

IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE

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W. A. T. THOMPSON, CLERK
DC

CANYON RIDGE RESORT, LLC, §
SINGING SISTERS FALLS, LLC, §
SCENIC LAND COMPANY, LLC, §

Plaintiffs, §

v. §

STERNE AGEE & LEACH, INC., §
GROVE STREET PARTNERS, LLC, §

EDMUND J. WALL §
3020 Park Lane §
Atlanta, GA, 30341 §

Defendants. §

Civil Action No. 11C1083
JURY DEMAND

PLAINTIFFS' ORIGINAL COMPLAINT

Plaintiffs Canyon Ridge Resort, LLC (“Canyon Ridge” or CRR”), Scenic Land Company, LLC (“SLC”), and Singing Sisters Falls, LLC (“Singing Sisters” or “SSF”) (collectively, the “Plaintiffs”) bring this action against Defendants Sterne Agee & Leach, Inc. (“Sterne”), Grove Street Partners, LLC, (“Grove Street”), and Edmund J. Wall, both in his individual capacity and as the agent of Sterne (collectively, the “Defendants”), and allege as follows:

INTRODUCTION

1. Plaintiffs bring this case to recover damages caused by the negligent and/or intentional malfeasance and fraud of Sterne and Wall, and their torts and breaches of contract. Despite serving as Canyon Ridge's investment banker, its bond underwriter and as one of Canyon Ridge's managers at different times, Wall and Sterne worked at odds with Canyon Ridge and in support of a competing project for their own benefit. Grove Street conspired with and, on information and belief, employed Wall and Sterne, and joined in their work at odds with Canyon Ridge. Canyon Ridge seeks to recover the damages caused by Grove Street's, Sterne's and Wall's malfeasance. Likewise, Singing Sisters and SLC seek recovery of the damages that Grove Street, Wall and Sterne caused. All Plaintiffs seek additional punitive damages due to the Defendants' intentional, fraudulent, malicious and/or reckless conduct.

PARTIES

2. Plaintiff Canyon Ridge Resort, LLC is a Georgia Limited Liability Company created for the purpose of building and managing a mountain top hotel, resort, restaurant, spa, and conference center on Lookout Mountain in Walker County, Georgia (the "**Project**"). Canyon Ridge originally had two members: 1) Scenic Land Georgia Holdings LLC ("**Scenic Land**" or "**SLGH**") (of which Duane Horton is the President and Chief Manager); and 2) Baker Holdings, LLC ("**BH**") (of which Randy Baker is the President and Chief Manager). Canyon Ridge's principal place of business is located at 820 Broad Street, Suite 200 in Chattanooga, Tennessee, 37402.

3. Plaintiff Scenic Land Company, LLC is a Tennessee Limited Liability Company with its principal place of business at 820 Broad Street, Suite 200 in Chattanooga, Tennessee, 37402. Scenic Land Company was the developer for the Canyon Ridge hotel and conference

center. At all relevant times, Horton served as the sole manager of SLC.

4. Plaintiff Singing Sister Falls, LLC is a Georgia Limited Liability Company created for the purpose of holding property surrounding the Canyon Ridge Resort build site. Horton is also the sole manager of Singing Sisters. Singing Sisters's principal place of business is located at 820 Broad Street, Suite 200 in Chattanooga, Tennessee, 37402

5. Defendant Sterne Agee & Leach, Inc. is a Delaware corporation with its principal place of business and corporate headquarters at 800 Shades Creek Parkway in Birmingham, Alabama 35209. According to its website, Sterne has \$15 billion of assets under custody. Sterne's agent for service of process in Tennessee is National Registered Agents, Inc., 2300 Hillsboro Road, Suite 305 Nashville, Tennessee 37212.

6. Defendant Edmund "Ed" Wall is an individual residing, on information and belief, at 3020 Park Lane, Atlanta, Georgia, 30341. At all times relevant to this complaint, Mr. Wall was an employee of, and acted on behalf of Sterne. Sterne selected Wall as the appropriate Sterne employee to act as Canyon Ridge's bond underwriter and investment banker.

7. Defendant Grove Street Partners, LLC is a Georgia Limited Liability Company with its sole offices and principal place of business located at One Overton Park, 3625 Cumberland Blvd, Suite 400 in Atlanta, GA 30339. Upon information and belief, it has not appointed an agent for service of process in this State. Accordingly, all process to Grove Street may be served upon the Secretary of the State of Tennessee, pursuant to Tenn. Code Ann. § 20-2-202(b).

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction pursuant to Tenn. Code. Ann. § 16-10-101 (2011). This Court has personal jurisdiction over the Defendants pursuant to Tenn. Code Ann. §§ 20-2-201, -223, and/or -225, because this cause of action arises out of the Defendants':

transaction of business within this State, contracting to supply services or things in this State, tortious acts and omissions in this State, and/or causing tortious injury in this State. Wall and Sterne regularly conducted and transacted business in the State of Tennessee, and specifically in Hamilton County. Sterne has an office in Chattanooga, and Wall, on behalf of Sterne, visited Canyon Ridge's Chattanooga office several times over the course of his engagement with Canyon Ridge.

