was forwarded to me by the Joint Venture's counsel at the Cohen and Mohr law firm. The name provided on the release as an authorized representative of HCG was Yama M Eamen. I would suggest that you connect with Mr. Eamen and Defendant Rakin regarding the payment."

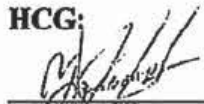
131. Cohen Mohr attorney Andrew Wible was included on the "cc:" line of the April 3, 2014 email from Matechak to THN Board Member Hamdard.

132. Abdul Rahman Nazari was not an authorized representative of NCCL and Yama M. Eamen was not an authorized representative of HCG.

133. The purported Authorization to Disburse Final Payment was signed by Yama M. Eamen on March 31, 2014, the same day that Gul Rahman Hamdard, member of the FTH joint venture management board, member of the THN joint venture board of directors, and owner of HCG had refused to sign the document and objected so strenuously to its terms.

134. A facsimile portion of the Certification of Authorization of the Authorization to Disburse Final Payment appears as follows:

HCG:



By: YAMA M EAMEN
Its: Authorized Representative

MAR 31 2014
Date

135. A facsimile of a portion of the executed Authorization to Disburse Final Payment appears as follows:

CERTIFICATION OF AUHORIZATION

The undersigned, being all the members of FTH, hereby certify under penalty of perjury under the laws of the United States, that the members of the joint venture consented to and authorized the joint venture execute the above authorization.

FMCC: *A Replaced by NCCL*

By: _____
Its: Authorized Representative

3/31/14
Date

136. The Certification of Authorization to Disburse Final Payment states, under penalty of perjury, that FMCC had been replaced by NCCL.

137. The explicit certification, under penalty of perjury, that NCCL had replaced FMCC, was made before the “final” payment by USAID and IRD was transferred to THEC’s Bank of America account in the U.S.

138. After receiving the Authorization to Disburse Final Payment that made it clear that NCCL had replaced FMCC, Cohen Mohr attorney Andrew Wible, William F. Savarino, and Cohen Mohr maintained their silence and otherwise took no action.

139. The Certification of Authorization of the Authorization to Disburse Final Payment was signed by Abdul Rahman Nazari, the majority owner of NCCL.

140. Abdul Rahman Nazari does not speak, read or write in English.

141. Abdul Rahman Nazari was tricked into signing the Authorization to Disburse Final Payment by Abdul Hadi Rakin. Mr. Rakin mischaracterized the document and falsely claimed that Gul Rahman Hamdard had already executed the same document on behalf of HCG.

142. The Certification of Authorization of the Authorization to Disburse Final Payment stated, under penalty of perjury, that Abdul Rahman Nazari was the authorized representative of NCCL.

143. As per the THN Joint Venture Agreement, Abdul Rahman Nazari was not the authorized representative of NCCL.

144. As per the THN Joint Venture Agreement, Shir Mohammad Nazari was NCCL's designated representative on the THN joint venture board of directors and the authorized representative of NCCL.

145. The Certification of Authorization of the Authorization to Disburse Final Payment contains the signature of Yama M. Eamen dated March 31, 2014.

146. Yama M. Eamen is a U.S. citizen, a resident of Fremont, CA, and who – at the time he affixed his signature – had long-ago left his employment with HCG.

147. The signature of Yama M. Eamen on the Certification of Authorization of the Authorization to Disburse Final Payment states that Yama M Eamen was an authorized representative of HCG.

148. Yama M Eamen had not been authorized to sign the Authorization to Disburse Final Payment nor was Yama M. Eamen and authorized representative under the THN Joint Venture Agreement.

149. On April 3, 2014 Humatullah, the Finance Manager of HCG, wrote to Jason Matechak and Andrew Wible to reiterate that any payment by IRD under the purported

settlement “must be wired [sic] transfer to JV Bank Account—Kabul Bank Afghanistan not to Thec [sic] Account in America . . . it will create legal problem among partners and suppliers of JV project.”

150. Andrew Wible was copied by Hurmatullah on this email to Jason Matechak.

151. Andrew Wible, William F. Saravino, and Cohen Mohr remained silent and otherwise took no action in response to this April 3, 2014 email from Humatullah.

152. Gul Rahman Hamdard’s vehement objections to the transfer were ignored by all – most notably Defendants. The \$3,690,563.75 owed to Plaintiffs for a final settling of accounts pursuant to the termination for convenience of the IRD Subcontract and for road construction work was transferred from IRD to THEC’s Bank of America account in the U.S.

153. On April 27, 2014, Bahir Sayed Zada, Business Development Manager of HCG, sent an email to Jason Matechak with a copy to Andrew Wible and Cohen Mohr. In the email, Bahir Sayed Zada stated, “Mr. Gul Rahman Hamdard, who is the President of HCG immediately informed you of the situation that HCG didn’t signed [sic] any such documents here in Kabul and has not show [sic] any consent to wire the money to any other Bank account in USA, he warned you to not transfer money to any other account except JV bank account since it was obvious that the project was in Afghanistan and there has been already a JV bank account created and available for the project from the start and IRD had . . . transferred several payments into the same account in the past.” He also stated, “[Y]ou are probably aware, that [sic] HCG was financially responsible for this project and in hope to get paid back from IRD, HCG paid some immediate sub, suppliers and others who could create trouble and in fact, HCG was more authorized in financial part.” The email continued by pointing out “you can still control the account/cash which has been sent to USA and can . . . retransfer it to the JV bank account . . .

since it is the valid bank account for this project.”

154. Andrew Wible was copied on Bahir Sayed Zada’s April 27, 2014 email.

155. Defendants took no action in response to this April 27, 2014 email from Bahir Sayed Zada.

156. After Jason Matechak wrote to Bahir Sayed Zada claiming that IRD had obtained the proper authorizations for the transfer of funds to THEC, Bahir Sayed Zada wrote Matechak on April 28, 2014 with a copy to Andrew Wible and Cohen Mohr. He stated, “our concern is particularly regarding the wire transfer to USA to JV partner's account. It is quite obvious that in the past all payments made by IRD were regularly wired to JV bank account to Kabul, so why is now wired somewhere else and how and from who the idea of signing document comes from to wire the money to USA? Don't you think something is going wrong with having this intention.” He continued by stating, “as I said in my previous email that HCG didn't signed any such document in Kabul, even if you see the attached copy of email sent to our President Mr. Hamdard for signature, but he refused to sign it.”

157. Andrew Wible, William F. Saravino, and Cohen Mohr took no action in response to this April 27, 2014 email from Bahir Sayed Zada.

158. On April 30, 2014, Bahir Sayed Zada of HCG wrote to Jason Matechak, the General Counsel of IRD. Andrew Wible of Cohen Mohr was copied on this correspondence. In the email, Bahir Sayed Zada assured Mr. Matechak, and implicitly Cohen Mohr through Andrew Wible, “Dear Mr. Jason, [w]e will send you the copies of all those wired payments made by IRD to JV bank accounts in the past ASAP. Also, I request you to please forward me the copy of that signed document in which the money was wired to USA through it till to assure ourselves who did sign it from our side. I guess the signature is imitated.”

159. In response to the conspicuous disagreement among the joint venture members about how the alleged “final payment” should be dispensed, Defendants took no action to safeguard the interests of the FTH joint venture, HCG, FMCC, the THN joint venture, or NCCL.

160. In response to the explicit alerts to potential fraud, Defendants took no action to safeguard the interests of the FTH joint venture, HCG, FMCC, the THN joint venture, or NCCL.

Defendants Refuse to Meet and Confer, Provide Access to FTH Joint Venture and THN Joint Venture Files; and Continue to Block Plaintiffs’ Access to Files Memorializing Negotiations with IRD

161. In an August 14, 2015 response to an August 11, 2015 email sent by HCG, through counsel, Abdul Hadi Rakin identified Andrew Wible as counsel to the FTH joint venture.

162. In response to an August 14, 2015 email from HCG’s legal counsel, Andrew Wible asserted that FTH was a client of the law firm of Cohen Mohr, LLP. Defendant Wible invited counsel for HCG to discuss the propriety of the payment to THEC. This meeting was later cancelled by William Savarino.

163. On August 18, 2015, Defendant Wible identified William Savarino as a partner in the firm involved in the representation of FTH and stated that Cohen Mohr, LLP did not represent either Abdul Hadi Rakin or THEC.

164. Defendants refused to provide FTH manager, THN board member, and HCG owner Gul Rahman Hamdard with a copy of the retention agreement by which Defendants justified their legal activities purportedly for the benefit of the FTH joint venture.

165. On August 18, 2015, Gul Rahman Hamdard, through counsel, requested that Cohen Mohr provide documentary evidence giving rise to Cohen Mohr’s conclusion that Mr. Rakin was duly authorized to represent all of the members of the joint venture.

166. Cohen Mohr refused to provide such documentary evidence and refused to provide Mr. Hamdard a copy of the purported retention agreement.

167. Cohen Mohr refused this additional request for the purported retention agreement.

168. On August 18, 2015, Gul Rahman Hamdard, through counsel, sought an explanation from Cohen Mohr of how it had concluded that the settlement with USAID and IRD was duly authorized.

169. Cohen Mohr refused the August 18, 2015 request by HCG, through counsel, to explain how the settlement with IRD was duly authorized by THEC, HCG, NCCL, the FTH joint venture, or the THN joint venture.

170. In correspondence from HCG (through counsel) to Cohen Mohr, HCG requested that Cohen Mohr provide to it all of the email correspondence between Mr. Rakin and Cohen Mohr given Cohen Mohr's statement that it did not represent Mr. Rakin individually. Cohen Mohr refused to provide HCG with any such email correspondence.

