Paley v Curious Holdings, LLC

2026 NY Slip Op 32020(U)

May 11, 2026

Supreme Court, New York County

Docket Number: Index No. 162520/2015

Judge: Andrew Borrok

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. ANDREW BORROK** **PART** 53

Justice

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JONATHAN PALEY, INDIVIDUALLY AND DERIVATIVELY ON BEHALF OF CURIOUS HOLDINGS, LLC,

Plaintiff,

- v -

CURIOUS HOLDINGS, LLC,MILK BARN, INC.,JAN KORBELIN, MICROSERIES, INC.,MARINA GRASIC,

Defendant.

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INDEX NO. 162520/2015

This case was tried without a jury over the course of approximately 14 days, beginning on January 5, 2026, and ending on January 27, 2026.

By way of background, the dispute between the parties originally found its way into New York State Supreme Court in an action captioned *Paley v Curious Holdings LLC et al.* Index 600502/10 (the **Prior Lawsuit**).[1] In the Prior Lawsuit, pursuant to a Decision and Order (Index 600502/2010, NYSCEF Doc. No. 76), dated October 21, 2014, the court (Scarpulla, J.) granted Paley's motion for summary judgment on its breach of contract cause of action as to liability and set for trial the issue of damages. Ultimately, and prior to trial, the parties settled the lawsuit for $1,000,000, and Curious consented to the entry of judgment (Index 600502/2010, NYSCEF Doc. No. 127) in the amount of $1,000,000 with post-judgment statutory interest of 9%. The

[1] For completeness, the Court notes that the defendants in the Prior Lawsuit were Curious Holdings, LLC, Jan Korbelin, Gryphon Pictures LLC, and Richard Chongoushian.

judgment remains unpaid and, in fact, and as discussed below, previously, the Appellate Division held that the Defendants in this action made transfers from Curious to avoid paying Paley.

More specifically, subsequently, in this lawsuit, in a Decision and Order of the Appellate Division (the **Appellate Division Decision**; *Paley v Curious Holdings, LLC,* 233 AD3d 590 [1st Dept 2024]), dated December 24, 2024, the Appellate Division held and otherwise modified a certain Decision and Order of this Court (the **June 2023 Decision**; NYSCEF Doc. No. 239), dated June 6, 2023, and Judgment (the **Judgment**; NYSCEF Doc. No. 280), dated December 15, 2023, as follows:

> Judgment, Supreme Court, New York County (Andrew Borrok, J.), entered December 15, 2023, awarding a money judgment in plaintiff's favor and against defendants, jointly and severally, and bringing up for review an order, same court and Justice, entered June 7, 2023, which granted plaintiff's motion for summary judgment against defendants and denied defendants' motion for summary judgment, unanimously modified, on the law, to remand for a determination of damages under former Debtor and Creditor Law §§ 276, 273, 273-a and 274 as to defendants Microseries, Inc. and Milk Barn Inc. and to hold that defendant Marina Grasic is liable as the alter ego of Milk Barn for any violations of the Debtor and Creditor Law, vacate the judgment against defendant Jan Korbelin that was based on the Debtor and Creditor Law claims, vacate the judgment against Korbelin that was based on the claims for fraud and usurpation of corporate opportunity and remand for further proceedings on those claims, grant defendants' motion for summary judgment dismissing the conversion claim as against all defendants and the usurpation of corporate opportunity and fraud claims as against Grasic, Microseries, and Milk Barn, and otherwise affirmed, without costs. Appeal from aforementioned order, unanimously dismissed, without costs, as subsumed in the appeal from the judgment.
>
> ***Defendant Korbelin, as CEO of nominal defendant Curious Holdings, LLC, caused all of its assets, including allegedly valuable contracts, to be transferred to two companies owned by his wife. These transfers were made in haste, with limited disclosure and, arguably, for inadequate consideration. The purpose of the transfer was to avoid paying plaintiff, who was then in litigation with Curious and Korbelin over the failure to issue and buy out an 11% equity stake in Curious.*** These facts show sufficient badges of fraud such that plaintiff established the necessary intent to hinder and delay (*see Matter of Steinberg v Levine*, 6 AD3d 620, 621 [2d Dept 2004]).

However, because the value of the conveyed contracts is disputed, further proceedings are required to determine the amount of damages to which plaintiff is entitled (*see Schwartz v Boom Batta, Inc.*, 137 AD3d 512, 513 [1st Dept 2016]).[2] Contrary to defendants' assertion, the contracts at issue are property subject to the Debtor and Creditor Law (*see generally In re R.M.L.*, 92 F3d 139, 151 [3d Cir 1996]). Because the transaction was made in bad faith, Microseries and Milk Barn are also liable under former Debtor and Creditor Law §§ 273, 273-a and 274 (*see* former Debtor and Creditor Law § 272[a]).

The fraudulent conveyance claims against Korbelin and Grasic were dismissed on a prior motion. Therefore, they can only be liable to the extent they are alter egos of one of the corporate recipients of the assets. Korbelin is not an owner of any of the entities. There was no factual basis to show that he was in control, let alone dominated, the entities. Therefore, the Debtor and Creditor claims against Korbelin must be dismissed.

Grasic formed Milk Barn with no capital, no employees, and no business. Its only substantive purpose was to receive the fraudulently conveyed assets of Curious, including its contracts, employees, and management. As such, she is liable for the acts of Milk Barn, including under the Debtor and Creditor Law (*see Etage Real Estate LLC v Stern*, 211 AD3d 632, 633 [1st Dept 2022]).

While Grasic is the owner of Microseries, that company existed for years before the transfer, and did substantial independent business with its own employees and clients. Thus, there is no showing of the badges of fraud sufficient to find Grasic an alter ego of Microseries.

The fraud claim was asserted only as to defendant Korbelin, and thus it should have been dismissed as to the other defendants. Korbelin, as a fiduciary, had a duty to disclose material facts to the members of Curious, including plaintiff (*see Cygnus Opportunity Fund, LLC v Washington Prime Group, LLC*, 302 A3d 430, 450 [Del Ch 2023]). He failed to disclose material facts about the transfer and the status of Curious.

However, plaintiff failed to demonstrate conclusively what steps he could have taken to prevent any loss, had he known the full facts, and did not show the amount of loss he could have avoided. Accordingly, this claim as asserted against Korbelin is remanded (*see Eurycleia Partners, LP v Seward & Kissel, LLP*, 12 NY3d 553, 559 [2009]).

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[2] The Defendants are wrong that damages are limited to the value of the Goldie and Bear Project (hereinafter defined). Curious' property transferred in violation of DCL §§ 276, 273, 273-a and 274 constitutes damages due. In addition, the Court notes that the Appellate Division wrote "contracts" – *i.e.*, plural – not contract (singular) – such that, among other things, the Curious Amanda's Alligator Contract (hereinafter defined) is also properly considered (*see Paley,* 233 AD3d at 591).

> The conversion claim should have been dismissed. Plaintiff asserted the claim individually. However, as a mere member of the LLC, he has no ownership right in its property (*see Bank of Am. Corp. v Lemgruber*, 385 F Supp 2d 200, 223 [SD NY 2005]). Nor are the contingent contracts at issue the type of property subject to conversion *(see In re Tashlitsky*, 492 BR 640, 649-650 [Bankr ED NY 2013], citing *Thyroff v Nationwide Mut. Ins. Co.*, 8 NY3d 283 [2007]).
>
> Because only fiduciaries are subject to claims for usurpation of corporate opportunity, the claims should have been dismissed as to all defendants except Korbelin, the only defendant who was employed by Curious at the time of the transfer (*see Alexander & Alexander o N.Y. v Fritzen*, 147 AD2d 241, 246 [1st Dept 1989]). However, factual issues exist as to whether Curious could have performed and therefore profited under the transferred contracts, and, if so, the value of the opportunity.
>
> The court did not err in granting plaintiff's motion despite the failure to comply with Uniform Rules for the Trial Courts (22 NYCRR) § 202.8-g. The court's individual rules made compliance optional.

(*Paley,* 233 AD3d 590 [emphasis added]).

As to the issue of the attorneys' fees due, the Court referred the matter to a special referee to hear and determine (NYSCEF Doc. No. 291). Following a two-day hearing, held on October 6 and October 7, 2025, Special Referee Jeremy Feinberg issued a Referee Decision and Order (the **Special Referee Decision**; NYSCEF Doc. No. 344), dated April 6, 2026, in which he determined that Paley is entitled to $674,345.25 in attorneys' fees and $29,836.50 in disbursements. Paley is entitled to the entry of judgment in this amount in respect of the attorneys' fees determined by Special Referee Feinberg in the Special Referee Decision as part of the judgment that Paley may submit to Part 53 (sfc-part53@nycourts.gov) in accordance with this Decision and Order.

As set forth above, the Appellate Division remanded the following three issues for trial:

1. With respect to the violations of DCL §§ 276, 276-a, 274, 273-a, and 273 as against Milk Barn, Microseries, and Grasic, "the amount of damages to which the plaintiff is entitled."

2. With respect to the fraud claim asserted against Korbelin, what steps Paley could have taken to prevent any loss, had he known the full facts and what amounts of losses he could have avoided.

3. With respect to the usurpation of corporate opportunity claim against Korbelin, whether Curious Holdings, LLC could have performed and therefore profited under the transferred contracts, and, if so, the value of the opportunity.

(*see Paley,* 233 AD3d 590).