9. Defendant Grove Street visited Chattanooga on more than one occasion in an attempt to hire Canyon Ridge's architectural firm, River Street Architecture LLC ("**River Street**"), and to pursue a project in direct competition with Canyon Ridge. Grove Street and the other Defendants therefore intentionally directed commercial activity towards Tennessee in connection with the events giving rise to this lawsuit, purposefully availing themselves of Tennessee law.

10. Venue is proper under Tenn. Code Ann. § 20-4-101. Canyon Ridge's sole office is in Chattanooga, and Sterne has an office in Chattanooga as well. Furthermore, this cause of action arose in Hamilton County, and many of the acts complained of occurred or had their effect in Hamilton County.

FACTS

11. Duane Horton and Randy Baker co-founded Canyon Ridge to develop and build a \$100 million Starwood Golf Resort on top of Lookout Mountain in Walker County, Georgia. By January of 2010, everything had fallen into place for Canyon Ridge's project. Canyon Ridge had acquired the land and signed an exclusive Luxury Collection Franchise License with Starwood Resorts. Starwood's outside consultant, Paul Wischermann, performed a financial analysis indicating that the project would be highly profitable, a projection verified by two independent feasibility studies conducted by leading industry experts. The Canyon Ridge team was rounded

out by the additional support of Ryan Companies, ESG, River Street Architecture, and Hart Howerton, a world-class development team. Through Singing Sisters, the Canyon Ridge team had also acquired land surrounding the hotel to develop or sell after the hotel opened. Finally, Walker County, Georgia was behind the project, lending its financial support and credit rating to the project's bonds.

12. Sterne and Wall also entered into an agreement to serve as SLC's and Canyon Ridge's financial advisor and bond underwriter, establishing contractual duties. Sterne and Wall furthermore established an agency relationship as well as a confidential relationship with Canyon Ridge, giving rise to additional fiduciary duties. Finally, Sterne and Wall ensured that Canyon Ridge, Singing Sisters, and SLC believed that Sterne and Wall would be acting in Canyon Ridge's best interest as Canyon Ridge's agents.

13. Randy Baker fell onto hard financial times and, desperate for funds that the Canyon Ridge Project would not provide him, recruited Wall to develop a project more lucrative to himself, Sterne and Wall, to compete with Canyon Ridge's Project. On information and belief, Wall contacted Grove Street, a commercial real estate development company Wall and Sterne had previously worked with, and enlisted them to assist in creating and promoting a competing project that would be more lucrative for both Baker and Sterne. Grove Street, with Wall's, Sterne's, and Baker's guidance, planned to build a Sonesta hotel on the *same site* where Canyon Ridge's Starwood hotel would have stood. Wall, Sterne, and Grove Street also adopted and/or misappropriated the financing structure that Canyon Ridge, Wall, and Sterne had created for the Starwood hotel and conference center, including items recommended by Canyon Ridge's previous investment banker. On information and belief, Grove Street employed Sterne and Wall as its investment banker and bond underwriter just as Canyon Ridge had done. The Defendants

even retained the same architects that Canyon Ridge had signed for its Starwood Project, architects that had signed a non-compete with Canyon Ridge.

14. Until Sterne and Wall recruited and/or assisted Grove Street in 2010, there *was no* project competing with Canyon Ridge's Project for Walker County's approval, and Walker County supported the Canyon Ridge Project. By the summer of 2010, however, Defendants had engineered, promoted, and sponsored the Grove Street project, which began directly competing with Canyon Ridge. At the same time, Sterne was acting as Canyon Ridge's investment banker, agent, and bond underwriter, and had an obligation to work to sell bonds to support Canyon Ridge's Project.

15. By June 2010, Wall's and Sterne's disparagement of, and competition with, Canyon Ridge and its project were starting to have their effect on Walker County. The County, despite previously stating in open meetings that it fully supported Canyon Ridge's Project, began to withdraw its financial support. In addition, Sterne, through Wall, began expressing doubts about its ability to place the public bonds. Because Wall's specialty was limited to municipally backed bonds, Canyon Ridge engaged another investment bank, BB&T Capital Markets, Inc. ("BB&T-CM"), to devise an alternative project financing plan based upon private investments that required no financial guaranty from Walker County. Canyon Ridge, unaware of Sterne's and Wall's conflicting interests, advised Sterne and Wall about BB&T-CM, offered to allow Sterne and Wall to continue to participate as joint underwriters, and conducted a meeting with all three parties to plan the new financing arrangement.

16. Sterne and Wall resigned as Canyon Ridge's bond underwriter on September 15. However, on September 24,—just nine days later—Sterne and Wall joined Canyon Ridge's board of managers at Baker's request, assuming fiduciary duties to CRR despite their clear

conflict of interest. Wall's first act as a Canyon Ridge manager was an unsuccessful attempt to oust Horton as president of Canyon Ridge.