171. On August 18, 2015, Gul Rahman Hamdard, through counsel, requested that Cohen Mohr provide to it copies of any and all invoices from Cohen Mohr to the joint venture and all evidence of payment to Cohen Mohr by the joint venture.

172. Cohen Mohr has refused to provide HCG with any such invoices or evidence of payment.

173. On August 18, 2015, Gul Rahman Hamdard, through counsel, requested that Cohen Mohr provide to it the exact location of the \$3,690,563.75 that purported to be payment from IRD and it requested that Cohen Mohr provide to it with information related to Abdul Rakin's location.

174. Cohen Mohr has refused to provide HCG with any information about the identity

of the bank account into which the \$3,690,563.75 had been deposited or information on how Abdul Rakin could be located.

175. On August 21, 2015, Andrew Wible of Cohen Mohr stated, “This firm[']s contact with the FTH joint venture has always been through its appointed and authorized representative, Mr. Rakin. To the best of my knowledge and recollection, we have never had any direct communications with any other member.”

176. On October 30, 2015, Russ Gaspar of Cohen Mohr, LLP wrote to The Law Office of Joseph Hennessey, LLC (having been retained by the THN joint venture for the purpose of recovering the \$3,690,563.75 wrongfully transferred into THEC’s account) and stated that Cohen Mohr would provide a complete copy of its file relating to representation of the THN Joint Venture to Mr. Hennessey, or anyone else, upon receipt of proper authorization from the Joint Venture in accordance with DC Rule of Professional Conduct 1.6(e)(1).

177. On October 28, 2015, Gul Rahman Hamdard sent the following email message to Russ Gaspar: “My name is Gul Rahman Hamdard. I am a THN JV Board Member. You have the documentation establishing that The Law Office of Joseph Hennessey, LLC is the attorney in fact to THN Joint Venture. Please transfer all of THN Joint Venture files and documents to The Law Office of Joseph Hennessey, LLC as previously requested by Joseph Hennessey.”

178. On November 19, 2015, Shir Mohammed Nazari sent the following letter to Russ Gaspar: “My name is Shir Mohammed Nazari. I am a THN JV Board Member. You have the documentation establishing that The Law Office of Joseph Hennessey, LLC is the attorney in fact to THN Joint Venture. Please transfer all of THN Joint Venture files and documents to The Law Office of Joseph Hennessey, LLC as previously requested by Joseph Hennessey.”

179. Attorney Gaspar refused to perform his promise to transfer the file relating to

Cohen Mohr, LLP's representation of the THN joint venture.

180. In litigation before the United States District Court for the District of Columbia, Case No. 15-cv-1940, the THN joint venture, HCG, and NCCL provided 489-pages of documents to Cohen Mohr pursuant to their voluntarily disclosure obligations under Fed. R. Civ. P. 26 (A)(1). In response to their voluntary disclosure obligations, Defendants stated that “documents that are able to be produced will be made available for inspection and copying at the offices of Cohen Mohr’s counsel during regular business hours on a mutually convenient date.” However, Defendants refused to produce a privilege log and refused to allow the THN joint venture, HCG, and NCCL, through counsel, to review any documents – even documents that were not privileged. Moreover, though the 2015 Amendments to the Federal Rules of Civil Procedure triggered the initiation of discovery on December 18, 2015, Defendants – through counsel – refused, without leave of the Court, to participate in any discovery whatsoever.

181. The THN joint venture must obtain these documents in order to prosecute the ICC arbitration.

182. On May 15, 2017, Attorneys David Cohen, Andrew Mohr, Bill Savarino, Andrew Wible, and Russ Gaspar received letters from FTH joint venture manager Gul Rahman Hamdard and Dr. Abdullah Faizi. Both letters identified the senders as FTH joint managers and majority shareholders of the FTH joint venture. The letters state:

You have stated that Cohen Mohr, LLP served as legal counsel to FTH. In that capacity, you made representations and apparently undertook negotiations on behalf of FTH. You have also stated that the documents generated in the course of these activities belong to FTH. Having majority representation of FTH, Gul Rahman Hamdard and [Dr. Abdullah Faizi] have hired The Law Office of Joseph Hennessey to represent FTH’s interests in an on-going dispute that exists with IRD and THEC regarding a payment that should have been deposited into a joint venture bank account at Kabul Bank but was instead deposited into a bank account controlled solely by THEC in the United States. You are familiar with this dispute.

Having served as majority managers and having had majority representation of FTH, Gul Rahman Hamdard and I must take possession of the FTH documents held by Cohen Mohr, LLP. Almost three weeks ago, attorney Hennessey wrote to you to obtain access to the FTH documents in Cohen Mohr, LLP's possession. We understand from Mr. Hennessey that you have refused to provide such documents to him. I write you directly, as will Gul Rahman Hamdard, to demand that you **immediately** transfer all the documents generated in what you have described as your legal representation of FTH to The Law Office of Joseph Hennessey, LLC.

183. Defendants have refused to respond to this correspondence or produce the FTH they have in their possession.

184. Plaintiffs must have access to the FTH joint venture client file in order to understand how Defendants might have forfeited rights or otherwise compromised claims that they might have against THEC, IRD, or USAID.

CLAIMS BROUGHT BY FTH PLAINTIFFS

COUNT 1

*Aiding and Abetting THEC's Fraud
brought by FTH Plaintiffs against All Defendants
where no attorney-client relationship existed between
Defendants and the FTH Joint Venture*

185. FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 1 as if fully-pled herein.

186. The required procedures for hiring Defendants to represent the FTH joint venture were not observed.

187. The failure to observe the procedures required resulted in there being no attorney-client relationship between Defendants and the FTH joint venture, FMCC, and HCG (the "FTH Plaintiffs") and Defendants were not acting as the lawyers for FTH Plaintiffs.

188. Defendants were serving the interests of THEC.

189. THEC committed a fraud against FTH Plaintiffs when, under a duty to disclose to

the managers of the FTH joint venture and the other participants in the FTH joint venture, THEC remained silent about the fact that it had hired Defendants to negotiate a final settlement with IRD and USAID; remained silent about the fact that THEC presented Defendants to IRD and USAID as the attorneys in fact for the FTH joint venture; remained silent about the fact that it had approved a purported “final settlement” with IRD and USAID that affected fundamental rights of the FTH Plaintiffs; and remained silent that draft documents had been submitted to IRD and USAID captioned “Subcontractor Final Certification of Payment, Waiver and Release, and Assignment of Claims” and “Authorization to Disburse Final Payment” that purported to provide the FTH Plaintiffs’ authorization for IRD to pay \$ \$3,690,563.75 directly into THEC’s Bank of America account.

190. With the knowledge that THEC was silent in the face of its affirmative obligation to speak to the FTH Plaintiffs, Defendants gave substantial assistance to THEC in committing this fraud. By way of example and not limitation:

190.01 Defendants entered into a “retention agreement” signed by Abdul Hadi Rakin to create the false impression that a bona fide attorney-client relationship existed between Defendants and the FTH joint venture. However, Defendants knew that hiring an attorney to negotiate a settlement with USAID and IRD constituted a major decision and that all major decisions needed the approval of the FTH joint venture managers.

190.02 Defendants substantially assisted THEC by making no effort to communicate with any of the other managers of the FTH joint venture in preparation for negotiations with IRD and USAID.

190.03 Defendants substantially assisted THEC in completing the fraud by creating documents, e.g. “Subcontractor Final Certification of Payment, Waiver and Release, and

Assignment of Claims” and “Authorization to Disburse Final Payment.” These documents created the façade that IRD’s direct payment into THEC’s bank account had been reviewed by legal counsel and authorized by the other members of the joint venture.

191. But for Defendants substantial assistance to THEC, THEC would not have been successful stealing the payment of \$3,690,563.75 through its fraud.

192. As a consequence of Defendants aiding and abetting THEC in perpetrating its fraud, the FTH Plaintiffs have suffered damages in an amount to be proven at trial.

193. WHEREFORE, the FTH Plaintiffs request that the Court award compensation to the FTH Plaintiffs for damages suffered from Defendants’ aiding and abetting THEC’s fraud; disgorge from Defendants all of the monies they were paid for the services they provided in aiding and abetting THEC’s fraud; pay punitive damages (that Defendants are all members of the bar and officers of the court make their willful disregard of the FTH Plaintiffs’ rights and their conduct so outrageous that it merits punishment in its own right and as a deterrent to others in the lawyering community), and to take whatever other action in law or equity is necessary or prudent to ensure that justice is served.

COUNT 2

Aiding and Abetting THEC’s Conversion of \$3,690,563.75
*by FTH Plaintiffs against all Defendants where
no attorney-client relationship existed between
Defendants and FTH Joint Venture*

194. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 2 as if fully-pled herein.

195. The required procedures for hiring Defendants to represent the FTH joint venture were not observed.

196. The failure to observe the procedures required resulted in there being no attorney-

client relationship between Defendants and the FTH joint venture and Defendants were not acting as the lawyers for the FTH Plaintiffs.

197. Defendants were serving the interests of THEC.

198. By exercising unlawful dominion and control over \$3,690,563.75 that was supposed to be paid by IRD into the joint venture account at Bank of Kabul, THEC committed the tort of conversion with respect to this sum-certain.

199. Defendants knew that THEC conversion of the \$3,690,563.75 was wrongful.

200. Defendants provided substantial assistance to THEC in perpetrating this conversion including but not limited to creating the false impression that a bona fide attorney-client relationship existed between Defendants and the FTH joint venture and creating the impression that the transfer of funds that were to be paid into the THEC-controlled Bank of America account in the U.S. had the blessing of the FTH joint venture's legal counsel; falsifying authorizations to create the impression that the other payment beneficiaries of the IRD Subcontract approved the redirection of into this THEC-controlled account; and provided legal cover for IRD continuing the transfer of the funds directly to THEC in the face of repeated exhortations by Gul Rahman Hamdard to maintain the existing payment process. These acts not only provided substantial assistance to THEC in completing the conversion of the \$3,690,563.75 but inflicted direct harm upon the FTH Plaintiffs by frustrating the FTH Plaintiffs' attempt to halt the conversion before it had been completed.