Following trial, Paley moved by order to show cause pursuant to CPLR § 3025(c), to conform the pleadings to the proof and to file a proposed second amended complaint (the **Proposed SAC**; NYSCEF Doc. No. 310) based on the evidence adduced at trial, ***ironically, primarily by the Defendants.***

In the Proposed SAC, Paley sought to add the following causes of action: (i) conversion against Grasic (sixth cause of action), (ii) breach of fiduciary duty against Korbelin and Grasic (ninth cause of action), (iii) aiding and abetting breach of fiduciary duty against Grasic (tenth cause of action), and (iv) tortious interference with prospective economic advantage against Korbelin, Grasic, Microseries, and Milk Barn (eleventh cause of action). Paley additionally sought to clarify the amount of damages sought pursuant to the DCL causes of action (first, second, third, fourth, and fifth causes of action) and the causes of action sounding in fraud (seventh cause of action) and usurpation of corporate opportunity (eighth cause of action). Lastly, Paley sought to

assert the existing usurpation of corporate opportunity (eighth cause of action) claim as against Grasic and veil piercing claims against Microseries (second, third, fourth, and fifth causes of action) as a shell company of Grasic. As discussed in the March 11, 2026 Decision (hereinafter defined), the Defendants opposed the motion.[3]

Pursuant to a Decision and Order (the **March 11, 2026 Decision**; NYSCEF Doc. No. 335), dated March 11, 2026, the Court granted the motion conforming the pleadings to the proof and permitted Paley to file a second amended complaint but did not permit Paley to file the Proposed SAC to the extent it was inconsistent with the Appellate Division Decision.[4] Thereafter, and in accordance with the March 11, 2026 Decision, Paley filed the second amended complaint (the **SAC**; NYSCEF Doc. No. 338). In the SAC, Paley asserts both individually and derivatively that Curious, Milk Barn, Microseries, and Grasic violated DCL §§ 276 (first cause of action), 276-a (second cause of action), 274 (third cause of action), 273-a (fourth cause of action), and 273

[3] The March 11, 2026 Decision held:

> Notably, in their opposition papers, the Defendants contest what the evidence means but not that it does exist. In addition, and as discussed (*tr.* 3.6.26), in their opposition papers, and relying on, among other cases, *Maracina v Schirrmeister*, 152 AD2d 502 [1st Dept 1989); *Matter of Sipal Realty Corp. v William*, 15 AD2d 456 [1st Dept 1961]; *Wiener v Wiener*, 10 AD3d 362 [2d Dept 2004]; *Berry v Williams*, 106 AD3d 935 [2d Dept 2013]; *Glassman v ProHealth Ambulatory Surgery Ctr., Inc.*, 96 AD3d 799 [2d Dept 2012]; *Micro-Link, LLC v Town of Amherst*, 155 AD3d 1638 [4th Dept 2017]; *Eikenberry v Adirondak*, 148 AD2d 664 [2d Dept 1989], the Defendants argue that the trial court may not conform the pleadings to the proof in a manner which is inconsistent with the findings of the Appellate Division and issues remanded by the Appellate Division to the trial court. As to this, they are of course correct. However, based on this, they argue that none of the damages that the Plaintiff seeks to clarify nor any of the claims that the Plaintiff seeks to assert based on the trial record are permissible. As to this broad application, and as discussed below, they are wrong.

(NYSCEF Doc. No. 335).

[4] For completeness the Court notes that Paley withdrew the cause of action sounding in usurpation of corporate opportunity as against Grasic, and the Court did not permit Paley to assert causes of action sounding in (i) breach of fiduciary duty as against Grasic, (ii) conversion, and (iii) veil piercing Microseries (*see* NYSCEF Doc. No. 335). Additionally, the Court notes that for the reasons set forth in the March 11, 2026 Decision, no answer was required (*see id.* at 22; *see also Bahar v Sanieoff*, 210 AD3d 459, 460 [1st Dept 2022]).

(fifth cause of action) and that "the amount of damages to which plaintiff is entitled" is $2,775,950.96 (*see Paley,* 233 AD3d at 591; NYSCEF Doc. No. 338; *see also* NYSCEF Doc. No. 340). Paley also asserts individual and derivative fraud claims (sixth cause of action) against Curious and Korbelin and damages in the amount of $7,246,549.43 as well punitive damages based on conduct that was willful, wanton, and malicious, evincing a high degree of moral culpability, and demonstrating a conscious and deliberate disregard for Paley's rights (NYSCEF Doc. No. 338; *see also* NYSCEF Doc. No. 340). Paley also asserts direct and derivative claims of usurpation of corporate opportunity (seventh cause of action) against Korbelin and damages in the amount of $5,854,596.23 and punitive damages because his conduct was willful, wanton, and malicious, evincing a high degree of moral culpability, and demonstrating a conscious and deliberate disregard for Paley's rights (NYSCEF Doc. No. 338; *see also* NYSCEF Doc. No. 340). Paley asserts that Korbelin breached his fiduciary duties (eighth cause of action) to Curious and its stakeholder members and is seeking damages in the amount of $7,246,598.47 and punitive damages because his conduct was willful, wanton, and malicious, evincing a high degree of moral culpability, and demonstrating a conscious and deliberate disregard for Paley's rights (NYSCEF Doc. No. 338; *see also* NYSCEF Doc. No. 340). In the ninth cause of action, Paley asserts an aiding and abetting breach of fiduciary duties claim against Grasic in the amount of $7,246,549.43 and punitive damages because her conduct was willful, wanton, and malicious, evincing a high degree of moral culpability, and demonstrating a conscious and deliberate disregard for Paley's rights (NYSCEF Doc. No. 338; *see also* NYSCEF Doc. No. 340). Finally, in the tenth cause of action, Paley asserts a tortious interference with prospective economic advantage against Korbelin, Grasic, Microseries, and Milk Barn and seeks damages in the amount of $2,287,005.05 and punitive damages based on their conduct that was willful, wanton,

and malicious, evincing a high degree of moral culpability, and demonstrating a conscious and deliberate disregard for Paley's rights (NYSCEF Doc. No. 338; *see also* NYSCEF Doc. No. 340). In his post-trial brief, Paley indicates that he seeks $14,493,098.66 against Korbelin and Grasic and $8,327,852.88 against Milk Barn and Microseries of punitive damages (NYSCEF Doc. No. 340). Finally, Paley seeks attorneys' fees (*id.*; NYSCEF Doc. No. 338).

At trial, Jonathan Paley, Glenn Stewart, Marina Grasic, and Jan Korbelin testified. As discussed below, Korbelin and Grasic's testimony was not credible and often irreconcilably at odds with the contemporaneous documents.[5]

Following trial, the Court makes the following findings of fact and comes to the following conclusions of law:

1. Upon the evidence adduced at trial (primarily by the Defendants), this litigation involves Korbelin and Grasic's fraudulent and unscrupulous taking of money and assets from Curious to companies owned by Grasic, without fair consideration, pursuant to an Asset Purchase Agreement (the **APA**; VEC 1-84) and certain other documents discussed below[6] for the purpose of avoiding paying the money owed to Paley by Curious and otherwise funding their personal expenses with Curious' money.

[5] For completeness, the Court notes that although Korbelin and Grasic indicated at trial that they had intended to call Maya Schusterman and Richard Chongoushian, the people that they identified who could best explain the line items in Curious' financial documents ***which they introduced into evidence***, they ultimately indicated that Schusterman was unwilling to testify and that they could not locate Chongoushian. Neither were served with trial subpoenas.
[6] For clarity, the Goldie and Bear Project was transferred to Microseries by way of the APA (*see* VEC 1-84). Curious also entered into an Assignment and Assumption Agreement for the Goldie and Bear Project with Microseries (the **Microseries Assignment and Assumption Agreement**; VEC 1-96), dated as of January 1, 2014, at the time of the APA. Disney later entered into production service agreements with Milk Barn (VEC 1-86), dated as of July 31, 2014, and Microseries (VEC 1-92), dated as of July 31, 2014, to produce Goldie and Little Bear.

2. Per the APA, signed by the husband and wife duo (aka Korbelin and Grasic) and without full disclosure to the stakeholders (*see tr.* 1.5.26 at 78:19-24; *tr.* 1.6.26 at 294:15-25, 305:13-21) and independent informed approval from anyone disinterested (*see tr.* 1.22.26 at 2526:11-16), certain equipment and other assets that belonged to Curious, the production of a series titled "Goldie and Little Bear" (the **Goldie and Bear Project**), and a certain other children's series titled "Amanda's Alligator" (the **Amanda's Alligator Project**) were transferred to Grasic's entities for a mere $7,900[7] at a time when Grasic's company, Cargo

[7] Pursuant to the APA, the purchaser was to make the following payments:

1. Cash to Curious Holdings LLC in the amount of seven thousand nine hundred dollars ($7,900);
2. Payment to Disney of sixty eight thousand five hundred eighty-nine dollars ($68,589);
3. Payment to Chris Gilli[g]an of thirty thousand dollars ($30,000);