17. Next, Wall—while simultaneously serving as a Canyon Ridge manager and working for the competing Grove Street project—reduced the amounts of recovery zone bonds (“RZB”s) that Canyon Ridge had received from the State of Georgia as part of the hotel development plan.¹ Wall had helped Canyon Ridge execute the request for the RZBs but did not inform Canyon Ridge of the reduction in the bonds' size, because he intended instead to use the bonds for his competing Grove Street project, which was smaller in size and required a smaller RZB allocation.

18. Wall and Sterne began simultaneously working as *Walker County's* “financial advisor.” Accordingly, by late October, Wall and Sterne were serving in, or had served in, conflicting roles as: 1) a Canyon Ridge financial advisor and bond underwriter, or a Canyon Ridge manager; 2) Walker County's financial advisor; and 3) on information and belief, working for Grove Street supporting and promoting the competing project. Wall and Sterne repeatedly used their influence in all three positions to thwart Canyon Ridge's efforts.

19. Canyon Ridge and BB&T-CM presented Walker County with the project financing plan that was based upon private investment and which required no financial guaranty from Walker County. In two critical 2010 meetings on October 25th and November 5th, Wall and Sterne used their new position as Walker County's financial advisor to further frustrate Canyon Ridge's efforts, convincing Walker County to accept the Grove Street project instead of Canyon Ridge's plan.

¹ Recovery Zone Bonds are bonds that were available through the “American Recovery and Reinvestment Tax Act of 2009” (the “Recovery Act”). The type of RZB contemplated in Canyon Ridge's plan would receive a 45% rebate from the federal government on the interest Canyon Ridge paid on the bonds, effectively reducing the interest rate.

20. As Canyon Ridge's investment banker and bond underwriter, Sterne and Wall violated their contractual and fiduciary duties in numerous ways, including: 1) working with Grove Street to create a competing project; 2) misappropriating Canyon Ridge's financing structure for the Grove Street project; 3) reducing and misappropriating Canyon Ridge's recovery zone bond allocation; and 4) disparaging Canyon Ridge's team to Walker County officials.

21. Wall and Sterne further violated their fiduciary duties while serving as a Canyon Ridge manager by: 1) continuing to compete with Canyon Ridge; 2) inserting themselves as the financial advisor for Walker County and using that position to sabotage Canyon Ridge's efforts and project; 3) accepting a position as a Canyon Ridge manager with no intention of acting in Canyon Ridge's best interests; 4) attempting to remove Horton as Canyon Ridge's president without a good faith belief that such a removal was in Canyon Ridge's best interests; and 5) undermining Canyon Ridge's final efforts to obtain Walker County's approval of Canyon Ridge's plan during the critical October 25, 2010 meeting with Walker County.

22. Grove Street tortiously injured Canyon Ridge, SLC, and Singing Sisters by, on information and belief, conspiring with Baker, Wall and Sterne to seize control over or supplant Canyon Ridge's Project through the violation of Baker's, Wall's and Sterne's fiduciary duties. On information and belief, Grove Street is liable for the acts of Wall and Sterne because Wall and Sterne were acting as Grove Street's agent.

DAMAGES

23. There are two major categories of damages resulting from the Defendants' illegal conduct—lost profits from the Project, and lost land value in the surrounding property.

24. The projected profitability of the Canyon Ridge hotel is beyond reasonable dispute. Two separate feasibility studies, conducted for different stakeholders, each confirmed

the Project's profitability. Even the PKF study, conducted at Walker County's request at the lowest point in the hotel market, confirmed the Project's profitability.

25. In addition, the Project was to carry the flagship Luxury Brand of the Starwood chain of hotels, which has opened over 3,300 hotels in the U.S. market alone and therefore has extensive experience in revenue and profitability modeling. Starwood's recommended consultant, Paul Wischermann Partners, which has opened several successful and award-winning hotels, conducted a pro-forma analysis of the Canyon Ridge Project's feasibility and found that it would be highly profitable.

26. Due to Defendants' negligent and/or intentional, fraudulent, malicious and/or reckless conduct, the Plaintiffs have suffered out of pocket damages and lost profits.

27. Additionally, both Canyon Ridge and Singing Sisters bought property surrounding the Canyon Ridge Resort site in reliance on representations of the Defendants. Canyon Ridge owned roughly 29 acres immediately surrounding the resort site, and Singing Sisters owned an additional 437 acres nearby.

28. Due to Defendants' negligent and/or intentional, fraudulent, malicious and/or reckless conduct, the Canyon Ridge and Singing Sisters property is worth significantly less than it would have been had the Canyon Ridge Project been successful.

29. Also, as the developer for the Canyon Ridge Project, SLC was entitled to a percentage of the value of the bonds upon bond closing. Due to Defendants' negligent and/or intentional, fraudulent, malicious and/or reckless conduct, SLC was deprived of its fee.

30. The Defendants' acts were intentional, fraudulent, malicious and/or reckless, and Plaintiffs seek punitive damages to deter such actions in the future by Defendants and other similarly situated parties.