201. But for Defendants substantial assistance to THEC, THEC's conversion of \$3,690,563.75 would have failed.

202. As a consequence of Defendants aiding and abetting THEC's conversion of the \$3,690,563.75, the FTH Plaintiffs have suffered damages as they have been denied their portion

of the \$3,690,563.75 they each need to pay obligations, invest in additional contracts, and meet commitments dependent upon the payment of a purported final settlement. The FTH Plaintiffs will prove the precise quantum of damages at trial.

203. WHEREFORE, the FTH Plaintiffs request that the Court award compensation for damages, disgorge from Defendants all of the monies they were paid for the services they provided in aiding and abetting THEC's conversion, pay punitive damages (that Defendants are all members of the bar and officers of the court make their willful disregard of the FTH Plaintiffs' rights and their conduct so outrageous that it merits punishment in its own right and as a deterrent to others in the lawyering community), and to take whatever other action in law or equity is necessary or prudent to ensure that justice is served.

COUNT 3

Aiding and Abetting THEC's
Breach of Fiduciary Duty (Breach of Loyalty)
*by FTH Plaintiffs against all Defendants where
no attorney-client relationship existed between
Defendants and the FTH Joint Venture*

204. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 3 as if fully-pled herein.

205. The required procedures for hiring Defendants to represent the FTH joint venture were not observed.

206. The failure to observe the procedures required resulted in there being no attorney-client relationship between Defendants and the FTH joint venture and Defendants were not acting as the lawyers for the FTH Plaintiffs.

207. Defendants were serving the interests of THEC.

208. THEC breached its fiduciary obligations to the FTH Plaintiffs. Specifically, as a member of the FTH joint venture, THEC owed duties of loyalty to the FTH Plaintiffs. THEC

breached this duty of loyalty when, through the wrongdoing described above, it engaged in self-dealing by arranging that the IRD payment of \$3,690,563.75 be wired directly into a THEC-controlled Bank of America account in the United States.

209. Defendants knew that THEC's conduct constituted a breach of THEC's duty of loyalty to the FTH Plaintiffs yet gave THEC substantial assistance to THEC including, but not limited to creating the false impression that a bona fide attorney-client relationship existed between Defendants the FTH joint venture and that the diversion of the \$3,690,563.75 into THEC's U.S. bank account had been approved by the FTH joint venture's legal counsel; falsifying authorizations that purported to approve the redirection of IRD-paid funds into a THEC-controlled bank account in the United States providing legal cover for IRD to continue with the transfer in the face of explicit requests by Gul Rahman Hamdard for IRD not to depart from its standard payment procedures.

210. But for Defendants' substantial assistance to THEC, THEC breach of its duty of loyalty to the FTH Plaintiffs would have failed.

211. As a consequence of Defendants aiding and abetting THEC's breach of fiduciary duty, the FTH Plaintiffs has suffered damages in an amount to be proven at trial.

212. WHEREFORE, the FTH Plaintiffs request that the Court award compensation for damages, disgorge from Defendants all of the monies they were paid for the services they provided in aiding and abetting THEC's conversion, pay punitive damages (that Defendants are all members of the bar and officers of the court make their willful disregard of the FTH Plaintiffs' rights and their conduct so outrageous that it merits punishment in its own right and as a deterrent to others in the lawyering community), and to take whatever other action in law or equity is necessary or prudent to ensure that justice is served.

COUNT 4

Tortious Interference with Contracts between and among
the FTH joint venture, IRD, FMCC, HCG, NCCL, and THN
*by FTH Plaintiffs against all Defendants where no attorney-client relationship
existed between Defendants and the FTH joint venture*

213. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 and the tortious conduct described in Counts 1-3 in the allegations of Count 4 as if fully-pled herein.

214. The required procedures for hiring Defendants to represent the FTH joint venture were not observed.

215. The failure to observe the procedures required resulted in there being no attorney-client relationship between Defendants and the FTH joint venture and Defendants were not acting as the lawyers for the FTH Plaintiffs.

216. Defendants were serving the interests of THEC.

217. Defendants knew that the FTH Plaintiffs were in a contractual relationship with IRD through the IRD Subcontract.

218. Defendants knew that the FTH joint venture and IRD were in privity of contract through the IRD Subcontract.

219. Defendants knew that the FTH joint venture and HCG were in privity of contract as HCG was a member of the FTH joint venture.

220. Defendants knew that the FTH joint venture was in privity of contract with the THN joint venture because the THN Joint Venture Agreement contained an explicit recital detailing how the THN joint venture and its constituent members had succeeded the FTH joint venture and its constituent members in the performance obligations and payment benefits under the IRD Subcontract.

221. Defendants knew that the FTH joint venture and NCCL were in privity of contract

because the THN Joint Venture Agreement contained an explicit recital detailing how NCCL had replaced FMCC and how the THN joint venture had succeeded the FTH joint venture with respect to the performance obligations and payment benefits under the IRD Subcontract.

222. Through the wrongful acts described in Count 1 through 3, Defendants interfered with the above-describe contractual relationships. Specifically,

219.01 Defendants caused the breach of IRD's contractual obligation to pay a fair termination for convenience settlement and make other payments due into the contractually designated and customarily used joint venture account to compensate those performing the IRD Subcontract obligations;

219.02 Defendants caused the FTH joint venture to breach its contractual obligations to the THN joint venture and FMCC, *i.e.*, the THN joint venture's guarantee that FMCC would be free and clear of future entanglements with respect to the IRD Subcontract (and to pay any amounts still owed to NCCL);

219.03 Defendants caused the FTH joint venture to breach its contractual obligation to HCG to pay any remaining amounts due to HCG for its work under the IRD Subcontract while working pursuant to the FTH joint venture;

219.04 Defendants caused the FTH joint venture to breach its contractual obligations to NCCL by denying NCCL the amounts that were promised for NCCL's performance of FMCC's construction obligations under the IRD Subcontract;

219.05 Defendants breached the FTH joint venture's contractual obligation to the THN joint venture by interrupting payments owed to the THN joint venture and its constituent members for work undertaken to complete the IRD Subcontract.

223. Defendants intended that the above-described breaches because such breaches

were necessary in order to THEC to obtain the \$3,690,563.75.

224. WHEREFORE, the FTH Plaintiffs pray that the Court award compensatory damages in an amount to be established at trial for Defendants' tortious interference with the FTH Plaintiffs' contracts and the Court take whatever other action in law or equity are necessary or prudent to ensure that complete justice is served in the face of Defendants' tortious interference with contract.

COUNT 5

Breach of the Standard of Care
(Legal Malpractice/Negligence)

*by FTH Plaintiffs against all Defendants where, notwithstanding a lack of privity,
Defendants breached their standard of care*

225. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 5 as if fully-pled herein.

226. The required procedures for hiring Defendants to represent the FTH joint venture were not observed.

227. The failure to observe the procedures required resulted in there being no attorney-client relationship between Defendants and the FTH joint venture and Defendants were not acting as the lawyers for the FTH Plaintiffs.

228. Defendants were serving the interests of THEC.

229. Defendants knew that the THEC was in direct privity of contract with the FTH Plaintiffs.

230. Any settlement (nominally in the name of the FTH joint venture but in fact for the benefit of THEC) would directly impact the FTH Plaintiffs. Thus, though Defendants were not in privity of contract, Defendants owed a duty of care to the FTH Plaintiffs.

231. The duty of care owed by Defendants to the FTH Plaintiffs was to exercise the

degree of care and skill that a reasonable competent lawyer, engaged in a similar practice and acting in similar circumstances, would exercise.

232. Defendants owed this duty of care because (1) it was clear that the “final payment” and “final settlement” transaction proposed was, unquestionably, intended to affect the FTH Plaintiffs; (2) it was reasonably foreseeable, if not directly foreseeable, that the FTH Plaintiffs could be harmed by this allegedly “final” transaction; (3) the “final payment” and “final settlement” transaction unquestionably harmed the FTH Plaintiffs as it directed all of the purported “final payment” to THEC and contained a covenant against bringing any future action against IRD; (4) Defendants’ conduct was the proximate cause of the FTH joint venture, FMCC, and HGC’s injury; (5) Defendants’ conduct is morally blameworthy; and (6) significant policy considerations counsel that holding Defendants to account for their breach of their standard of care toward the FTH Plaintiffs will serve a deterrent effect and prevent future harm.

233. Defendants failed to observe the standard of care owed to the FTH Plaintiffs. By way of example, and not limitation:

230.01 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from the FTH Plaintiffs for presentation to IRD/USAID information related to the extent and difficulty of the work done by the FTH Plaintiffs as compared with the total work required by the IRD Subcontract.

230.02 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from the FTH Plaintiffs for presentation to IRD/USAID information related to engineering work, production scheduling, planning, technical study and supervision, and other necessary services that have been undertaken by the FTH Plaintiffs.

230.03 In negotiating the final payment on the termination for convenience,

Defendants made no effort to gather from FTH Plaintiffs for presentation to IRD/USAID information related to the FTH Plaintiffs' efficiency or their attainment of quantity and quality production.

230.04 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from FTH Plaintiffs for presentation to IRD/USAID information regarding the FTH Plaintiffs' reduction of costs; the FTH Plaintiffs' economic use of materials, facilities, and manpower; or the FTH Plaintiffs' disposition of termination inventory.