(VEC 1-84 at Ex. C). ***In actuality, they paid nothing***. At trial, ***Grasic conceded that amounts paid to Curious came from Disney via the Production Fee which Curious would have received anyway even if the transfer had not occurred and Curious would have been able to keep all of its assets*** (*see tr.* 1.14.26 at 1373:14-22). To the extent that the APA refers to "any and all liabilities contained in the Agreements related to Amanda and Goldie and Little Bear," the credible evidence established at trial established that the liabilities as to (i) the Goldie and Bear Project was, at bottom, the potential that Disney could take over the project pursuant to the terms of the Curious Goldie and Bear PSA (which ultimately they did) and (ii) only the exposure that Mo Willems would cancel the Curious Amanda's Alligator PSA (which ultimately he did) because he did not have a deal with Grasic's companies and the $7,500 Curious paid for the rights to produce Amanda's Alligator. In addition, there was no credible evidence of the required payment to Disney of the $68,589. Per the terms of the Curious Goldie and Bear PSA, Curious was not a guarantor of tax credit payments. And, to the extent that the Grasic and Korbelin testified that this obligation reflected received tax credit payments from prior projects (*see tr.* 1.23.26 at 2586:5-2587:11), Korbelin's November 24, 2013 email seems to suggest that any amount owed was much less:

> …
>
> On Nov 24, 2013, at 12:06 AM, "Janko (Curious)" <jkorbelin@curiouspictures.com> wrote:
>
> > They are demanding the full amount of tax credit refund received of $32k. I really tried everything and pushed as hard as I could but they are adamant that they have been waiting too long and can't compromise on this. They are playing hardball. I am struggling with it, as well, as I have to figure out how to pre-finance the $8k refunds due though me still being processed, as they don't want to wait.
> >
> > That way they have received $56k, $24k coming back through me and $32k coming back though Palm Phoenix. ***They are willing to work on a payment plan for the remaining $24k.***
> >
> > Let me know what you want me to do. Do you want me to try again and push them for a delay? Try again for them to agree to a split payment? I'll try everything possible if you want me to, even though they are being tough on this

Entertainment, LLC, owed Curious over $1,000,000 recorded on the books of Curious as Curious' investment in Cargo (*see* VEC 1-46 at 37): [8]

1. Agreement between Curious Holdings LLC and ABC/Disney for development of "Goldie and 'Little Bear," together with any and all related materials;
2. Any and all agreements between Curious Holdings LLC and any third party related to Production and development of "Amanda's Alligator," together with any and all related materials;
3. The entire contents of that certain storage unit on 11th Avenue in Manhattan, which includes the following equipment

25 20" lcds
25 22" leds
15 21" cintiqs
5 24" necs
1 24" jve
1 24" cinetal
19 Boxx render pc
20 Boxx workstations
8 american computers render blades
7 mac towers
1 spectra T120 backup system
1 spectra T50 backup system
10 servers
3 Fiber channel storage arrays

(*see* VEC 1-149 at 1 [emphasis added]). For clarity, the credible evidence did not establish that they paid this amount either because, among other things, no one credibly testified as to any flow of funds going to Disney. More importantly, no credible evidence was adduced at all that there were any monies due Disney as a pre-condition to the Curious Goldie and Bear PSA because (i) the contract itself did not provide for it (tax credits received reduced the funding obligation of Disney and nothing indicates that the payments to Curious – *i.e.,* the Production Fee would be reduced or that Disney would be entitled to a credit against the Production Fee in the amount of monies Curious allegedly owed Disney (if they did not pay it) and (ii) there is no evidence that Disney ever demanded any monies due them all. Lastly, no allocation of profit was made at all for Curious as required by the APA (*see* VEC 1-84 at Ex. D).

[8] By December 31, 2013, the Curious' investment in Cargo amounted to $1,696,435.68 (*see* VEC 1-46 at 37). Per the APA, the total amount that the husband and wife team agreed that Curious should be paid for its equipment, software licenses, the Amanda's Alligator Project, and the Goldie and Bear Project was a mere $7,900 (*see* VEC 184 at Ex. C), and yet, in a litigation involving the same equipment and software licenses, they claimed that the equipment and software licenses were worth millions (*see* VEC 1-124 ¶ 4). The Production Fee for the Goldie and Bear Project was $1,080,000 (*see* VEC 1-90 at Schedule 1 § C[ix]; VEC 1-93). They paid $7,500 just for the option to produce Amanda's Alligator (*see* VEC 1-131 § A[1]). As discussed below, the credible evidence adduced at trial established that the production of Amanda's Alligator did not go forward because Mo Willems took the position that he his deal was with Curious and not with Grasic's companies and that they did not have the right to transfer the contract to her companies without his consent (*see* VEC 1-150) and not because of any issue with PBS as they testified at trial.

2 cabinets with keyboards, speakers, misc wire

4. Any Software licenses.

(*see* VEC 1-84 at Ex. A).

3. As discussed further below, they also used Curious as both their personal cash register to sustain their other companies and pay their personal expenses by (i) reimbursing Grasic's personal expenses (*see* VEC 179, 1-46), (ii) paying or accruing a salary and bonuses for Grasic after her employment relationship with Curious was over (*see* VEC 1-46, 1-179), (iii) baselessly funding Grasic's other company – Cargo – including by allowing Cargo to utilize Curious' space rent free (*see tr.* 1.20.26 at 1957:1-1958:11; *see tr.* 1.16.26 at 1773:6-1775:2, 1899:21-22), providing free services to Cargo (*see tr.* 1.20.26 at 1957:1-1958:11; *see tr.* 1.16.26 at 1773:6-1775:2, 1899:21-22), furnishing unearned payments to Cargo (*see* VEC 1-178, 1-46), and paying the benefits and salary of certain Cargo employees (*see* VEC 1-178, 1-46), and (iv) ultimately by swiping Curious' substantial accrued stake in Cargo (*see* VEC 1-46 at 37 [the value accrued to $1,696,435.68]) without adequate consideration (*see* VEC 1-29).[9]

4. By way of background, Curious was a company established in New York that was involved in multiple business lines including commercials and animated cartoons.

[9] At trial, evidence of payments to TOYS R US / BABIES R US were discussed as they appear on the ledger that the defendants introduced – *i.e.,* one charge in the amount of $101.95 on July 18, 2013 and one charge in the amount of $101.95 on September 3, 2013 (VEC 1-46 at 63, 176). It was suggested that these amounts were for Grasic and Korbelin's children. For his part, Korbelin testified that they could have been for props (*see tr.* 1.22.26 at 2351:14-21). This testimony was not credible. Among other things, the ledger included a prop column, these expenses are not listed there (*see* VEC 1-46 at 94). In fact, in the Defendants' post-trial brief they concede that these payments were not for props. In their post-trial brief, and based on the native version of the ledger, the Defendants indicate that one of the two TOYS R US / BABIES R US payments was for a gift card for Miguel Rios. They offer no explanation as to the other TOYS R US / BABIES R US payment. Although relevant to assessing Korbelin's credibility as a witness, the TOYS R US / BABIES R US charges are not part of the damages awarded.

5. Curious developed a relationship with ABC Cable Networks Group (**Disney**) (*see tr.* 1.5.26 at 115:9-116:4; *see also tr.* 1.22.26 at 2487:13-23).

6. By way of example, Curious and Disney worked together on a project called "Little Einsteins" (*see tr.* 1.5.26 at 115:9-116:4).

7. Paley joined Curious in or around 2000/2001, specifically working in Curious' advertising services division named "DCODE" (*id.* at 59:7-21).

8. Eventually, in 2005, Paley became a partner and equity holder and had a five-year employment agreement (*id.* at 60:4-13).

9. According to Stewart, in around 2008, Korbelin approached him about acquiring Curious (*tr.* 1.6.26 at 276:14-277:2).

10. Subsequently, Stewart, through an entity named "Gryphon Pictures, LLC" (**Gryphon**), acquired Curious prior to Curious' involvement in the Goldie and Bear Project (*id.* at 277:4-7).

11. In or around the end of 2009, Gryphon owned 89% of Curious (*see tr.* 1.5.26 at 60:14-23).

12. Sometime after Gryphon acquired Curious, Korbelin became Curious' CEO (*see tr.* 1.6.26 at 278:24-279:8; *tr.* 1.15.26 at 1693:12-16).

13. As the Appellate Division already held, Korbelin was a fiduciary of Curious and its stakeholder members (*Paley*, 233 AD3d at 591).

14. At the end of 2009, Paley owned 11% of Curious (*see tr.* 1.5.26 at 60:14-15) and because of certain differences with Korbelin and Grasic, Paley did not renew his employment agreement for an additional period of time beyond its five-year term (*see id.* at 127:14-18).

15. Pursuant to the partnership agreement, Curious was obligated to repurchase Paley's equity at fair market value (*see id.* at 70:12-21).

16. Curious did not honor its obligation, and Paley was forced to file suit (*i.e.,* the Prior Lawsuit).

17. The Prior Lawsuit was settled for $1,000,000 and the consent to the entry of a judgment against Curious in the amount of $1,000,000 together with statutory interest at 9% (Index 600502/2010, NYSCEF Doc. No. 127).[10]

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[10] The Court notes that the Defendants frivolously argue in the post-trial brief that Paley waived his right to bring this lawsuit. They are incorrect:

> 8. **Paley Release.** Upon execution of this Agreement by Curious Parties and receipt of available funds from the Settlement Payment, Paley, for himself and for all of his Related Entities, hereby expressly, absolutely and unconditionally forever releases, forgives and discharges fully and finally the Curious Parties and each of their Related Entities from any and all obligations, liabilities, actions, causes of action, demands, claims, expenses, attorneys' fees, sanctions accounts, debts, damages, executions, covenants and judgments, arising from the Trial Action [*i.e.,* the Prior Lawsuit] (collectively, the "Paley Release")- The Paley Release also does not include any claim for breach of this Agreement.