COUNT 1
BREACH OF CONTRACT

31. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 30 above as if fully set forth herein.

32. Canyon Ridge had contracts with Wall and Sterne to serve as Canyon Ridge's investment banker and sole bond underwriter.

33. SLC, the entity Sterne and Wall initially agreed to represent is a Tennessee LLC. Furthermore, all substantive contractual negotiations, and the final acceptance of both contracts, occurred in Tennessee. Additionally, under both contracts, the work was partly to be performed in Tennessee. Tennessee law therefore governs the contracts between Wall, Sterne and Canyon Ridge.

34. Under Tennessee law, all contracts carry an implied duty of good faith and fair dealing.

35. Wall and Sterne committed numerous breaches of their contractual duties, including the duty of good faith, by, among other things:

- a. Informing a competitor of Canyon Ridge's financing structure;
- b. Working with that competitor to sell bonds for a competing project on the same property;
- c. Reducing Canyon Ridge's application for the RZBs;
- d. Co-opting the RZBs for Canyon Ridge's competitor; and
- e. Dissuading Walker County officials from working with Canyon Ridge.

36. As Canyon Ridge's financial advisor Wall and Sterne were well aware of the damage Canyon Ridge would suffer as a result of the breaches.

37. As a direct and proximate result of Wall's and Sterne's contractual breaches,

Canyon Ridge suffered millions of dollars of damages, the amount of which will be proved at trial.

38. Wall's and Sterne's breaches involved tortious conduct that was intentional, fraudulent, malicious and/or reckless, and Wall and Sterne are therefore liable for punitive damages.

COUNT 2
FRAUD

39. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 38 above as if fully set forth herein.

40. Sterne and Wall were in a confidential relationship with Canyon Ridge, SSF, SLC, and Horton as a manager of all three.

41. Wall, on Sterne's behalf, made numerous false representations of material facts to Duane Horton as the manager of Canyon Ridge, SSF and SLC, including, among other things, multiple representations to Horton and Canyon Ridge that:

- a. Wall and Sterne did, in fact, work for Canyon Ridge;
- b. Wall and Sterne were acting in Canyon Ridge's best interests;
- c. Wall and Sterne were working in support of the Canyon Ridge Project;
- d. Wall and Sterne were providing Canyon Ridge investment banking advice in good faith; and
- e. Wall and Sterne were attempting in good faith to sell the Canyon Ridge bonds.

42. Wall knew these statements were false when he made them to Horton.

43. Wall, on Sterne's behalf, made these statements to Horton for the purpose of causing Plaintiffs damages and to continue to trust Sterne and Wall, to rely on the statements,

and to prevent Plaintiffs from discovering their fraud.

44. Horton, as the manager of Canyon Ridge, SLC, and Singing Sisters, reasonably relied on Sterne's statements.

45. Wall, on Sterne's behalf, concealed numerous material facts from Duane Horton, Canyon Ridge, SSF and SLC, including, among other things, the facts that:

- a. Sterne was working with Grove Street Partners on an alternative, competing project;
- b. Sterne was not making a good faith attempt to place Canyon Ridge's bonds;
- c. Sterne was actively opposing the Canyon Ridge bond offering;
- d. Sterne had co-opted Canyon Ridge's financing plan for Grove Street;
- e. Sterne had recruited and/or supported Grove Street in creating an alternative project;
- f. Sterne had ordered the reduction of Canyon Ridge's RZB allocation; and
- g. Sterne intended to utilize Canyon Ridge's RZB application for the competing Grove Street Project.

46. As a result of Sterne and Wall's confidential relationship with Plaintiffs, they were under a duty to disclose these facts.

47. Sterne and Wall knew they had a duty to disclose these facts and, as bond underwriters and investment banker to Canyon Ridge and otherwise being familiar with the business dealings of Plaintiffs, Sterne and Wall knew the damages Plaintiffs would suffer as a result of their concealment of these facts.

48. Sterne and Wall concealed these facts with the intent to cause Plaintiffs damage.

49. As a direct and proximate result of Wall's and Sterne's fraudulent misrepresentations and concealment of these facts, Canyon Ridge, SSF and SLC suffered millions of dollars of damages, the amount of which will be proved at trial.

50. Wall's and Sterne's fraudulent misrepresentations involved intentional, willful, malicious and/or reckless conduct, and Wall and Sterne are therefore liable for punitive damages.

COUNT 3
NEGLIGENT MISREPRESENTATION

51. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 50 above as if fully set forth herein.

52. In the alternative, in the course of their business, business in which Sterne had a financial interest, Sterne negligently provided Duane Horton, as the manager of Canyon Ridge, SLC and SSF, with false information regarding the Project in stating to Canyon Ridge, among other things, that:

- a. Wall and Sterne did, in fact, work for Canyon Ridge;
- b. Wall and Sterne were acting in Canyon Ridge's best interests;
- c. Wall and Sterne were working in support of the Canyon Ridge Project;
- d. Wall and Sterne were providing Canyon Ridge investment banking advice in good faith; and
- e. Wall and Sterne were attempting in good faith to sell the Canyon Ridge bonds.