230.05 In negotiating the final payment on the termination for convenience, Defendants made no effort to investigate or present to the terminating party information related to the amount and source of the FTH Plaintiffs' capital and extent of risk assumed by the FTH Plaintiffs inventive and developmental contributions provided by the FTH Plaintiffs or the FTH Plaintiffs' cooperation with the Government and other contractors supplying technical assistance on the USAID SPR-SEA.

230.06 In negotiating the final payment on the termination for convenience, Defendants made no effort to solicit from the FTH Plaintiffs information related to the character of the FTH Plaintiffs' businesses, including the source and nature of materials and the complexity of road construction challenges; the rate of profit that the FTH Plaintiffs would have earned had the contract been completed; the rate of profit both the FTH Plaintiffs anticipated at the time the IRD Subcontract was negotiated; and the character and difficulty encountered by the FTH Plaintiffs in subcontracting, including selection, placement, and management of subcontracts, and effort in negotiating settlements of terminated subcontracts.

230.07 Defendants failed to investigate and identify who were bona fide authorized persons to execute the purported "Authorization to Disburse Final Payment" on

behalf of THEC, FMCC, and HCG.

230.08 Defendants failed to take any action where there was conspicuous notice, on the face of documents that Defendants themselves prepared, that FMCC had been replaced by NCCL – thereby fundamentally begging the veracity of the asserted FTH authorization for IRD to send all of the purported “final payment” of \$3,690,563.75 to an account controlled solely by THEC. This is especially true where the “Authorization to Disburse Final Payment” by the FTH Plaintiffs was signed by Abdul Rahman Nazari, an owner of NCCL (not a member of the FTH joint venture) who does not speak, read, or write English (and, thus, is not even an authorized representative of his own company with respect to the THN joint venture) and where the “Authorization to Disburse Final Payment” was signed in the United States by former HCG employee Yama M. Eamen notwithstanding the fact that he had no authorization to execute documents on behalf of HCG or the FTH joint venture. This was especially true where the “Authorization to Disburse Final Payment” was not signed by any of the managers of the FTH joint venture (Abdul Hadi Rakin, Dr. Abdullah Faizi, or Gul Rahman Hamdard) in their capacity as managers or by Dr. Abdullah Faizi in any capacity.

230.09 Defendants failed, upon notice of a controversy between and among members of the FTH joint venture about the destination for the “final payment,” to cause that final payment to be deposited into Defendants’ client escrow account pending the resolution of the dispute.

234. As a consequence of the above-described and other failures by Defendants to meet the duty of care set forth above, the FTH Plaintiffs have been damaged.

235. But for Defendants’ failures to meet their duty of care towards the FTH Plaintiffs, the FTH Plaintiffs would not have been injured.

236. WHEREFORE, the FTH Plaintiffs pray that the court find that Defendants violated their duty of care and order Defendants to compensate the FTH Plaintiffs for the damages they suffered (damages in an amount to be proven at trial).

COUNT 6

Breach of the Standard of Conduct
(Breach of Fiduciary Duty)

*by FTH Plaintiffs against all Defendants where, notwithstanding a lack of privity,
Defendants breached their standard of conduct*

237. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 6 as if fully-pled herein.

238. The required procedures for hiring Defendants to represent the FTH joint venture were not observed.

239. The failure to observe the procedures required resulted in there being no attorney-client relationship between Defendants and the FTH joint venture and Defendants were not acting as the lawyers for the FTH Plaintiffs.

240. Defendants were serving the interests of THEC.

241. Defendants knew that the THEC was in direct privity of contract with the FTH Plaintiffs.

242. Any settlement (nominally in the name of the FTH joint venture but in fact for the benefit of THEC) would directly impact the FTH Plaintiffs. Thus, though Defendants were not in privity of contract, Defendants were obligated to observe a standard of conduct towards the FTH Plaintiffs. Specifically, Defendants are required to conduct themselves with undivided loyalty to the FTH Plaintiffs. Defendants owed this standard of conduct because (1) though Defendants were not in privity of contract with the FTH Plaintiffs, Defendants had assumed a position of disproportionate and asymmetrical power over the FTH Plaintiffs where the FTH

Plaintiff had no idea that Defendants were negotiating purportedly on their behalf, FTH Plaintiffs were thus made vulnerable to Defendants, and where the FTH Plaintiffs would unquestionably be affected by any “final payment” or “final settlement”; (2) it is reasonably foreseeable that Defendants, who had positioned themselves to have secret, disproportionate power over the FTH Plaintiffs, could do dramatic harm to the FTH Plaintiffs who were kept in the dark about Defendants’ activities and where it could reasonably be assumed that the FTH Plaintiffs’ rights could be compromised by Defendants; (3) Defendants placed themselves in the position where they could, and in fact did, harm the FTH Plaintiffs who were otherwise innocent with respect to Defendants; (4) Defendants’ conduct was the proximate cause of harm to the FTH Plaintiffs; (5) Defendants’ conduct is morally blameworthy; and (6) significant policy considerations counsel that holding Defendants to account for breach of their duty of conduct in such circumstances will serve a deterrent effect and prevent future harm.

243. Accordingly, notwithstanding the lack of privity between Defendants and the FTH Plaintiffs, Defendants owed the FTH Plaintiffs a duty of loyalty, otherwise referred to as a fiduciary duty.

244. Positioning themselves so that the FTH Plaintiffs and their future rights were completely vulnerable to them, Defendants completely failed in their duty of loyalty toward them. In sum, Defendants not only failed to warn the FTH Plaintiffs about THEC’s approaching round-house blow, Defendants equipped THEC with the brass knuckles that ensured a “knock-out” punch.

245. Defendants failed to observe their duty of loyalty owed to the FTH Plaintiffs. Defendants failures include but are not limited to:

242.01 demonstrating loyalty to THEC at the expense of the FTH Plaintiffs by

failing to warn the FTH Plaintiffs about THEC's plans to divert the "final payment" to an account controlled solely by THEC;

242.02 circumventing the FTH joint venture managers by securing "authorized" signatures from Abdul Rahman Nazari (an owner of NCCL, a non-member of the FTH joint venture) instead of FTH joint venture manager and FMCC owner Dr. Abdullah Faizi and from Yama M. Eamen (a U.S.-citizen, resident of California, and former employee of HCG) instead of FTH manager and owner of HCG Gul Rahman Hamdard.

242.03 providing assistance to THEC in perfecting its self-dealing;

242.04 after being on public notice of the diversion of funds that would harm the FTH Plaintiffs, acting in a manner that demonstrated loyalty to THEC at the expense of their loyalty to the FTH Plaintiffs.

246. As a consequence of the above-described and other failures by Defendants to meet the standard of conduct set forth above, the FTH Plaintiffs have been damaged.

247. But for Defendants' failures to meet their duty of conduct towards the FTH Plaintiffs, these Plaintiffs would not have been injured.

248. WHEREFORE, in equity and fairness and for the protection of the lawyering community, the Court should order the disgorgement of all of the funds that Defendants were paid for their purported representation of the FTH joint venture; order that Defendants pay restitution of \$3,690,563.75 into the joint venture account at the Kabul Bank (leaving for Defendants to seek contribution from THEC); and refer the facts of Defendants' breach of their standard of conduct to the Office of Disciplinary Counsel, the Board On Professional Responsibility, District Of Columbia Court Of Appeals.

COUNT 7

Injunctive Relief

Pled in the alternative by Plaintiffs against all Defendants were it to be determined that an attorney-client relationship existed between Defendants and the FTH joint venture

249. The FTH and THN Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 7 as if fully-pled herein.

250. The THN Joint Venture, HCG, and NCCL are seized in an International Chamber of Commerce, International Court of Arbitration in Dubai, UAE captioned ICC Case 22065/RD/MK.

251. Cohen Mohr, LLP partner Russ Gaspar promised to release a complete copy of its file relating to representation of the THN joint venture to The Law Office of Joseph Hennessey, LLC upon receipt of proper authorization from the Joint Venture in accordance with DC Rule of Professional Conduct 1.6(e)(1).

252. The file related to representation of the THN joint venture is needed in order for THN Plaintiffs to prosecute their arbitral claims against THEC and IRD.

253. Despite a majority of THN board members authorizing the transfer of Cohen Mohr, LLP's file relating to representation of the THN joint venture, Defendant Cohen Mohr, LLP has refused to transfer such files.

254. The FTH joint venture and FMCC are preparing to file an independent arbitration against THEC and IRD from the one filed by the THN joint venture, HCG, and NCCL.

255. The FTH joint venture, by and through the majority managers Gul Rahman Hamdard and Dr. Abdullah Faizi, have twice requested (once through counsel and once directly) that Defendants transfer their client file from Cohen Mohr, LLP to The Law Office of Joseph Hennessey, LLC.

256. Despite explicit requests from the majority managers of the FTH joint venture – managers who represent a clear majority ownership of the FTH joint venture and who have communicated the fact of Abdul Hadi Rakin self-dealing in impressing the fact that Mr. Rakin is not authorized to represent the FTH joint venture, Defendants have refused to transfer the requested documents.

257. Such documents are critically important for FTH Plaintiffs to prepare an arbitration claim against IRD and THEC.

258. WHEREFORE, the FTH and THN Plaintiffs requests that the Court enter an ORDER that Defendants transfer all documents generated during the course of Defendants’ representation of the FTH joint venture and that the Court take whatever other action in law or equity are necessary or prudent to ensure that complete justice is served in the face of Defendants’ refusal to transfer client files to The Law Office of Joseph Hennessey, LLC.

COUNT 8

Fraud

*pled in the alternative by FTH Plaintiffs against all Defendants
were it to be determined that an attorney-client relationship existed
between Defendants and the FTH joint venture*

259. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 8 as if fully-pled herein.