(*see* VEC 1-83; *see also Paley v Curious*, 600502/2010).

18. The $1,000,000 judgment together with 9% statutory interest remains unsatisfied.

19. In or around 2010, Disney was approached by two creatives – Rick Gittleson and Jorge Aguirre – about a project that would be an offshoot of the fairytale involving Goldilocks and the Three Bears (*see tr.* 1.7.26 at 523:6-10, 524:22-525:6, 536:22-537:5). The animated series became known as the "Goldie and Little Bear" (*see id.*).

20. In 2012, Curious entered into an option agreement with Mo Willems Studio, Inc. to produce the Amanda's Alligator Project (the **Curious Amanda's Alligator Contract**; VEC 1-131).

21. Pursuant to the terms of the Curious Amanda's Alligator Contract, Curious paid Mo Willems Studio $7,500 (*id.* § A[1]).

22. Although Korbelin and Grasic testified that the Amanda's Alligator Project did not go forward because of PBS or the inability to raise appropriate funding (*see tr.* 1.7.26 at 466:12-467:24; *tr.* 1.23.26 at 2709:2-7), their testimony was not credible and flatly contradicted by the contemporaneous documents.

23. The Amanda's Alligator Project did not go forward ***because of the unlawful transfer by Korbelin and Grasic of the Curious Amanda's Alligator Contract to Grasic's entity***.

24. Mo Willems' agent, Marcia Wernick, took the position that the fraudulent transfer voided the Curious Amanda's Alligator Contract:

> *Hello Bruce,*
>
> *I was sent your recent emails. As you know, we were advised that Curious Holdings LLC no longer exist. As such, the contract between Mo and Curious is no longer valid. Under the circumstances, as Mo's agent, I have advised him not to do any further work on Amanda.*
>
> *It's an unfortunate situation, but there's nothing further we can do about it.*
>
> *All best, Marcia*

(*see* VEC 1-150).

25. The Court further notes that no evidence was adduced from PBS suggesting otherwise.

26. As discussed above, the Appellate Division previously held that Defendant Korbelin, as CEO of nominal Defendant Curious, made transfers of Curious' assets to avoid paying the amounts due (*see Paley,* 233 AD3d at 590-591).

I. $1,320,000 are the DCL §§ 276, 273, 273-a and 274 Damages

The Curious Goldie and Bear PSA (hereinafter defined) Damages Established at Trial are $1,080,000

27. On or around the same time, as discussed above, Disney was interested in the Goldie and Bear Project with Chris Gilligan directing it and was looking for a producer to produce it (*see tr.* 1.7.26 at 523:6-10, 524:22-525:14, 527:14-20).

28. Korbelin and Nancy Kanter, the head of Disney Junior, had a series of meetings (*see id.* at 526:22-528:2; *see also* VEC 1-90).

29. Following these meetings and based on Curious' relationship with Disney, Curious was given the opportunity to produce the Goldie and Bear Project with Disney (*see tr.* 1.5.26 at 115:9-116:4).

30. Accordingly, in 2012, Disney entered into two different agreements with Curious – one dated "as of" March 16, 2012 (the **Test PSA**; VEC 1-89) and one dated "as of" October 26, 2012 (the **Curious Goldie and Bear PSA**; VEC 1-90).

31. The Test PSA was for an animation test (*see* VEC 1-89).

32. The Curious Goldie and Bear PSA with Disney was for a 24-episode animation series with an option to renew for additional seasons (VEC 1-90 at Schedule 1 §§ C, D).

33. The Curious Goldie and Bear PSA bifurcated the costs of production between, on the one hand, those which were to be included in an approved budget to be paid by Disney in their entirety, and, on the other hand, those that Disney considered to be general overhead which were to be Curious' responsibility except to the extent that Disney would make a payment towards such general overhead expenses of $45,000 per episode in the form of a Production Fee (*see id.* at Schedule 1§ C):

> (ix) a production company fee of 10% of the below the line (as such term is commonly understood in the basic cable series TV industry) locked budget not to exceed $45,000 per 24 minute episode, which shall cover all executive producer fees, costs for overhead including without limitation, rent, parking, security, telephone, internet, office space, office furniture, office equipment (including but not limited to hardware and software costs related to pre-

> production and production; work stations for writers/production staff/accountants/directors/storyboard artists/colorist/background designers/prop designers, modelers, riggers, lighters, animators compositors, render farms, backup server; etc.) and supplies (including computers; postage/shipping), utilities, office support staff (with reasonable allocation). Editorial equipment such as avid, final cut or color correction equipment shall be shared at a per episode rate;

(*see id.* at Schedule 1§ C[ix]).

34. For example, if Curious had telephone, software license (*e.g.,* Word), rent, or other expenses, Disney contributed $45,000 per episode to those general expenses (*see id.*). [11]

35. This overhead Production Fee allocation was only paid for the time in which the series ran and which Curious was producing the series. To wit, if Disney elected to take over the project, Disney was no longer required to make a subsequent allocation to Curious' (or the outside producers') general overhead expenses (*see id.* § 8[a]).

36. Curious would continue to have these overhead expenses regardless of whether Disney took over the project and no longer paid the Production Fee.

37. Any other revenue that Curious had would also be available to pay these general overhead expenses.

[11] Put another way, the Curious Goldie and Bear PSA reflects Disney's recognition that as part of the production of Goldie and Little Bear, they would be utilizing Curious' general assets and agreed to make payment as it relates to their anticipated use of Curious' expenses associated with those assets that were not otherwise being paid for pursuant to the approved budget. The Curious Goldie and Bear PSA makes clear that certain expenses were not to be included in the approved budget – *i.e.,* that Disney was not to be 100% responsible for them and was only responsible for them to the extent of the Production Fee.

38. As such, the Production Fee constitutes profit to Curious much like legal fees earned constitute profit to a law firm on a matter even though they otherwise would have rent, telephone, and software license expenses.

39. Twenty-four episodes were produced (*see* VEC 1-93), and a Production Fee of $1,080,000 was paid (*see* VEC 1-90 at Schedule 1 § C[ix]; *see tr.* 1.22.26 at 2523:3-13).

40. Korbelin testified that after the Curious Goldie and Bear PSA was signed, Curious was working with Disney closely to move the Goldie and Bear Project forward (*see tr.* 1.23.26 at 2615:5-2617:3).[12]

41. Korbelin testified that he worked with and spoke with Adina Savin regularly (*see tr.* 1.20.26 at 2034:20-25).

42. Although the Curious Goldie and Bear PSA was an option contract, the record evidence established that it was clear ***as of the latest November 2013*** that Disney was moving forward with the Goldie and Bear Project and was going to greenlight it such that as of that time, the Defendants themselves no longer considered it to be speculative (*see* VEC 1-149, 1-153).

[12] The evidence adduced at trial showed Curious was taking certain steps to move forward with the Goldie and Bear Project such as setting schedules, searching for workspace, refining budgets, exploring insurance, and discussing the show's music (*see* VEC 1-115, 1-154).

43. Korbelin himself informed Stewart via email on November 22, 2013, at 12:55 PM, that "it seems like Disney wants to do the series" (VEC 1-149).[13]

44. Grasic worked at Curious from 2008 until 2012 (*see* VEC 1-23 at 3-4; *tr.* 1.13.26 at 1268:16-23).

45. ***After Grasic was no longer working for Curious*** (*see tr.* 1.13.26 at 1268:16-23), and just a few hours after Korbelin sent Stewart the November 22, 2013 communication, ***on November 22, 2013*** (*see* VEC 1-149) Korbelin's wife, ***Grasic, sent an email from her Curious email address indicating that the Goldie and Bear Project was "about to be greenlit"***:

> From: mgrasic@curiouspictures.com
> To: dete@winddancer
> Date: 11/22/2013 2:23:09 PM
> Subject: Series
>
> Hi Dete, Hope you're well. It's been a long time since we've spoken, but your name came up yesterday- and ***I realized that we should discuss an opportunity on a children's series we have that is just about to be greenlit.*** Please call me when you have a moment (3109130229).
>
> Best, Marina
>
> Marina Grasic
> Curious Pictures | t. +1.212.674.1400
> 440 Lafayette St.| New York, NY 10003
> www.curiouspictures.com

(VEC 1-153 [emphasis added]).

[13] This communication was however misleading because Korbelin omitted from his disclosure that he understood that Disney was prepared to greenlight the project. Indeed, as discussed below, the credible evidence before the Court indicates that the greenlight was not sent out sooner than it was only because of the Defendants' unlawful transfer of the Curious Goldie and Bear PSA to Microseries and Disney's need to get comfortable that the team they understood would be putting on the show would still in fact be putting on the show (*see* VEC 1-88, 1-87).

46. The testimony of Korbelin and Grasic that the project was speculative and that Disney had not indicated its desire to go forward (*see tr.* 1.7.26 at 588:14-22; *tr.* 1.23.26 at 2717:1-4) thus simply was not credible and inconsistent with their own contemporaneous communications to others.