53. It was foreseeable to Sterne that Horton, as the manager of Canyon Ridge, SLC, and SSF, would rely on these statements.

54. Horton, as the manager of Canyon Ridge, SLC, and SSF reasonably relied on Sterne's statements.

55. As a direct and proximate result of the false information that Sterne and Wall negligently supplied to Canyon Ridge, Canyon Ridge, SSF and SLC suffered millions of dollars of damages, the amount of which will be proved at trial.

COUNT 4
BREACH OF FIDUCIARY DUTIES AS
INVESTMENT BANKER AND BOND UNDERWRITER

56. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 55 above as if fully set forth herein.

57. Canyon Ridge hired Sterne and Wall to act on its behalf as its investment banker and sole bond underwriter.

58. Canyon Ridge retained the ability to control the time and manner of executing Wall's and Sterne's work, frequently demanding that they do or refrain from doing certain activities.

59. Wall acknowledged that fact, as Canyon Ridge's Investment banker, and followed Canyon Ridge's commands.

60. The bond underwriting agreement gave Wall and Sterne the ability to make binding commitments on Canyon Ridge's behalf for the sale of Canyon Ridge's bonds.

61. For the reasons above, Wall and Sterne were Canyon Ridge's agents, and owed Canyon Ridge fiduciary duties of utmost loyalty and good faith, as well as the duty not to compete directly with their principal.

62. Furthermore, due to the specific activities that Wall and Sterne undertook as Canyon Ridge's investment banker and sole bond underwriter, such as negotiating with the County on Canyon Ridge's behalf, and furthermore due to Sterne's and Wall's intimate involvement with the planning and execution of Canyon Ridge's financing strategy, Canyon

Ridge was justified in reposing confidence in Sterne and Wall, and did in fact repose such confidence.

63. Therefore, Sterne and Wall were in a confidential relationship with Canyon Ridge, and owed Canyon Ridge the duties of utmost loyalty and good faith, just as in an agency relationship, on that independent basis.

64. Wall and Sterne breached their fiduciary duties to Canyon Ridge by, among other things:

- a. Working with Grove Street to create, support and promote a competing project;
- b. Competing with Canyon Ridge by preparing financing structures, analysis, and proposals for the Grove Street project;
- c. Ordering Walker County's bond lawyer to reduce Canyon Ridge's application for Recovery Zone Bonds ("RZBs") without being authorized to do so by Canyon Ridge in order to use the bonds for the competing Grove Street project;
- d. Misappropriating Canyon Ridge's Recovery Zone Bonds for use by the competing Grove Street Project;
- e. Disparaging Canyon Ridge's team and project to Walker County officials and promoting his competing Grove Street project; and
- f. Undermining Canyon Ridge's final efforts to have Walker County approve its plan in the critical October 25, 2010 meeting with Walker County, where Canyon Ridge and BB&T-CM presented Canyon Ridge's revised financing plan that did not require Walker County's financial support or its credit rating.

65. As a direct and proximate result of Wall's and Sterne's fiduciary breaches while serving as Canyon Ridge's investment banker and bond underwriter, Canyon Ridge suffered

millions of dollars in damages, the amount of which will be proved at trial.

66. Wall's and Sterne's fiduciary breaches while serving as Canyon Ridge's investment banker and bond underwriter involved intentional, willful, malicious and/or reckless conduct, and Wall and Sterne are therefore liable for punitive damages.

COUNT 5
BREACH OF FIDUCIARY DUTIES AS A CANYON RIDGE MANAGER

67. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 66 above as if fully set forth herein.

68. Under O.C.G.A. § 14-11-305, Wall and Sterne had both duties of care and loyalty to Canyon Ridge upon agreeing to serve as a manager of Canyon Ridge.

69. Sterne and Wall violated their duties of care and/or loyalty to Canyon Ridge by, among other things:

- a. Accepting a position as a Canyon Ridge manager, when they had no intention of acting in Canyon Ridge's best interests;
- b. Continuing to compete with Canyon Ridge while a Canyon Ridge manager;
- c. On information and belief, discouraging Walker County officials from working with Canyon Ridge in favor of the Grove Street project;
- d. Inserting themselves as the financial advisor for Walker County and using that position to thwart Canyon Ridge's efforts;
- e. Attempting to remove Horton as Canyon Ridge's president, without a good-faith belief that such a removal was in Canyon Ridge's best interests;
- f. Undermining Canyon Ridge's final efforts to get Walker County to

approve its plan;

g. Ordering Earl Taylor to reduce Canyon Ridge's application for Recovery Zone Bonds; and

h. Co-opting the RZB application for Grove Street project's use.

70. As a direct and proximate result of Wall's and Sterne's fiduciary breaches while serving as a Canyon Ridge manager, Canyon Ridge suffered millions of dollars in damages, the amount of which will be proved at trial.

71. Wall's and Sterne's fiduciary breaches as a Canyon Ridge manager involved intentional, willful, malicious and/or reckless conduct, and Wall and Sterne are therefore liable for punitive damages.