260. The FTH joint venture was a manager-managed joint venture wherein all major decisions were to be made by the FTH joint venture managers Dr. Abdullah Faizi, Gul Rahman Hamdard, and Abdul Hadi Rakin.

261. The managers of the FTH joint venture were the persons authorized to sign documents on behalf of the FTH joint venture and the participating companies.

262. Disclosure to the FTH joint venture means disclosure to the managers of the FTH

joint venture.

263. As counsel to the FTH joint venture, Defendants had an affirmative duty to disclose to the FTH Plaintiffs material facts related to the FTH joint venture.

264. Defendants were under a duty to disclose to the FTH Plaintiffs that it was hired to represent the joint venture in negotiations with IRD and USAID. However, in the face of this affirmative duty to speak, Defendants were silent.

265. Defendants had a duty to disclose to the FTH Plaintiffs that THEC was engaged in a course of conduct that would result the perpetration of fraud by THEC against the FTH joint venture, the future conversion by THEC of the FTH Plaintiffs portion of the \$3,690,563.75 IRD payment and THEC's approaching breach by THEC of its fiduciary duties to the FTH Plaintiffs. However, in the face of this affirmative duty to speak, Defendants were silent.

266. Defendants were under an affirmative duty to communicate with the FTH Plaintiffs during the time that Defendants were in negotiations with IRD and USAID with respect to offers of settlement communicated by IRD or USAID. However, in the face of this affirmative duty to speak, Defendants were silent.

267. Defendants were under an affirmative duty to communicate to the FTH Plaintiffs regarding the plan to transfer the \$3,690,563.75 of a "final" settlement into an account under the exclusive control of THEC. However, in the face of this affirmative duty to speak, Defendants remained silent.

268. The FTH Plaintiffs relied on Defendants silence, *i.e.*, they had no idea that all of the wrong-doing, which Defendants knew about, was about to be perpetrated against them by THEC with Defendant's significant assistance.

269. Defendants' silence regarding material facts, where Defendants were under an

affirmative duty to speak, constituted fraud against the FTH Plaintiffs.

270. As a consequence of Defendants fraud, the FTH Plaintiffs have been damaged.

271. WHEREFORE, the FTH Plaintiffs pray that the Court will order Defendants to pay damages to the FTH Plaintiffs to compensate the FTH Plaintiffs for the harms inflicted by their fraudulent conduct and order that all such payments for damages be deposited into the joint venture account at the Kabul Bank and the Court take whatever other action in law or equity are necessary or prudent to ensure that complete justice is served in the face of Defendants' fraud upon the FTH Plaintiffs.

COUNT 9

Breach of the Standard of Care
(Legal Malpractice/Negligence)

*pled in the alternative by FTH Plaintiffs against all Defendants
were the Court to determine a bona fide attorney-client relationship existed
between Defendants and the FTH joint venture*

272. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 9 as if fully-pled herein.

273. Were it to be determined that Defendants served as legal counsel to the FTH joint venture, Defendants owed a duty of care to the FTH Plaintiffs.

274. The duty of care owed by Defendants to the FTH Plaintiffs was to exercise the degree of care and skill that a reasonable competent lawyer, engaged in a similar practice and acting in similar circumstances, would exercise.

275. Defendants failed to observe the standard of care owed to the FTH Plaintiffs. By way of example, and not limitation:

273.01 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from the FTH Plaintiffs for presentation to IRD/USAID information related to the extent and difficulty of the work done by the FTH Plaintiffs as

compared with the total work required by the IRD Subcontract including engineering estimates of the percentage of completion).

273.02 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from the FTH Plaintiffs for presentation to IRD/USAID information related to engineering work, production scheduling, planning, technical study and supervision, and other necessary services that have been undertaken by the FTH Plaintiffs.

273.03 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from FTH Plaintiffs for presentation to IRD/USAID information related to the FTH Plaintiffs' efficiency or their attainment of quantity and quality production.

273.04 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from FTH Plaintiffs for presentation to IRD/USAID information regarding the FTH Plaintiffs' reduction of costs; the FTH Plaintiffs' economic use of materials, facilities, and manpower; or the FTH Plaintiffs' disposition of termination inventory.

273.05 In negotiating the final payment on the termination for convenience, Defendants made no effort to investigate or present to the terminating party information related to the amount and source of the FTH Plaintiffs' capital and extent of risk assumed by the FTH Plaintiffs, inventive and developmental contributions provided by the FTH Plaintiffs, or the FTH Plaintiffs' cooperation with the Government and other contractors supplying technical assistance on the USAID SPR-SEA.

273.06 In negotiating the final payment on the termination for convenience, Defendants made no effort to solicit from the FTH Plaintiffs information related to the character of the FTH Plaintiffs' businesses, including the source and nature of materials and the

complexity of road construction challenges; the rate of profit that the FTH Plaintiffs would have earned had the contract been completed; the rate of profit the FTH Plaintiffs anticipated at the time the IRD Subcontract was negotiated; or the character and difficulty encountered by the FTH Plaintiffs in subcontracting, including selection, placement, and management of subcontracts, or efforts in negotiating settlements of terminated subcontracts.

273.07 Failing to investigate and identify who were bona fide authorized persons to execute the purported “Authorization to Disburse Final Payment” on behalf of THEC, FMCC, and HCG.

273.08 Failing to take any action where there was conspicuous notice, on the face of documents that Defendants themselves prepared, that FMCC had been replaced by NCCL – thereby fundamentally begging the veracity of the asserted FTH authorization for IRD to send all of the purported “final payment” of \$3,690,563.75 to an account controlled solely by THEC to the exclusion of the FTH Plaintiffs. This is especially true where the “Authorization to Disburse Final Payment” by the FTH Plaintiffs was signed by Abdul Rahman Nazari, an owner of NCCL (not a member of the FTH joint venture who does not speak, read, or write English and, thus, is not even an authorized representative of his own company with respect to the THN joint venture) and where the “Authorization to Disburse Final Payment” was signed in the United States by former HCG employee Yama M. Eamen notwithstanding the fact that he had no authorization to execute documents on behalf of HCG or the FTH joint venture. This was especially true where the “Authorization to Disburse Final Payment” was not signed by any of the managers of the FTH joint venture (Abdul Hadi Rakin, Dr. Abdullah Faizi, or Gul Rahman Hamdard) in their capacity as managers or by Dr. Abdullah Faizi in any capacity.

273.09 Failing, upon notice of a controversy between and among members of the

FTH joint venture about the destination for the “final payment,” to cause that final payment to be deposited into Defendants’ client escrow account pending the resolution of the dispute.

276. As a consequence of the above-described and other failures by Defendants to meet the standard of care set forth above, the FTH Plaintiffs have been damaged.

277. But for Defendants’ failures to meet their duty of care towards the FTH Plaintiffs, the FTH Plaintiffs would not have been injured.

278. WHEREFORE, the FTH Plaintiffs pray that the court find that Defendants violated their duty of care and order Defendants to compensate the FTH Plaintiffs for the damages they suffered (damages in an amount to be proven at trial).

COUNT 10

Breach of the Standard of Conduct
(Breach of Fiduciary Duty)

*pled in the alternative by FTH Plaintiffs against all Defendants
were the Court to determine a bona fide attorney-client relationship existed
between Defendants and the FTH joint venture*

279. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 10 as if fully-pled herein.

280. Were it to be determined that Defendants served as legal counsel to the FTH joint venture, Defendants owed a duty of conduct to the FTH Plaintiffs.

281. Defendants failed to observe their duty of loyalty owed to the FTH Plaintiffs. Defendants failures include but are not limited to:

280.01 demonstrating loyalty to THEC at the expense of the FTH Plaintiffs by failing to warn the FTH Plaintiffs about THEC’s plans to divert the “final payment” to an account controlled solely by THEC;

280.02 circumventing the FTH joint venture managers by securing “authorized” signatures from Abdul Rahman Nazari (an owner of NCCL, a non-member of the FTH joint

venture) instead of FTH joint venture manager and FMCC owner Dr. Abdullah Faizi and from Yama M. Eamen (a U.S.-citizen, resident of California, and former employee of HCG) instead of FTH manager and owner of HCG Gul Rahman Hamdard.

280.03 providing assistance to THEC in perfecting its self-dealing;

280.04 after being on public notice of the diversion of funds that would harm the FTH Plaintiffs, acting in a manner that demonstrated loyalty to THEC at the expense of their loyalty to the FTH Plaintiffs.

282. As a consequence of the above-described and other failures by Defendants to meet the standard of conduct set forth above, the FTH Plaintiffs have been damaged.

283. But for Defendants' failures to meet their duty of conduct towards the FTH Plaintiffs, these Plaintiffs would not have been injured.

284. WHEREFORE, in equity and fairness and for the protection of the lawyering community, the Court should order the disgorgement of all of the funds that Defendants were paid for their purported representation of the FTH joint venture; order that Defendants pay restitution of \$3,690,563.75 into the joint venture account at the Kabul Bank (leaving for Defendants to seek contribution from THEC); and refer the facts of Defendants' breach of their standard of conduct to the Office of Disciplinary Counsel, the Board On Professional Responsibility, District Of Columbia Court Of Appeals.

COUNT 11

Breach of Contract by FTH Plaintiffs
*pled in the alternative by FTH Plaintiffs against all Defendants
were the Court to determine a bona fide attorney-client relationship existed
between Defendants and the FTH joint venture*

285. The FTH Plaintiffs incorporate by reference paragraphs 1 through 184 in the allegations of Count 11 as if fully-pled herein.