47. In fact, Korbelin and Grasic both testified that Disney ***orally communicated the greenlight to them sometime in March 2014*** (*see tr.* 1.7.26 at 625:7-24; *tr.* 1.20.26 at 2039:20-2040:14).[14]

[14] Section 1(a)(iv) provides that:

> 1. CONDITIONS
> (a) CONDITIONS PRECEDENT. All of the Company's obligations are expressly conditioned upon and subject to the following:
> …
>
> (iv) Company receives an official written irrevocable greenlight to proceed with the production of the Project;

(VEC 1-90 § 1[a][iv]). Company is defined as ABC Cable Networks Group (aka Disney, not Curious Holdings LLC). This may be a typo and that Curious itself is what is intended in clause (iv) of Section 1(a). In any event, the condition exists for the benefit of Disney, and the Defendants indicated that they communicated the greenlighting initially orally and followed up with a fax copy afterwards (*see tr.* 1.7.26 at 625:7-24; *tr.* 1.20.26 at 2039:20-2040:14). Additionally, Section 27 of the Curious Goldie and Bear PSA provides that notices can be communicated orally:

> All notices that Company is required or may desire to give to Contractor or Artist will be given, at Company's election, orally to Contractor or in writing by addressing the same to Contractor's or Artist's address or fax number as indicated in the Agreement, or as may be otherwise designated in writing by Contractor to Company. Any such notice given to Contractor or Artist will be deemed to have been given to both Contractor and Artist. All notices that Contractor or Artist is required, or may desire, to give to Company will be given in writing by addressing the same to Company at Company's address or fax number as indicated in the Agreement, or as may be otherwise designated in writing by Company to Contractor. All such notices will be sufficiently given when the same are delivered in person, or deposited, so addressed, postage prepaid, and in the mail, or delivered, or when such notice has been faxed, and the date of said personal delivery, mailing, or faxing will be deemed to be the date of the giving of such notice If the last date on which a notice that this Agreement requires or permits to be given falls on a Saturday, Sunday, legal holiday or on a day when Company's offices are closed ("Closed Day"), then such last date shall be deemed postponed until the first day that is not a Saturday, Sunday, legal holiday or Closed Day. Notwithstanding any other provision of this Agreement to the contrary, any notice from Company to Contractor or Artist or to any agent or other representative of Contractor or Artist which is actually received will be deemed, at Company's election, sufficiently given hereunder. Any

48. This testimony was only partially credible. It was credible that Disney communicated the greenlighting of the Goldie and Bear Project to them orally.[15] It was not credible that they communicated this message to them orally only in March 2014 given that (i) the greenlight was granted between January 10 and January 15, 2014 and Adina Savin was instructed to authorize the greenlight on January 16, 2014 (*see* VEC 1-97), (ii) their communications to others where they indicated that they understood that the project was about to be greenlit back in November 2013 (*see* VEC 1-149, 1-153), and (iii) given that they backdated the Microseries Assignment and Assumption Agreement to January 1, 2014 (the document which fraudulently assigned the Goldie and Bear Project to Grasic's company, which was part and parcel to the APA, and was signed by the husband and wife team [*see* VEC 1-96]) – *i.e,* days before the greenlighting was approved, authorized, and signed (January 10 through January 16, 2014) (*see* VEC 1-97, 1-93), and when the contemporaneous documents demonstrate that the Microseries Assignment and Assumption Agreement **was**

---

accidental or inadvertent failure by Company to provide any courtesy copy of a notice shall not be deemed a breach of this Agreement.

(VEC 1-90 § 27). Thus, on the record before the Court following trial, and according to the Defendants, communication of the greenlighting happened orally at least initially – just not when the Defendants testified that it in fact occurred. In fact, they offered no credible explanation whatsoever as to why Disney greenlit the project in January and before the APA was actually signed and why Disney would have not communicated the greenlighting to them before March. No one from Disney testified at trial. As discussed above, however, the record evidence indicates that any delay in sending the writing was occasioned only by Disney's need to confirm that the people and budget that they had greenlit would still be putting on the show after the transfer to Grasic's companies instead of a mere one-page assignment of certain work has they had done on other projects (*see* VEC 1-87, 1-88). Lastly, and for the avoidance of doubt, although not at issue in this trial, the Court notes that the record reflects that Disney too was misled by Korbelin and Grasic through counsel as to the reason for the unlawful transfers (*see* VEC 1-87, 1-88).

[15] In the course of Korbelin and Savin's business relationship, Korbelin testified that he believes that Savin (a person who he testified that he had been in regular contact with at Disney) was the individual that informed him orally of the greenlighting of Goldie and Little Bear (*tr.* 1.20.26 at 2034:20-25). Indeed, Grasic testified at trial that a closer relationship with an executive on these types of projects lends to more frequent and transparent dialogue (*see tr.* 1.7.26 at 469:7-471:8).

actually signed in mid to late February (*see* VEC 1-96) – weeks after the greenlighting had in fact occurred.[16]

49. When Grasic was asked about why the Microseries Assignment and Assumption Agreement was backdated, she did not have a credible explanation as to why this was not done to suggest that the assignment occurred before the greenlighting of Goldie and Little Bear had in fact occurred and that this was not a deliberate fraud:

> Q Is it your practice to sign an agreement and sit on it for three or four weeks before sending it to the other side? Is it your general practice? I'm just Curious?
>
> A I don't know. One person could sign it, the other person may not, I have no idea at the time

(*see tr.* 1.14.26 at 1428:25-1429:9).

50. Thus, the evidence adduced demonstrated unequivocally that Grasic and Korbelin conspired to fraudulently take Curious' assets including the Curious Goldie and Bear PSA when they knew that Disney was going forward with the project.

51. As discussed above, Savin, a Disney lawyer who Korbelin was speaking with (*see tr.* 1.20.26 at 2034:20-25), was told to: "please grant GREENLIGHT APPROVAL for the above named project, based on the ESTIMATED COST and terms outlined below" on January 16, 2014 (*see* VEC 1-97 at 1).

[16] Furthermore, as discussed in more detail below, Curious' corporate resolution authorizing the dissolution of Curious, was signed on January 10, 2014 but backdated to January 9, 2014 – *i.e.,* one day before the greenlight had in fact begun to be approved and undoubtedly communicated to them (*compare* VEC 1-98, *with* VEC 1-97; *see* VEC 1-149, 1-153). Although formal dissolution of Curious never was effectuated pursuant to the resolution, the resolution was presented with incomplete and inaccurate information such that it too constituted a fraud and breach of fiduciary duty as among other things they never informed Stewart or Paley that a contract with Disney had been entered into with a $1,080,000 production fee and that it was greenlit or that Cargo owed Curious over $1,000,000 and that Curious had accrued equity in Cargo as a result.

52. In fact, and as discussed below, the credible evidence adduced at trial indicates that the time lag between when the Defendants knew about the greenlight and the date that the greenlight was formally sent to them was due ***solely to the Defendants' fraudulent transfer*** and Disney's need for assurances that the team that they approved ***and greenlit*** to do the Goldie and Bear Project would in fact be the team doing it.

53. The record indicates that the Defendants attempted to defraud Disney too (*see* VEC 1-92) by falsely suggesting that the transfer was for tax purposes (*see tr.* 1.9.26 at 956:15-957:2) in order to induce them to go forward with Grasic's companies instead of Curious.

54. As discussed below, the transfer was not for tax purposes. Curious could have done the project and assigned any necessary work to a Canadian entity ***as Tony Brackett (Disney) suggested and as Disney had done in the past.***

55. **Disney was not fooled**. In an email exchange, dated January 13, 2014 through January 15, 2014 (VEC 1-88), Disney's counsel, Tony Brackett, informed Curious' counsel, Havona Madama, that Disney would be willing to sign "a one pager" to ***assign a portion of the*** Goldie and Bear Project to a Canadian entity so that that company could do the necessary work in Canada and the tax credits could be obtained as they had done in other productions:

> >>> On Jan 14, 2014, at 9:51 PM, "Brackett, Tony"
> <Tony.Brackett@abc.com> wrote:
> >>>
> >>> Legal cancelled on me and rescheduled for Thursday. I did speak with production and ***they indicated that in the past, other production companies would just assign the portion of the services that needed to be done by the Canadian company to that division***. ***We would agree on***

> ***what was being assigned and you would send over a one pager*** for our review and approval.
> >>>
> Would this work for you?

(VEC 1-88 at 2 [emphasis added]).

56. In other words, according to Tony Brackett, the deal was already set ***with Curious and greenlit*** and required only a one-page modification to the extent work would be done by a Canadian division (or other company) so that the tax credits would be obtained (*see id.*).

57. This did not work for Korbelin and Grasic because it was inconsistent with their plan to take Curious' assets and to avoid payment to Paley.

58. Madama explained it succinctly. The plan was to wind up Curious and transfer Curious' assets to Grasic's companies:

> From: hm@madama-law.com [mailto:hm@madama-law.com]
> >> Sent: Wednesday, January 15, 2014 6:42 AM
> >> To: Brackett, Tony
> >> Subject: Re: Curious / Goldie
> >>
> >> ***Unfortunately that won't work for us because my goal is to close the US entity (originally set up as an LLC for commercials - a business we are not in anymore)*** and do all our animation moving forward through our Canadian entity. Your project is the last one to transfer so I would want to either transfer it to a newly formed US company (if that makes your production team more comfortable) or our Canadian entity (NFL and PBS have/are using this company).
> >>
> >> From what I understand of Canadian tax credits - and I'm not an expert yet, is that the maximum credits are available for a production where the work all originated through the Canadian company. That Company can engage US creatives.
> >>
> >> Let me know how you want to proceed. I can be available to answer questions from legal.