COUNT 6

CONSPIRACY TO BREACH RANDY BAKER'S FIDUCIARY DUTIES

72. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 71 above as if fully set forth herein.

73. On information and belief, Wall and Sterne agreed with Grove Street and Baker that Baker would, with Grove Street's, Wall's, and Sterne's assistance, abandon the Canyon Ridge project and would instead create a competing project with Grove Street that would be more personally profitable to Baker, Wall and Sterne.

74. Under O.C.G.A. § 14-11-305, Baker had fiduciary duties of care and loyalty to Canyon Ridge by virtue of being both a manager and member representative of Canyon Ridge. Wall and Sterne were aware of these duties, as was Grove Street.

75. Thus, Wall, Sterne and Baker entered into an agreement with a goal of mutually benefiting from Baker's violation of his fiduciary duties to Canyon Ridge.

76. In furtherance of that agreement, Baker, with Wall's and Sterne's support, did in

fact violate his fiduciary duties to Canyon Ridge as a Canyon Ridge manager by, among other things:

- a. Recruiting Wall and Sterne to abandon Canyon Ridge and help create a competing project;
- b. Competing directly with Canyon Ridge through the Grove Street project;
- c. Failing to disclose his acts against Canyon Ridge's interests to Canyon Ridge; and
- d. Appointing Wall and Sterne as a Canyon Ridge Manager when he knew it was not in Canyon Ridge's best interests.

77. As a direct and proximate result of Defendants' conspiracy with Baker to violate Baker's fiduciary duties to Canyon Ridge, Canyon Ridge suffered millions of dollars in damages, the amount of which will be proved at trial.

78. Defendants' actions in conspiring to violate Baker's fiduciary duties involved intentional, willful, malicious and/or reckless conduct, and Grove Street, Wall, and Sterne are therefore liable for punitive damages.

COUNT 7
TORTIOUS INTERFERENCE WITH CONTRACT

79. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 78 above as if fully set forth herein.

80. As described in Count 1 above, Wall and Sterne were under contract with Canyon Ridge to serve as Canyon Ridge's investment banker and bond underwriter.

81. On information and belief, Grove Street was aware of Wall's and Sterne's relationship with Canyon Ridge from Grove Street's first involvement in the Canyon Ridge Project, or shortly thereafter.

82. In agreeing with Baker, Wall and Sterne to create a competing project for the Canyon Ridge Resort development, and/or in continuing to do so after learning of Wall and Sterne's relationship with Canyon Ridge, Grove Street acted improperly and without privilege.

83. Grove Street's actions in co-opting Canyon Ridge's investment banker and bond underwriter, financing plan, and the location of Canyon Ridge's hotel were done with malice and intent to injure Canyon Ridge.

84. On information and belief, by using Sterne as its investment banker and bond underwriter for the competing project, Grove Street intentionally and willfully procured the breach of Sterne's and Wall's contractual obligations to Canyon Ridge.

85. By procuring the breach of Sterne's contractual duties to Canyon Ridge, Grove Street directly and proximately caused millions of dollars in damages, the amount of which will be proved at trial.

86. Pursuant to Tenn. Code Ann. § 47-50-109, Grove Street is liable for treble statutory damages for its inducement of Wall's and Sterne's breaches of their contractual duties.

87. Grove Street's inducement of Wall's and Sterne's breaches involved intentional, willful, malicious and/or reckless conduct, and Grove Street therefore is liable for punitive damages.

COUNT 8

TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS RELATIONS

88. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 87 above as if fully set forth herein.

89. Prior to Grove Street's joining with Wall and Sterne to form a competing project for the Canyon Ridge Resort, Canyon Ridge had a legitimate expectation that it would enter into a business relationship with Walker County, Georgia for a bond offering in support of the

planned hotel.

90. Grove Street, by engaging Wall and Sterne as its investment banker and/or bond underwriter, entering into a business relationship with Baker, and by continuing such engagements after it learned of Baker's, Wall's, and Sterne's relationship with Canyon Ridge, acted improperly and without privilege.

91. Grove Street's engagement of Wall and Sterne as its investment banker and/or bond underwriter was done with malice and intent to injure CRR.

92. Grove Street's engagement of Baker, Wall and Sterne caused Walker County to lose faith in Canyon Ridge, and prevented Walker County from entering into the anticipated project approval and bond offering with Canyon Ridge

93. By preventing Walker County from approving the Canyon Ridge Project and bond offering, Grove Street directly and proximately caused millions of dollars in damages, the amount of which will be proved at trial.

94. Grove Street's interference with Canyon Ridge's prospective business relations with Walker County involved intentional, willful, malicious and/or reckless conduct, and Grove Street is therefore liable for punitive damages.

COUNT 9
CONSPIRACY TO VIOLATE WALL'S AND STERNE'S FIDUCIARY DUTIES TO
CANYON RIDGE AS CANYON RIDGE'S AGENT AND/OR CONFIDANT

95. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 94 above as if fully set forth herein.