286. The purported retention agreement describing the services that would be provided by Defendant Cohen Mohr, LLP and Defendants stated “Cohen Mohr will advise and represent FTH JV in connection with its termination for convenience claim of the Subcontract by U.S. AID and IRD. This will involve initially establishing a negotiation and litigation strategy against both entities and implementing the strategies as needed in the best interests of FTH JV.”

287. Defendants breached this contract with the FTH joint venture. Specifically, Defendants did not apply their services in the best interest of the FTH joint venture; instead, Defendants served THEC exclusively and at the expense of the FTH joint venture’s best interests.

288. Defendants further breached their contract with the FTH joint venture because they did not meet with the FTH joint venture at all, to say nothing of the fact that they did not establish with the FTH joint venture a negotiation or litigation strategy against IRD or USAID.

289. As a consequence of Defendants’ breach of contract, the FTH Plaintiffs were damaged. Specifically, the amount of the “final payment” fell short of the FTH Plaintiffs’ expectancy for a final payment by IRD/USAID. In order to close out business with IRD/USAID incident to the termination for convenience, the FTH Plaintiffs should have been paid far more than the \$3,690,563.75.

290. WHEREFORE, the FTH Plaintiffs pray that the Court find that Defendants

breached their contract with the FTH joint venture. Further, the FTH Plaintiffs pray that the Court order Defendants to pay into the joint venture account the additional sums that the FTH should have been paid by IRD/USAID that would have been realized had Defendants honored their contractual obligations to the FTH Plaintiffs, *i.e.*, the expectancy damages of being denied the full amount owed to them by IRD/USAID per the termination for convenience notice.

CLAIMS BROUGHT BY THN PLAINTIFFS

COUNT 12

Aiding and Abetting THEC's Fraud
by THN Plaintiffs against all Defendants where no attorney-client relationship existed between Defendants and the THN joint venture

291. The THN joint venture, HCG, and NCCL (the "THN Plaintiffs") incorporate by reference paragraphs 29 through 184 in the allegations of Count 12 as if fully-pled herein.

292. Defendants were not in privity of contract with the THN joint venture, HCG or NCCL.

293. Defendants were serving the interests of THEC.

294. Defendants knew that the THN joint venture and its constituent members, THEC, HCG, and NCCL were the successor in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract.

295. Defendants were, at a minimum, aware that the THN joint venture and its constituent members THEC, HCG, and NCCL were the successors in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract when documents that Defendants prepared and presented to IRD contained a conspicuous notation indicating that FMCC had been replaced by NCCL.

296. In the face of this conspicuous notice, Defendants continued to assist THEC in

perpetrating the fraud that resulted in the transfer of all the funds paid by IRD for an alleged “final settlement” into its own bank account.

297. THEC committed a fraud against the THN Plaintiffs when, under a duty to disclose to the board of directors of THN and the other participants in the THN joint venture, THEC remained silent about the fact that it had hired Defendants to negotiate a final settlement with IRD and USAID; remained silent about the fact that THEC presented Defendants to IRD and USAID as the attorneys in fact for the FTH joint venture; remained silent about the fact that it had approved a purported “final settlement” with IRD and USAID that affected fundamental rights of the THN Plaintiffs; and remained silent that documents had been submitted to IRD and USAID captioned “Subcontractor Final Certification of Payment, Waiver and Release, and Assignment of Claims” and “Authorization to Disburse Final Payment” that would enable THEC to convert all of the \$3,690,563.75 at the THN Plaintiffs’ expense.

298. With the knowledge that THEC was silent in the face of its affirmative obligation to speak to the THN joint venture, Defendants gave substantial assistance to THEC in committing its fraud. By way of example and not limitation, Defendants,

297.01 created the false impression that a bona fide attorney-client relationship existed between Defendants the THN joint venture and that the transfer of funds that were to be paid into the joint venture account at Kabul Bank had the blessing of the THN joint venture’s legal counsel;

297.02 knew that hiring an attorney to negotiate a settlement with USAID and IRD constituted a significant decision and that all “significant decisions” needed the approval of the THN joint venture board of directors meeting pursuant to Section 5.5 of the THN Joint Venture Agreement.

297.03 substantially assisted THEC in completing the fraud against the THN Plaintiffs by creating documents, e.g. “Subcontractor Final Certification of Payment, Waiver and Release, and Assignment of Claims” and “Authorization to Disburse Final Payment” that purported to provide the consent of the THN joint venture’s constituent members THEC, HCG, and NCCL approval for the \$3,690,563.75 to be transferred into a bank account controlled exclusively by THEC.

299. But for Defendants substantial assistance to THEC, THEC would not have been successful obtaining the payment of \$3,690,563.75 through its fraud.

300. As a consequence of Defendants aiding and abetting THEC in perpetrating its fraud, the THN joint venture, HCG, NCCL have suffered damages in an amount to be proven at trial.

301. WHEREFORE, the THN joint venture requests that the Court award compensation to the THN Plaintiffs for damages suffered from Defendants’ aiding and abetting THEC’s fraud; disgorge from Defendants all of the monies they were paid for the services they provided in aiding and abetting THEC’s fraud; pay punitive damages (that Defendants are all members of the bar and officers of the court make their willful disregard of the THN joint venture’s rights and their conduct so outrageous that it merits punishment in its own right and as a deterrent to others in the lawyering community), and to take whatever other action in law or equity is necessary or prudent to ensure that justice is served.

COUNT 13

Aiding and Abetting THEC's Conversion of \$3,690,563.75
by THN Plaintiff against all Defendants where no attorney-client relationship existed
between Defendants and the THN joint venture

302. The THN Plaintiffs incorporate by reference paragraphs 29 through 184 in the allegations of Count 13 as if fully-pled herein.

303. Defendants were not in privity of contract with the THN joint venture, HCG or NCCL.

304. Defendants were serving the interests of THEC.

305. Defendants knew that the THN joint venture and its constituent members, THEC, HCG, and NCCL were the successor in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract.

306. Defendants were, at a minimum, aware that the THN joint venture and its constituent members THEC, HCG, and NCCL were the successors in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract when documents that Defendants prepared and presented to IRD contained a conspicuous notation indicating that FMCC had been replaced by NCCL.

307. By exercising unlawful dominion and control over \$3,690,563.75 that was supposed to be paid by IRD into the joint venture account at Bank of Kabul for the benefit of the THN Plaintiffs, THEC committed the tort of conversion with respect to this sum-certain.

308. Defendants knew that THEC conversion of the \$3,690,563.75 was wrongful.

309. Defendants provided substantial assistance to THEC in perpetrating this conversion including but not limited to

309.01 creating the false impression that a bona fide attorney-client relationship existed between Defendants the THN joint venture and that the transfer of funds that were to be

paid into the joint venture account at Kabul Bank had the blessing of the THN joint venture's legal counsel;

309.02 falsifying authorizations that purported to approve the redirection of IRD-paid funds into a THEC-controlled bank account in the United States instead of into the Kabul Bank account where by contract and course of dealing, all previous IRD payments had been deposited, and

309.03 providing IRD with support for executing the transfer in the face of explicit requests by Gul Rahman Hamdard for IRD not to depart from its standard payment procedures.

310. These acts not only provided substantial assistance to THEC in completing the conversion of the \$3,690,563.75 but inflicted direct harm upon the THN joint venture by frustrating the THN joint venture's attempt to halt the conversion before it had been completed.

311. But for Defendants substantial assistance to THEC, THEC's conversion of \$3,690,563.75 would have failed.

312. As a consequence of Defendants aiding and abetting THEC's conversion of the THN Plaintiffs' portions of the \$3,690,563.75, the THN Plaintiffs have suffered damages as they have been denied funds needed to pay obligations, invest in additional contracts, and meet commitments dependent upon the payment of a purported final settlement. The THN Plaintiffs will prove the precise quantum of damages at trial.

313. WHEREFORE, the THN Plaintiffs request that the Court award compensation for damages, disgorge from Defendants all of the monies they were paid for the services they provided in aiding and abetting THEC's conversion, pay punitive damages (that Defendants are all members of the bar and officers of the court make their willful disregard of the THN joint

venture's rights and their conduct so outrageous that it merits punishment in its own right and as a deterrent to others in the lawyering community), and to take whatever other action in law or equity is necessary or prudent to ensure that justice is served.

COUNT 14

Aiding and Abetting THEC's Breach of Fiduciary Duty (Breach of Loyalty)
*by THN Plaintiffs where no attorney-client relationship existed
between Defendants and the THN joint venture*

314. The THN Plaintiffs incorporate by reference paragraphs 29 through 184 in the allegations of Count 14 as if fully-pled herein.

315. Defendants were not in privity of contract with the THN joint venture, HCG or NCCL.

316. Defendants were serving the interests of THEC.

317. Defendants knew that the THN joint venture and its constituent members, THEC, HCG, and NCCL were the successor in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract.

318. Defendants were, at a minimum, aware that the THN joint venture and its constituent members THEC, HCG, and NCCL were the successors in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract when documents that Defendants prepared and presented to IRD contained a conspicuous notation indicating that FMCC had been replaced by NCCL.

319. THEC breached its fiduciary obligations to the THN joint venture. Specifically, THEC owed duties of loyalty to the THN Plaintiffs. THEC breached this duty of loyalty when, through the wrongdoing described above, it engaged in self-dealing by arranging that the IRD payment of \$3,690,563.75 be wired directly into a THEC-controlled Bank of America account in the United States.