>>
>> Havona Madama

(*see id.* [emphasis added]).[17]

59. Korbelin and Grasic's testimony that their interest was merely to "save the project" was not credible (*see tr.* 1.9.26 at 1078:11-17; *tr.* 1.22.26 at 2442:19-21). Indeed, zero evidence was adduced at trial that the Goldie and Bear Project was ever at risk of being terminated prior to their fraudulent transfer of the Curious Goldie and Bear PSA from Curious to Grasic's company. Korbelin and Grasic's goal was simply to take it as well as Curious' other assets, including its substantial interest in Cargo (Grasic's company).

60. To be clear, Brackett and Kanter's responses highlighted that Disney had already greenlit the project and signed off on the New York team and Chris Gilligan doing the project and that Korbelin knew that the project had been greenlit and that signing the authorization was a mere formality at that point:

>> On Jan 15, 2014, at 8:42 PM, "Brackett, Tony" <Tony.Brackett@abc.com> wrote:
>>
>> Thanks Havona,
>>
>> What is happening to the NY based crew, like Chris Galligan, the director? Would all the prep and production including story boarding, etc. be happening with a NY crew and not in Canada?
>>
>> Just trying to get a clear handle on this so I can example to production and creative.
>>
>> Thanks,
>>
>> Tony

[17] The communication itself contains a material misrepresentation. Curious was in the animation series business and had in fact produced Little Einsteins and Team Umizoomi with Disney and Nickelodeon and was not merely in the commercial business (*see e.g., tr.* 1.5.26 at 115:9-16; *tr.* 1.23.26 at 2640:18-21). This misrepresentation was designed to obtain Disney's consent to the transfer.

(*see* VEC 1-88 at 1)

> **From:** Kanter, Nancy [Nancy.Kanter@disney.com]
> **Sent:** 1/15/2014 9:13:37 PM
> **To**: Jan Korbelin [jkorbelin@curiouspictures.com]
> **Subject:** Goldie
>
> Jan — could you try to reach me tomorrow? Hearing that you are closing your NY office and moving everything to Canada? ***Where does this leave Chris and the rest of the US/NY based creative crew that we have been discussing as being essential to the series?***

(*see* VEC 1-87 [emphasis added]).

61. Neither Paley nor Stewart were ever informed of these developments prior to Stewart signing a resolution authorizing the dissolution of Curious (*see tr.* 1.6.26 at 287:25-289:15, 313:8-13; *tr.* 1.5.26 at 78:19-80:14, 89:8-17). This was concealed from them, and they relied on the lack of information to their detriment.

62. No evidence was adduced at trial as to the potential value of an additional Production Fee being earned if the series was extended for another season.

63. No evidence was adduced at trial as to any potential discounting of the $1,080,000 Production Fee.

64. As such, the value of the Curious Goldie and Bear PSA established at trial was $1,080,000, and the judgment that Paley may submit in connection with this Decision and Order shall include such amount in respect of the violations of DCL §§ 276, 273, 273-a and 274.

65. For completeness, the Court notes that the Defendants introduced evidence of Milk Barn's rent expenses in New York and certain software license renewal fees (*see tr.* 1.9.26 at 963:11; VEC 1-169) to suggest that the Curious Goldie and Bear PSA was worth less than $1,080,000. They are simply not correct.

66. For starters, the Production Fee was a per-episode allocation to be applied to ***existing*** general overhead expenses, not a complete funding of a start-up company where it would serve as the only source of revenue as to general overhead expenses and where it was intended to cover 100% of the general overhead expenses. The Curious Goldie and Bear PSA does not say that or suggest that. Indeed, it is structurally inconsistent with the contract. If this were the intention, there would be no need to bifurcate the expenses between the budget expenses which Disney was to pay 100% of and the general overhead expenses which Disney was only making a $45,000 per episode allocation. The requirement as to what constituted general overhead expenses merely reflects that Disney required that its money be applied to its proportionate share of general overhead expenses incurred (*i.e.*, approximately 10% of the approved budget).

67. This conclusion is further supported by the fact that Curious already had office space in New York and could use it for the Goldie and Bear Project and other projects as well.

68. Korbelin testified at trial that Curious has historically been able support multiple projects simultaneously, particularly during the period that it produced a successful Nickelodeon series titled "Team Umizoomi," and that Curious had previously relied on using a

combination of revenue from various projects to pay non-project specific expenses within Curious' overhead (*see tr.* 1.15.26 at 1712:1-1713-2).

69. Korbelin otherwise testified that Curious had entered the Goldie and Bear Project "under the assumption that [Curious] could have several projects running at the same time" (*see id.* at 1729:5-7).

70. Curious already had software licenses and equipment and could use it for the Goldie and Bear Project and other projects as well.

71. Paley credibly testified that the use of a software license is not project-specific, and that, as such, it is theoretically possible to use a single software license across "an infinite amount of projects" (*see tr.* 1.27.26 at 2780:8-13).

72. He further testified that Curious would have been unable to function as an animation company without possessing software licenses (*id.* at 2779:16-20).[18]

73. Thus, and as discussed above, the cost of rent and software licenses were thus simply part of the general overheard expenses much in the same way that Word licenses and rent are part of the general overhead expenses of operating a law firm. A $1,000,000 representation is not worth less than $1,000,000 to the law firm merely because it has those expenses, and

[18] The trial record is devoid of any credible evidence establishing that the use of Curious' software licenses was limited to the Goldie and Bear Project nor was any evidence adduced at trial that concretely demonstrated that these software licenses were even purchased specifically for the project.

the $1,080,000 Production Fee was not worth less to Curious merely because it too has general overhead expenses.

74. The Curious Goldie and Bear PSA was also not worth less nor was it necessary to work with Grasic's companies because, pursuant to the Curious Goldie and Bear PSA, Curious had to produce the pilot and the series in a manner "that will be most advantageous to obtaining the maximum credits (if available) paid pursuant to the applicable government's regulations and/or laws ("Credits and Benefits")":

> **Tax Credit:** Contractor shall produce the Pilot and Series (if applicable) in a manner that will be most advantageous to obtaining the maximum credits (if available) paid pursuant to the applicable government's regulations and/or laws ("Credits and Benefits"), and such Credits and Benefits shall inure to the sole benefit of Company and Contractor shall have no rights to the Credits and Benefits in any manner and shall, upon receipt, immediately forward any and all Credits and Benefits in full to Company. Company shall be responsible for coordinating efforts and bearing all third party costs associated with applying for such Credits and Benefits and shall pay for all costs of compliance. However, Contractor shall fully cooperate in any manner Company deems reasonably necessary to obtain all Credits and Benefits (including, without limitation, providing all necessary documentation) and executing all necessary filings in order to obtain all applicable Credits and Benefits.

(*see* VEC 1-90 at Schedule 1 § L).

75. For starters, Curious could have worked directly with ICON Creative Studio Inc. (*i.e.,* Grasic's companies were totally unnecessary)[19] to obtain any desired Canadian tax credits for Disney, and they could have executed a "one pager" assigning such necessary work to

[19] To the extent that Korbelin and Grasic testified that ICON was not as developed as Grasic's companies, the testimony was not credible. As discussed above, the Appellate Division held that "Grasic formed Milk Barn with no capital, no employees, and no business. Its only substantive purpose was to receive the fraudulently conveyed assets of Curious, including its contracts, employees, and management" (*see Paley,* 233 AD3d at 591). At trial, the evidence indicated that Microseries merely had $1,392.36 as of December 31, 2013 in its bank account (VEC 1-7 at 1) and that the employees who worked on Goldie and Little Bear were Curious' former employees.

that entity as ***Brackett, Disney's lawyer, had suggested*** (*see* VEC 1-88 at 2). Indeed, after Disney terminated its relationship with Korbelin and Grasic, Disney ultimately worked directly with ICON for season two of Goldie and Little Bear (*see tr.* 1.23.26 at 2647:23-24).

76. No credible evidence was adduced at trial that indicates that Disney in fact had to pay any portion of ICON's rent to accomplish this. And, in fact, Chris Gilligan did not work out of the Canadian office and travelled back and forth (*see* VEC 1-88 at 1; *see tr.* 1.13.26 at 1171:1-11). As such, any monies paid by Grasic's start-up companies do not otherwise reduce the value of the Curious Goldie and Bear PSA either.

77. Second, and equally importantly, the Curious Goldie and Bear PSA does not provide that Curious' Production Fee was to be reduced, nor does it provide that Curious is otherwise responsible for any unsuccessful attempt to obtain tax credits. The Curious Goldie and Bear PSA does not make Curious a guarantor.

78. The application fees to obtain tax credits also do not reduce the value of the Curious Goldie and Bear PSA because the Curious Goldie and Bear PSA provides that Disney was responsible for "all third party costs associated with applying for such Credits and Benefits and…pay for all costs of compliance" (VEC 1-90 at Schedule 1 § L).