96. As stated above, Wall and Sterne owed Canyon Ridge fiduciary duties to Canyon Ridge because Wall and Sterne were acting as Canyon Ridge's agent and/or were in a confidential relationship with Canyon Ridge.

97. On information and belief, Grove Street was aware of Wall's and Sterne's relationship with Canyon Ridge from Grove Street's first involvement in the Canyon Ridge Resort project, or shortly thereafter.

98. On information and belief, Grove Street agreed with Wall and Sterne to supplant Canyon Ridge as the developer of the Canyon Ridge Resort project through Wall and Sterne's abandonment of Canyon Ridge and defection to Grove Street, in violation of Wall's and Sterne's fiduciary duties to Canyon Ridge.

99. Grove Street retained and/or continued to employ Wall and Sterne in furtherance of this purpose, and Wall and Sterne did in fact violate their fiduciary duties to Canyon Ridge as described above in furtherance of this purpose.

100. As parties to the conspiracy, Grove Street, Wall, and Sterne are jointly and severally liable for the torts committed in furtherance of the conspiracy.

101. As a direct and proximate result of Wall's and Sterne's breaches of fiduciary duties owed to Canyon Ridge as Canyon Ridge's agent and/or confidant, committed in furtherance of Grove Street's conspiracy with Wall and Sterne, Canyon Ridge suffered millions of dollars in damages, the amount of which will be proved at trial.

102. Such fiduciary breaches involved intentional, willful, malicious and/or reckless conduct, and Grove Street is therefore liable for punitive damages as Wall's and Sterne's co-conspirator.

COUNT 10
CONSPIRACY TO VIOLATE STERNE'S AND WALL'S FIDUCIARY DUTIES TO
CANYON RIDGE AS A CANYON RIDGE MANAGER

103. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 102 above as if fully set forth herein.

104. Under O.C.G.A. § 14-11-305, Wall and Sterne had both duties of care and loyalty to Canyon Ridge upon agreeing to serve as a manager of Canyon Ridge. Grove Street was aware of these duties.

105. On information and belief, Grove Street, along with Baker, Wall and Sterne agreed that Wall and Sterne would join Canyon Ridge as a Canyon Ridge manager for the express purpose of either sabotaging Canyon Ridge's Project, or seizing control of Canyon Ridge.

106. As described above, Wall committed numerous violations of his fiduciary duties to Canyon Ridge while a Canyon Ridge manager intended to either hijack or disrupt Canyon Ridge's Project.

107. These violations were all for the purpose of furthering Wall's, Sterne's, Baker's and Grove Street's mutual purpose of supplanting Canyon Ridge as the Canyon Ridge project developer.

108. As parties to the conspiracy, Grove Street, Wall, and Sterne are jointly and severally liable for the torts committed in furtherance of the conspiracy.

109. As a result of Wall's and Sterne's breaches of their fiduciary duties owed to Canyon Ridge as a Canyon Ridge manager, in furtherance of Grove Street's conspiracy with Wall and Sterne, Canyon Ridge suffered millions of dollars in damages, the amount of which will be proved at trial.

110. Such fiduciary breaches involved intentional, willful, malicious and/or reckless conduct, and Grove Street is therefore liable for punitive damages as Sterne's and Wall's principal.

COUNT 11
RESPONDEAT SUPERIOR LIABILITY FOR STERNE'S TORTS AS GROVE
STREET'S AGENT

111. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 110 above as if fully set forth herein.

112. As evidenced by the memoranda Wall prepared for Grove Street, Wall worked for Grove Street in much the same capacity as he worked for Canyon Ridge.

113. Due to Wall's relationship with Grove Street he was acting as Grove Street's agent when he breached his fiduciary duties to Canyon Ridge.

114. As stated above, Wall committed numerous breaches of his fiduciary duties to Canyon Ridge.

115. On information and belief, the acts constituting Wall's breaches of his fiduciary duties to Canyon Ridge were within the scope of his authority as Grove Street's agent, investment banker, and bond underwriter.

116. As Wall's and Sterne's Principal, Grove Street is vicariously liable for their tortious acts committed within the scope of their authority, including breaches of fiduciary duty while acting as Canyon Ridge's bond underwriter and investment banker, and while acting as a Canyon Ridge manager.

117. As a direct and proximate result of Wall's and Sterne's fiduciary breaches, for which Grove Street is liable as Wall's and Sterne's principal, Canyon Ridge suffered millions of dollars in damages, the amount of which will be proved at trial.

118. Such fiduciary breaches involved intentional, willful, malicious and/or reckless conduct, and Grove Street is therefore liable for punitive damages as Wall's principal.

COUNT 12
NEGLIGENCE AND OR RECKLESSNESS

119. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 118 above as if fully set forth herein.

120. Defendants owed a duty to act with reasonable care to avoid an unreasonable risk of harm to Plaintiffs.

121. In the alternative, in committing the numerous breaches of fiduciary duty owed to Canyon Ridge listed above, Defendants failed to exercise ordinary care such as a reasonably prudent person would have done in the same or similar circumstances, such that their actions amounted to negligence and/or acted in conscious indifference to the consequences of their actions, such that their conduct amounted to recklessness, by among other things, failing to complete the bond papers in January of 2010, when Wall told Canyon Ridge not to bother updating the Walker County bond resolution, because he could have the bond documents complete by then.