320. Defendants knew that THEC's conduct constituted a breach of THEC's fiduciary duty to the THN Plaintiffs yet gave THEC substantial assistance to THEC including, but not limited to

320.01 creating the false impression that a bona fide attorney-client relationship existed between Defendants the THN joint venture (by, among other things, presenting to IRD documents signed by someone who appeared to be a representative of NCCL), and that the diversion of the \$3,690,563.75 into THEC's U.S. bank account had been approved by legal counsel representing NCCL and the THN joint venture;

320.02 falsifying authorizations that purported to provide THEC, HCG, and NCCL's approval for the redirection of IRD-paid funds into a THEC-controlled bank account in the United States instead of into the Kabul Bank account where, by contract and course of dealing, all previous IRD payments had been deposited; and

320.03 appearing to provide THN joint venture legal approval of continuing such a transfer even in the face of explicit requests by THN board member Gul Rahman Hamdard for IRD not to depart from its standard payment procedures.

321. But for Defendants' substantial assistance to THEC, THEC's breach of loyalty to the THN Plaintiffs would have failed.

322. As a consequence of Defendants aiding and abetting THEC's breach of fiduciary duty, the THN Plaintiffs have suffered damages in an amount to be proven at trial.

323. WHEREFORE, the THN joint venture requests that the Court award compensation for damages, disgorge from Defendants all of the monies they were paid for the services they provided in aiding and abetting THEC's conversion, pay punitive damages (that Defendants are all members of the bar and officers of the court make their willful disregard of

the THN joint venture's rights and their conduct so outrageous that it merits punishment in its own right and as a deterrent to others in the lawyering community), and to take whatever other action in law or equity is necessary or prudent to ensure that justice is served.

COUNT 15

Tortious Interference with Contracts between and among the
THN joint venture, IRD, NCCL, HCG, NCCL, and THN
*by THN Plaintiffs against all Defendants where no attorney-client relationship
existed between Defendants and the THN joint venture*

324. The THN Plaintiffs incorporate by reference paragraphs 29 through 184 in the allegations of Count 15 as if fully-pled herein.

325. Defendants were not in privity of contract with the THN joint venture, HCG or NCCL.

326. Defendants were serving the interests of THEC.

327. Defendants knew that the THN joint venture and its constituent members, THEC, HCG, and NCCL were the successor in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract.

328. Defendants were, at a minimum, aware that the THN joint venture and its constituent members THEC, HCG, and NCCL were the successors in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract when documents that Defendants prepared and presented to IRD contained a conspicuous notation indicating that FMCC had been replaced by NCCL.

329. Defendants knew that the THN joint venture and IRD were in privity of contract through the IRD Subcontract.

330. Defendants knew that the THN joint venture and HCG were in privity of contract as HCG was a member of the THN joint venture.

331. Defendants knew that the FTH joint venture was in privity of contract with the THN joint venture because the THN Joint Venture Agreement contained an explicit recital detailing how the THN joint venture and its constituent members had succeeded the FTH joint venture and its constituent members in the performance obligations and payment benefits under the IRD Subcontract.

332. Defendants knew that the THN joint venture and NCCL were in privity of contract because the THN Joint Venture Agreement contained an explicit recital detailing how NCCL had replaced FMCC and how the THN joint venture had succeeded the FTH joint venture with respect to the performance obligations and payment benefits under the IRD Subcontract.

333. Through the wrongful acts previously described, Defendants interfered with the above-describe contractual relationships. Specifically,

332.01 Defendants caused the breach of IRD's contractual obligation to pay a fair termination for convenience settlement and make other payments due into the contractually designated and customarily used joint venture account to compensate those performing the IRD Subcontract obligations;

332.02 Defendants caused the THN joint venture to breach its contractual obligations to FMCC, *i.e.*, the THN joint venture's obligation to allow FMCC to be free and clear of future entanglements with respect to the IRD Subcontract (and to pay any amounts still owed to NCCL);

332.03 Defendants caused the THN joint venture to breach its contractual obligation to HCG to pay remaining amounts due to HCG for its work under the IRD Subcontract;

332.04 Defendants caused the THN joint venture to breach its contractual

obligations to NCCL by denying NCCL the amounts that were promised for NCCL's performance of FMCC's construction obligations under the IRD Subcontract;

332.05 Defendants breached the FTH joint venture's contractual obligation to the THN joint venture by interrupting payments owed to the THN joint venture and its constituent members for work undertaken to complete the IRD Subcontract.

334. Defendants intended that the above-described breaches because such breaches were necessary in order to THEC to secure the \$3,690,563.75 into a bank account that THEC exclusively controlled.

335. WHEREFORE, the THN joint venture prays that the Court award compensatory damages in an amount to be established at trial for Defendants' tortious interference with the THN joint venture's contracts with IRD, NCCL, HCG, NCCL, and THN and the Court take whatever other action in law or equity are necessary or prudent to ensure that complete justice is served in the face of Defendants' tortious interference with contract.

COUNT 16

Injunctive Relief

by THN Plaintiffs against all Defendants where, notwithstanding a lack of privity, Defendants breached their duty of care

336. The THN Plaintiffs incorporate by reference paragraphs 29 through 184 in the allegations of Count 16 as if fully-pled herein.

337. Defendants were not in privity of contract with THN Plaintiffs.

338. Defendants knew that THN Plaintiffs were the successors in interest to the FTH Plaintiffs' performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract.

339. Defendants were, at a minimum, aware that the THN Plaintiffs were the successors in interest to the performance obligations and a portion of the payment benefits for

road construction under the IRD Subcontract when documents that Defendants prepared and presented to IRD contained a conspicuous notation indicating that FMCC of the FMCC-THEC-HCG joint venture had been replaced by NCCL and the THEC-HCG-NCCL joint venture.

340. With knowledge that the THN Plaintiffs were direct successors in interest to the IRD Subcontract, Defendants owed a duty of care to the THN Plaintiffs. Defendants owed this duty of care because (1) it was clear that the “final payment” and “final settlement” transaction proposed was, unquestionably, intended to affect the THN Plaintiffs; (2) it was reasonably foreseeable, if not directly foreseeable, that the THN Plaintiffs could be harmed by this “final payment” and “final settlement” transaction; (3) the “final payment” and “final settlement” transaction unquestionably harmed the THN Plaintiffs by, among other things, denying them a payment of \$3,690,563.75 for their performance of construction services under the IRD Subcontract; (4) Defendants’ conduct was the proximate cause of the THN joint venture, HGC, and NCCL’s injury; (5) Defendants’ conduct is morally blameworthy; and (6) significant policy considerations counsel that holding Defendants to account for their conduct will serve a deterrent effect and prevent future harm.

341. The THN Plaintiffs are seized in an International Chamber of Commerce, International Court of Arbitration in Dubai, UAE captioned ICC Case 22065/RD/MK.

342. The THN joint venture, by and through board members Gul Rahman Hamdard and Shir Nazari, twice requested (once through counsel and once directly) that Defendants transfer the client file from Cohen Mohr, LLP to The Law Office of Joseph Hennessey, LLC.

343. Defendants have refused to transfer the requested documents.

344. WHEREFORE, the THN Plaintiffs request that the Court enter an ORDER that Defendants transfer all documents generated during the course of Defendants’ representation of

the THN joint venture and that the Court take whatever other action in law or equity are necessary or prudent to ensure that complete justice is served in the face of Defendants' refusal to transfer client files to The Law Office of Joseph Hennessey, LLC.

COUNT 17

Breach of the Standard of Care
(Legal Malpractice/Negligence)

*by THN Plaintiffs against all Defendants where, notwithstanding a lack of privity,
Defendants breached their duty of care*

345. The THN Plaintiffs incorporate by reference paragraphs 29 through 184 in the allegations of Count 17 as if fully-pled herein.

346. Defendants were not in privity of contract with THN Plaintiffs.

347. Defendants knew that THN Plaintiffs were the successors in interest to the FTH Plaintiffs' performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract.

348. Defendants were, at a minimum, aware that the THN Plaintiffs were the successors in interest to the performance obligations and a portion of the payment benefits for road construction under the IRD Subcontract when documents that Defendants prepared and presented to IRD contained a conspicuous notation indicating that FMCC of the FMCC-THEC-HCG joint venture had been replaced by NCCL and the THEC-HCG-NCCL joint venture.

349. With knowledge that the THN Plaintiffs were direct successors in interest to the IRD Subcontract, Defendants owed a duty of care to the THN Plaintiffs. Defendants owed this duty of care because (1) it was clear that the "final payment" and "final settlement" transaction proposed was, unquestionably, intended to affect the THN Plaintiffs; (2) it was reasonably foreseeable, if not directly foreseeable, that the THN Plaintiffs could be harmed by this "final payment" and "final settlement" transaction; (3) the "final payment" and "final settlement"

transaction unquestionably harmed the THN Plaintiffs by, among other things, denying them a payment of \$3,690,563.75 for their performance of construction services under the IRD Subcontract; (4) Defendants' conduct was the proximate cause of the THN joint venture, HGC, and NCCL's injury; (5) Defendants' conduct is morally blameworthy; and (6) significant policy considerations counsel that holding Defendants to account for their conduct will serve a deterrent effect and prevent future harm.

350. The duty of care owed by Defendants to the THN Plaintiffs was to exercise the degree of care and skill that a reasonable competent lawyer, engaged in a similar practice and acting in similar circumstances, would exercise.

351. Defendants failed to observe the standard of care owed to the THN Plaintiffs. By way of example, and not limitation:

351.01 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from the THN Plaintiffs for presentation to IRD/USAID information related to the extent and difficulty of the work done by the THN Plaintiffs as compared with the total work required by the IRD Subcontract including engineering estimates of the percentage of completion).

351.02 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from the THN Plaintiffs for presentation to IRD/USAID information related to engineering work, production scheduling, planning, technical study and supervision, and other necessary services that have been undertaken by the THN Plaintiffs.

351.03 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from THN Plaintiffs for presentation to IRD/USAID information related to the THN Plaintiffs' efficiency or their attainment of quantity and quality

production.