79. To the extent that Grasic and Korbelin testified otherwise, their testimony simply was not credible.

80. Lastly, the Curious Goldie and Bear PSA's value is not reduced by the fact that Curious had employees whose salaries were part of general overhead expenses for the same reason that rent and software licenses do not decrease the value of the Curious Goldie and Bear PSA as to those general expenses which would have been covered by all of Curious' revenue – *i.e.*, not just the Curious Goldie and Bear PSA Production Fee.[20]

81. Accordingly, the value established at trial of the Curious Goldie and Bear PSA was $1,080,000.

The Equipment Damages Established at Trial are a Minimum of $220,000

[20] For clarity, the executive producers who generally worked at Curious, but who may not be credited as Executive Producers on the Goldie and Bear Project (*i.e.,* a decision to be made by Disney), were part of Curious' general overhead expenses:

> **From:** Lemon, Bonnie [Bonnie.Lemon@disney.com]
> **Sent:** 7/8/2015 3:53:47 PM
> **To:** Jan Korbelin [jan@visitorpictures.com]
> **Subject:** FW: Credits – G&B eps 101A/B
>
> Hi Jan,
>
> Here is a copy of the e-mail I sent last night. It sounds like you didn't receive it. From your e-mail this morning, it appears that we disagree about the validity of the "Supervising Producer" credit for Marina Grasic. Your description of her role mentions her involvement with the management of your production companies, both Milk Barn and Microseries. However, Disney does not credit people working at the production companies. Credits are only given to people working directly on the creation of the series/episode.
>
> If you feel the need to make your case to someone else, you are welcome to contact Nancy Kanter. She has been involved in the credits process from the beginning.
>
> Thank you,
>
> Bonnie

(*see* VEC 1-122 at 1; *see also tr.* 1.23.26 at 2632:19-2636:17). However, to the extent that Disney made a decision that someone was to be credited an Executive Producer, this was included in the approved budget that Disney paid (*compare* VEC 1-90 at Schedule 1§ C[ix], *with see* VEC 1-74 [Rick Gitelson and Jorge Aguirre were paid by Disney in the approved budget instead of the Production Fee]). In fact, Korbelin sought to double dip and be paid both ways! (*see tr.* 1.23.26 at 2549:21-2552:9).

82. As discussed above, Korbelin and his wife caused Curious to transfer Curious' equipment to Grasic's company, Microseries, per the APA (*see* VEC 1-84).

83. At trial, Grasic testified that the equipment referenced in the APA "wasn't worth as much" "because it was five, six years old" (*see tr.* 1.14.26 at 1339:3-7).

84. Korbelin testified that equipment was not worth more than $200,000 (*see tr.* 1.22.26 at 2489:6-8, 2495:14-2496:14).

85. Their testimony was not credible.

86. In a prior litigation, captioned *Milk Barn Inc et al. v ABC Cable Networks Group et al.*, Case Number BC 708166, pursuant to which Korbelin, Microseries, and Milk Barn sued Disney for compensation for taking the transferred equipment, they claimed that the equipment and software licenses were worth "millions" (the **California Complaint**; VEC 1-124 ¶ 4).[21]

87. Korbelin further testified that in a pre-suit demand, he demanded $220,000 ***for the mere use*** of the equipment (*see tr.* 1.22.26 at 2489:13-17).

[21] Although Korbelin and Grasic testified that certain additional equipment had been purchased ***by ICON*** *(see tr.* 1.23.26 at 2657:6-11), their testimony was not credible. They offered no credible allocation as to amounts purchased by ICON or any legally cognizable basis upon which they would be entitled to recover against Disney for equipment that Grasic's companies did not purchase and that in fact was ICON's (*see* VEC 1-124 ¶ 4*; tr.* 1.23.26 at 2659:4-15).

88. Accordingly, the value established at trial of the equipment was a minimum of $220,000.

The Amanda's Alligator Project Damages Established at Trial are $7,500

89. As discussed above, Curious purchased the option to produce the Amanda's Alligator Project for $7,500 (*see* VEC 1-131 § A[1]).[22]

90. As discussed above, the sole credible reason that the Amanda's Alligator Project did not go forward was because of the transfer of the Curious Amanda's Alligator Contract to Microseries which Mo Willems was not prepared to accept (*see* VEC 1-150).

91. Although the Curious Amanda's Alligator Contract provided for Curious to earn certain intellectual property rights (*see* VEC 1-131; *tr.* 1.13.26 at 1298:5-10), no evidence was adduced as to what the value of those property rights were or would have been. In fact, the only evidence adduced was the loss of the $7,500 Curious paid.

92. Accordingly, the damages established at trial evidence of the Amanda's Alligator Project was $7,500.

The Maya Software Licenses Damages Established at Trial are $12,500

[22] Although the APA purports to transfer the Amanda's Alligator Project, Curious had assigned the Amanda's Alligator Project to Microseries in 2012 (*see* VEC 1-130, 1-132, 1-133) – *i.e.*, when their plan to loot Curious appears to have first been hatched. At trial, Korbelin, conceded that he had no explanation for why a subsequent assignment occurred (*see tr.* 1.22.26 at 2468:17-23) or why the amount due Curious was initially set at 85% of the profits and why it was subsequently in the second assignment diluted to a mere 50% (*compare* VEC 1-132 and 1-133, *with* VEC 1-84 at Ex. D). No evidence was introduced that these deals were presented to the stakeholder members for their approval or anyone independent. They both constitute breaches of fiduciary duty. Ultimately, as discussed above, the Amanda's Alligator Project did not go forward because Mo Willems took the position that the APA's assignment of the Amanda's Alligator Project did not require him to work with Grasic's companies as he had not made a deal with them – his deal was with Curious (*see tr.* 1.22.26 at 2480:25-2481:3; *see* VEC 1-150).

93. As discussed above, per the terms of the APA, Curious' software licenses were transferred to Microseries (*see* VEC 1-84).

94. At trial, the Defendants offered evidence that Microseries was quoted $15,000 for a one-year subscription for twenty-four Maya licenses that would become effective on October 5, 2015 (*see* VEC 1-170).

95. The record established that there were approximately 10 months left on the subscription for Curious' software licenses at the time of their unlawful transfer (*see tr.* 1.22.26 at 2503:7-16; *compare* VEC 1-170, *with* VEC 1-84) and that the use of these licenses, as discussed above, were not project-specific (*see tr.* 1.27.26 at 2780:8-13).

96. As such, the value of the Maya licenses at the time of the transfer was thus $12,500 (*compare* VEC 1-170, *with* VEC 1-84).

97. Accordingly, the damages established at trial of the software licenses was $12,500.

98. Thus, in total the damages occasioned by virtue of the DCL claims is $1,320,000.

II. Korbelin Committed No Less than Four Instances of Fraud (Including that Paley and Stewart Justifiably Relied on his Material Misrepresentations and Omissions and What Steps Paley Conclusively Would Have Taken to Avoid the Loss) and that $3,170,827.32 is the Amount of Losses Which Would Have Been Avoided

99. The elements of a cause of action sounding in fraud are a material misrepresentation of a fact, knowledge of its falsity, an intent to induce reliance, justifiable reliance, and damages (*Eurycleia Partners, LP v Seward & Kissel, LLP*, 12 NY3d 553, 559 [2009]).

100. The evidence adduced at trial reveals that Korbelin committed at least four frauds.[23]

Korbelin's First Fraud[24]

[23] As discussed below, Paley proved at trial that Korbelin committed at least four frauds. Korbelin committed fraud when he knowingly and materially omitted and concealed, with the intent to induce reliance, to Curious' stakeholder members (including Paley) (i) that Curious had entered into a contract with Disney to produce Goldie and Little Bear, (ii) that Curious had entered into an option contract with Mo Willems to produce Amanda's Alligator, and (iii) that he was transferring the Goldie and Bear Project, the Amanda's Alligator Project, Curious' equipment, and Curious' software to entities owned by his wife (**Korbelin's First Fraud**). Korbelin committed fraud when he knowingly and materially omitted, with the intent to induce reliance, mention to Curious' stakeholder members that (i) Curious was providing Grasic's company, Cargo, office space and services without receiving a cash payment, (ii) Curious was receiving substantial equity in Cargo for the use of its office space and for receiving services, (iii) Curious entered into an arrangement whereby Cargo loaned Curious $200,000 in exchange for certain rights associated with its equity in Cargo and at the risk that Curious could lose all of its equity in Cargo, and (iv) for a mere five-month default on Cargo's $200,000 loan, Curious forfeited its approximately $1.7 million interest in Cargo (**Korbelin's Second Fraud**). Korbelin committed fraud when he knowingly and materially omitted and concealed, with the intent to induce reliance, mention to Curious' stakeholder members that (i) Curious was paying or accruing salary and bonuses to Grasic when she was no longer working for Curious and (ii) Grasic was using Curious' funds for personal expenses (**Korbelin's Third Fraud**). Korbelin committed fraud when he knowingly and materially omitted and concealed, with the intent to induce reliance, mention to Curious' stakeholder members that (i) Curious was furnishing unearned payments to Cargo and (ii) Curious was paying or accruing the benefits and salary of certain Cargo employees at a time where Cargo was not providing any services to Curious (**Korbelin's Fourth Fraud**). Grasic provided substantial assistance Korbelin's frauds (*see infra* § V). For completeness, the Court notes that Paley did not meet his burden in demonstrating that the $75,000 of petty cash appropriations were in fact fraudulent. As discussed above, the ledger introduced in evidence as VEC 1-46 at trial was supplemented post-trial by the native version of the ledger on consent of the parties. In the post-trial briefing, Paley relies on a page of the native ledger which ties the amounts withdrawn to an HSBC account and which provides no granular accounting for any of the $75,000 of petty cash withdrawals. In the Defendants' post-trial submission, they rely on a different portion of the native ledger which is not tied to the HSBC account and has different dates for the allocations (but appears to cover the same overall period) indicating how certain petty cash disbursements were in fact made. Inasmuch as no testimony was adduced during trial which reconciles this disparity in treatment, Paley does not meet his burden in demonstrating that this was part of the fraud that the Defendants committed.