122. As a direct and proximate result such negligence and/or reckless conduct, Plaintiffs suffered millions of dollars in damages, the amount of which will be proved at trial.

COUNT 13
VIOLATIONS OF THE TENNESSEE CONSUMER PROTECTION ACT

123. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 122 above as if fully set forth herein.

124. The Tennessee Consumer Protection Act (the “Act”), as described in Tenn. Code. Ann. § 47-18-104, prohibits a number of deceptive or unfair practices in the provision of services, including:

- a. Representing that goods or services are of a particular standard, quality or

grade, or that goods are of a particular style or model, if they are of another [§ 47-18-104(7)];

- b. Disparaging the goods, services or business of another by false or misleading representations of fact [§ 47-18-104(8)]; and
- c. Engaging in any other act or practice which is deceptive to the consumer or to any other person [§ 47-18-104(27)].

125. Sterne and Wall violated § 47-18-104(7) by representing to Plaintiffs that Sterne adhered to its “core four” values, including that:

- a. “Our Clients Profit First” – Sterne and Wall deliberately subverted Plaintiff’s efforts in pursuit of increased fees for Sterne.
- b. “We Prevail Together” – Sterne and Wall showed no concern for Plaintiff’s profitability or success. To the contrary, Sterne and Wall sought a fee wherever they could find it, regardless of the damage to Plaintiffs.
- c. “Our Integrity is not for Sale” – As described above, Sterne sold its integrity to the highest bidder when it abandoned and betrayed Plaintiffs in pursuit of higher fees from Canyon Ridge’s direct competitor.

126. On information and belief, Sterne and Wall violated § 47-18-104(8) by disparaging Plaintiffs to Walker County officials in attempts to convince Walker County to choose the Grove Street plan over Canyon Ridge’s Project.

127. Sterne and Wall violated § 47-18-104(27), *inter alia*, by failing to disclose to Plaintiffs that Wall and Sterne were actively competing with Canyon Ridge and by representing to Plaintiffs that Wall and Sterne were actively seeking to sell Canyon Ridge’s bonds;

128. As a direct and proximate result of Wall's and Sterne's unfair and deceptive acts, Canyon Ridge suffered millions of dollars in damages, the amount of which will be proved at trial.

129. Wall and Sterne's acts involved willful and/or knowing violations of the Act, and Wall and Sterne are therefore liable for treble damages pursuant to Tenn. Code Ann. § 47-18-109(a)(3).

130. Plaintiffs seek recovery of their reasonable attorneys fees and costs pursuant to § 47-18-109(e)(1).

COUNT 14
CONVERSION

131. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 130 above as if fully set forth herein.

132. Canyon Ridge expended significant resources in applying for the Recovery Zone Bonds.

133. The Recovery Zone Bonds for Canyon Ridge's planned hotel and conference center application were granted in Canyon Ridge's name, pursuant to Canyon Ridge's application.

134. As such, Canyon Ridge held a property interest in the use of the RZBs.

135. Wall and Sterne, in the scope of their representation of Canyon Ridge, aided Canyon Ridge in applying for the RZBs, and therefore knew of both the effort that Canyon Ridge expended in applying for the RZBs, and the fact that the RZB application clearly stated that Canyon Ridge would be the sole user/borrower associated with the RZBs.

136. Wall and Sterne, without privilege or authorization, misappropriated the RZBs by diverting and retaining the RZB grant documents for their own use, by ordering the reduction of

the RZB grant, by extending the RZB application for Grove Street's use, and by offering the RZBs to Grove Street, all in pursuit of garnering higher fees from the Grove Street project.

137. Use of Canyon Ridge's RZBs made the Grove Street project more attractive to Walker County.

138. As a direct and proximate result of Wall's and Sterne's conversion of Canyon Ridge's RZBs, Canyon Ridge suffered millions of dollars in damages, the amount of which will be proved at trial.

PRAYER FOR RELIEF

Plaintiffs request that the Court enter a judgment against Defendants as follows:

- a) An amount of damages to be proven at trial;
- b) Punitive damages against Defendants to deter such actions in the future by the Defendants and others;
- c) An award of prejudgment interest at the maximum legal rate and an award of post-judgment interest at the maximum legal rate;
- d) An award of reasonable and necessary attorneys fees;
- e) Costs of suit; and
- f) Such other and further relief, both at law and in equity, as the Court may deem just and proper.

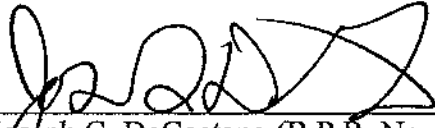
Plaintiffs further demand a jury of 12 to try this cause.

Respectfully Submitted,

/s/ Robert M. Manley

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Pro hac admission to be requested



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