351.04 In negotiating the final payment on the termination for convenience, Defendants made no effort to gather from THN Plaintiffs for presentation to IRD/USAID information regarding the THN Plaintiffs' reduction of costs; the THN Plaintiffs' economic use of materials, facilities, and manpower; or the THN Plaintiffs' disposition of termination inventory.

351.05 In negotiating the final payment on the termination for convenience, Defendants made no effort to investigate or present to the terminating party information related to the amount and source of the THN Plaintiffs' capital and extent of risk assumed by the THN Plaintiffs inventive and developmental contributions provided by the THN Plaintiffs or the THN Plaintiffs' cooperation with the Government and other contractors supplying technical assistance on the USAID SPR-SEA.

351.06 In negotiating the final payment on the termination for convenience, Defendants made no effort to solicit from the THN Plaintiffs information related to the character of the THN Plaintiffs' businesses, including the source and nature of materials and the complexity of road construction challenges; the rate of profit that the THN Plaintiffs would have earned had the contract been completed; the rate of profit both the THN Plaintiffs anticipated at the time the IRD Subcontract was negotiated; and the character and difficulty encountered by the THN Plaintiffs in subcontracting, including selection, placement, and management of subcontracts, and effort in negotiating settlements of terminated subcontracts.

351.07 Failing to investigate and identify who were bona fide authorized persons to execute the purported "Authorization to Disburse Final Payment" on behalf of THEC, FMCC, and HCG.

351.08 Failing to take any action where there was conspicuous notice, on the face of documents that Defendants themselves prepared, that FMCC had been replaced by NCCL – thereby fundamentally begging the veracity of the asserted authorization for IRD to send all of the purported “final payment” of \$3,690,563.75 to an account controlled solely by THEC to the exclusion of the FTH and THN Plaintiffs. This is especially true where the “Authorization to Disburse Final Payment” by the FTH Plaintiffs was signed by Abdul Rahman Nazari, an owner of NCCL (not a member of the FTH joint venture) who does not speak, read, or write English (and, thus, is not even an authorized representative of his own company with respect to the THN joint venture) and where the “Authorization to Disburse Final Payment” was signed in the United States by former HCG employee Yama M. Eamen notwithstanding the fact that he had no authorization to execute documents on behalf of HCG or the THN joint venture. This was especially true where the “Authorization to Disburse Final Payment” was not signed by any of the board of directors of the THN joint venture (Abdul Hadi Rakin, Dr. Abdullah Faizi, or Gul Rahman Hamdard) in their capacity as managers or by Dr. Abdullah Faizi in any capacity.

351.09 Failing, upon notice of a controversy between and among members of the THN joint venture about the destination for the “final payment,” to cause that final payment to be deposited into Defendants’ client escrow account pending the resolution of the dispute.

352. As a consequence of the above-described and other failures by Defendants to meet the standard of care set forth above, the THN Plaintiffs have been damaged.

353. But for Defendants’ failures to meet their duty of care towards the THN Plaintiffs, the THN Plaintiffs would not have been injured.

354. WHEREFORE, the THN Plaintiffs pray that the court find that Defendants violated their duty of care and order Defendants to compensate the FTH Plaintiffs for the

damages they suffered (damages in an amount to be proven at trial).

COUNT 18

Breach of the Standard of Conduct

(Breach of Fiduciary Duty)

*by THN Plaintiffs against all Defendants where, notwithstanding a lack of privity,
Defendants breached their duty of conduct*

355. The THN Plaintiffs incorporate by reference paragraphs 29 through 181 in the allegations of Count 18 as if fully-pled herein.

356. Defendants were not in privity of contract with THN Plaintiffs.

357. Defendants knew that the THEC was in direct privity of contract with the THN Plaintiffs.

358. Any settlement (nominally in the name of the THN joint venture but in fact for the benefit of THEC) would directly impact the THN Plaintiffs. Thus, though Defendants were not in privity of contract, Defendants were obligated to observe a standard of conduct towards the THN Plaintiffs. Specifically, Defendants are required to conduct themselves with undivided loyalty to the THN Plaintiffs. Defendants owed this standard of conduct because (1) though Defendants were not in privity of contract with the THN Plaintiffs, Defendants had assumed a position of disproportionate and asymmetrical power over the THN Plaintiffs where the THN Plaintiff had no idea that Defendants were negotiating purportedly on their behalf, THN Plaintiffs were thus made vulnerable to Defendants, and where the THN Plaintiffs would unquestionably be affected by any “final payment” or “final settlement”; (2) it is reasonably foreseeable that Defendants, who had positioned themselves to have secret, disproportionate power over the THN Plaintiffs, could do dramatic harm to the THN Plaintiffs who were kept in the dark about Defendants’ activities and where it could reasonably be assumed that the THN Plaintiffs’ rights could be compromised by Defendants; (3) Defendants placed themselves in the

position where they could, and in fact did, harm the THN Plaintiffs who were otherwise innocent with respect to Defendants; (4) Defendants' conduct was the proximate cause of harm to the THN Plaintiffs; (5) Defendants' conduct is morally blameworthy; and (6) significant policy considerations counsel that holding Defendants to account for breach of their duty of loyalty in such circumstances will serve a deterrent effect and prevent future harm.

359. Accordingly, notwithstanding the lack of privity between Defendants and the THN Plaintiffs, Defendants owed the THN Plaintiffs a duty of loyalty, otherwise referred to as a fiduciary duty.

360. Positioning themselves so that the THN Plaintiffs and their future rights were completely vulnerable to them, Defendants completely failed in their duty of loyalty toward them. In sum, Defendants not only failed to warn the THN Plaintiffs about THEC's approaching round-house punch, Defendants equipped THN with the brass knuckles that ensured a "knock-out" punch.

361. Defendants failed to observe their duty of loyalty owed to the THN Plaintiffs. Defendants failures include but are not limited to:

362.01 demonstrating loyalty to THEC at the expense of the THN Plaintiffs by failing to warn the THN Plaintiffs about THEC's plans to divert the "final payment" to an account controlled solely by THEC;

362.02 circumventing the THN joint venture board of directors by securing "authorized" signatures from Abdul Rahman Nazari (who, though an owner of NCCL, was not on the board of directors of the THN joint venture owing, largely, to his inability to speak, read, or write in English), and from Yama M. Eamen (a U.S.-citizen, resident of California, and former employee of HCG) instead of THN joint venture board of director and owner of HCG

Gul Rahman Hamdard.

362.03 providing assistance to THEC in perfecting its self-dealing;

362.04 after being on public notice of the diversion of funds that would harm the THN Plaintiffs, acting in a manner that demonstrated loyalty to THEC at the expense of their loyalty to the THN Plaintiffs.

362. As a consequence of the above-described and other failures by Defendants to meet the standard of conduct set forth above, the THN Plaintiffs have been damaged.

363. But for Defendants' failures to meet their duty of conduct towards the THN Plaintiffs, these Plaintiffs would not have been injured.

364. WHEREFORE, in equity and fairness and for the protection of the lawyering community, the Court should order the disgorgement of all of the funds that Defendants were paid for their purported representation of the FTH joint venture; order that Defendants pay restitution of \$3,690,563.75 into the joint venture account at the Kabul Bank (leaving for Defendants to seek contribution from THEC); and refer the facts of Defendants' breach of their standard of conduct to the Office of Disciplinary Counsel, the Board On Professional Responsibility, District Of Columbia Court Of Appeals.

#

#

#

#

365. In sum, Plaintiffs pray that the Court enter judgment against all Defendants for the damages described herein in an amount to be proven at trial. By way of example, and not limitation on such damages

369.01 HCG would have had the opportunity to perform a subcontract with ECCI for the construction of an Afghan National Army (ANA) 3/207th Garrison in Badghis Province in Afghanistan. This contract would have realized HCG \$10.5 million. However, because of the devastation caused by THEC's theft, HCG was so crippled that it could not perform this contract and thus lost out on \$10.5 million in revenue.

369.02 HCG would have been in position to perform a subcontract for Perini Management, Inc. for construction of the SEPS Helmand Transmission Line. This contract would have realized \$8.5 million in revenue for HCG. Yet, because of the theft of the \$3,690,563.75, HCG was so crippled that it could not perform this contract and thus lost out \$8.5 million.

369.03 The theft of HCG's portion of the IRD revenue forced HCG to borrow money. Since 2014, HCG has been forced to borrow more than \$952,000.00 to cover the lost revenue anticipated from HCG's IRD construction services.

369.04 HCG's reputation as a financially stable, reliable, and nibble provider of construction services has been permanently and perhaps fatally damaged. One consequence of this damage is that HCG was not able to renew its company license because HCG could not make payment on government owed taxes.

366. At trial, Plaintiffs will provide a detailed recitation of damages.

367. Plaintiffs also pray that the Court will order the payment of punitive damages to

punish Defendants for their outrageous behavior; order that each Defendant and each member of Cohen Mohr, LLP be held jointly and severally liable for the damages and remedies requested herein; award Plaintiffs the expenses and their legal costs, including reasonable attorney's fees to the extent authorized by law; award pre- and post-judgment interest on all monies awarded; and grant any and all other relief not specifically requested herein yet necessary to ensure that complete justice is achieved in this case.

Respectfully submitted May 27, 2017

/s/ Joseph A. Hennessey
Joseph A. Hennessey, Esq.
The Law Office of Joseph Hennessey, LLC
2 Wisconsin Circle, Suite 700
Chevy Chase, Maryland 20815
Telephone: (301) 351-5614
Email: Jhennessey@jahlegal.com

BENCH TRIAL REQUESTED

Plaintiffs hereby request that this case be tried to the Court.

/s/ Joseph A. Hennessey
Joseph A. Hennessey

May 27, 2017