[24] As discussed above, with respect to the APA, the Appellate Division held:

> The fraud claim was asserted only as to defendant Korbelin, and thus it should have been dismissed as to the other defendants. Korbelin, as a fiduciary, had a duty to disclose material facts to the members of Curious, including plaintiff (*see Cygnus Opportunity Fund, LLC v Washington Prime Group, LLC*, 302 A3d 430, 450 [Del Ch 2023]). He failed to disclose material facts about the transfer and the status of Curious.

101. Korbelin and Curious materially failed to inform its stakeholder members (Paley and Stewart) that Curious had entered a contract with Disney – the Curious Goldie and Bear PSA -- that would bring in a $1,080,000 Production Fee (*see id.*).

102. To be sure, he communicated with Stewart (*see e.g.,* VEC 1-95). He never, however, disclosed to either Stewart ***or Paley*** that a contract with Disney had in fact been signed (*see tr.* 1.6.26 at 287:25-289:15; *see tr.* 1.5.26 at 89:8-17).

103. In fact, in November 2013 (and despite the fact that contract had been signed in 2012), Korbelin misrepresented via email to Stewart, the 89% Curious shareholder, that a contract with Disney had yet to be entered into as of November 2013:

> On Nov 4, 2013, at 3:31 PM, Glenn Stewart <glenn.stewartm@gmail.com > wrote:
>
> > So basically the company is bust and if you don't get this Disney contract in the next few days it's finished, right?
> >
> > Sent from my iPhone
> >
> > ...
> >
> > On Nov 4, 2013, at 3:37 PM, "Janko (Curious)" <jkorbelin@curiouspictures.com > wrote:
> > …
> >
> > We have about $850K in revenues coming in until the end of the year.
> >
> > …

> However, plaintiff failed to demonstrate conclusively what steps he could have taken to prevent any loss, had he known the full facts, and did not show the amount of loss he could have avoided. Accordingly, this claim as asserted against Korbelin is remanded (*see Eurycleia Partners, LP v Seward & Kissel, LLP*, 12 NY3d 553, 559 [2009]).

(*Paley*, 233 AD3d at 591).

> We are waiting to hear from Disney this or next week regarding the series Goldie & Little Bear. I spoke with the head of Disney Jr. and the response so far was positive. They are finishing their testing. I am trying to do the deal with the Canadians, which would bring in $350k-$400k dollars in the next couple of weeks. However, their investment will reduce Curious' backend in the series. If you think it is not worth it to bring them in - then we need to discuss the alternatives.
>
> Assuming a worse case scenario where we stopped operating today, the liabilities would outweigh the assets. If we cannot keep the company running until we get a green light from a network for a Series or a substantial commercial project we will have to close the company and likely will not be able to cover all the outstanding payables. Some of the outstanding liabilities could potentially result in additional liability, particularly if Curious was forced into a bankruptcy. For example, employee wage claims in NY have priority as would claims for return of any tax credits which were not returned to Curious by the owners.

(*see* VEC 1-95 at 1-2; *see also Eurycleia Partners, LP*, 12 NY3d at 559).[25]

104. Stewart credibly confirmed at trial that Korbelin's email did not convey that Curious had entered into a contract with Disney and that Korbelin had otherwise never informed him that a contract had been executed (*see tr.* 1.6.26 at 287:25-289:15).

105. This was a material omission, and his email was a material misrepresentation designed to induce Stewarts' reliance in ultimately agreeing to authorizing the dissolution of Curious (*see Eurycleia Partners, LP*, 12 NY3d at 559).

106. Both Paley and Stewart additionally testified that Korbelin failed to inform them that Curious had a contract pursuant to which they had acquired the rights to produce the Amanda's

[25] As discussed herein, much of the financial difficulties Curious faced were occasioned by Korbelin and Grasic's use of Curious' cash and assets to support their other companies and their lifestyle without benefit to Curious.

Alligator Project – which contract provided for Curious' ownership of certain intellectual property rights (*see tr.* 1.5.26 at 79:22-80:2; *tr.* 1.6.26 at 298:3-16; VEC 1-131).

107. This too was a material omission intended to create reliance (*see Eurycleia Partners, LP*, 12 NY3d at 559).

108. In addition to neglecting to inform Paley and Stewart that Curious contracted with Disney to produce Goldie and Little Bear and Mo Willems Studio to produce Amanda's Alligator, Korbelin failed to inform Curious' stakeholder members that the Goldie and Bear Project, the Amanda's Alligator Project, Curious' equipment, and Curious' software were being transferred (*see tr.* 1.5.26 at 78:19-80:16; *tr.* 1.6.26 at 305:13-21; *see also Eurycleia Partners, LP*, 12 NY3d at 559).

109. These too were material omissions designed to induce reliance (*see Eurycleia Partners, LP*, 12 NY3d at 559).

110. As discussed below, Paley justifiably relied on these omissions and did not hire an attorney to protect his rights (*see tr.* 1.5.26 at 149:22-150:23, 163:4-20). Stewart also did not protect his rights by "fir[ing] Korbelin" as he indicated that he would have and otherwise acted in Curious' interest (*see tr.* 1.6.26 at 313:8-13; *see Eurycleia Partners, LP*, 12 NY3d at 559).

111. Additionally, Stewart relied on these omissions and misrepresentations in signing the corporate resolution authorizing the dissolution of Curious (*see* VEC 1-98; *Eurycleia Partners, LP*, 12 NY3d at 559; *see also tr.* 1.6.26 at 407:1-16).

112. Their reliance was justified because Korbelin and Grasic had concealed their fraud and the extent to which they were taking Curious' assets (*see Eurycleia Partners, LP*, 12 NY3d at 559).

113. As discussed below, Korbelin made a series of other material misrepresentations and omissions including failing to disclose that Cargo was using Curious' office space without paying cash rent and using Curious' production services without paying for them and instead was accruing an obligation to Curious in the amount of $49,000 per month when he presented Curious' financial picture to Stewart and by failing to disclose this to Paley as well (*see* VEC 1-46 at 37; *see tr.* 1.27.26 at 2745:15-22, 2746:3-2747:3, 2782:3-5, 2743:14-2744:8).

114. Paley ultimately demonstrated conclusively what steps not only he, but Stewart as well, would have taken to prevent the loss of the Goldie and Bear Project, the Amanda's Alligator Project, Curious' equipment, and Curious' software licenses had he known the full facts (*see Paley,* 233 AD3d at 591).

115. Indeed, at trial, Stewart credibly testified that, had he had known that Disney was greenlighting the project and that Curious was on track to earn a $1,080,000 Production Fee

– he would not have signed the corporate resolution authorizing Curious' dissolution (*see tr.* 1.6.26 at 407:1-16; *see also* VEC 1-98).

116. Additionally, Mr. Stewart testified that, had he been aware of the impending transfer, he "would have stepped in as a director, fired Korbelin, and … done what was necessary for Curious to act in the best interest" (*tr.* 1.6.26 at 313:8-13).

117. Although Korbelin testified that there came a point in time (based on the misinformation that Korbelin provided him) that Stewart did not fund additional capital (*see tr.* 1.22.24 at 2325:6-11), this did not suggest that had Stewart been given accurate information, he either could not or would not have funded the necessary sums.

118. Inasmuch as Stewart had previously funded a substantial initial investment of approximately six to six and a half million into Curious (*see tr.* 1.6.26 at 381:17-20), and that he indicated he had the means to do so again (*see id.* at 308:11-14), the credible evidence at trial established that he would have done so again and that Curious would have been able to complete both the Goldie and Bear Project and the Amanda's Alligator Project if he had known the true state of affairs. Indeed, his decision to not further fund Curious was predicated solely based on the false and incomplete financial picture that Korbelin painted.

119. Paley additionally credibly testified that he "would have done anything [that he] could have to make sure that [the Goldie and Bear Project] stayed there" (*see tr.* 1.5.26 at 150:7-8). This obviously could have included a deal for Curious to not pay him immediately the 11% equity

interest (*i.e.*, the $1,000,000) that he was owed and that he would instead defer that amount by virtue of a new equity interest in Curious as a going concern had he been presented with a deal.

120. In sum, the record reflects that Korbelin, by intentionally failing to inform both Stewart and Paley of the Curious Goldie and Bear PSA, sought to induce Stewart into signing an authorization to terminate Curious (*see Eurycleia Partners, LP*, 12 NY3d at 559).

121. Stewart and Paley did in fact rely on Korbelin's material misrepresentations, in that Stewart did sign a corporate resolution authorizing the dissolution of Curious (*see* VEC 1-98), and Paley was deprived of the ability to protect his rights which he demonstrated at trial he could have done (*see also Eurycleia Partners, LP*, 12 NY3d at 559).

122. To conceal the fraud, the Defendants had the corporate resolution backdated to the day before Disney had begun to grant approval of the greenlight (*compare* VEC 1-98, *with* VEC 1-97).

123. Accordingly, the loss that Curious could have avoided in the absence of Korbelin's First Fraud is $1,320,000 (*see infra* § I; *Paley,* 233 AD3d at 591; *Eurycleia Partners, LP*, 12 NY3d at 559).

Korbelin's Second Fraud

124. Korbelin, with Grasic's substantial assistance, sought to fraudulently drain Curious' cash and assets to benefit his wife, Grasic, and her company, Cargo.

125. Korbelin testified that after Grasic had resigned from Curious, Curious allowed Cargo – an "international distribution company" owned by Grasic – to occupy Curious' office space without paying rent (*see tr.* 1.16.26 at 1773:6-1775:7) at a time when he indicated Curious was facing financial difficulties (*see id.* at 1773:4-5).

126. This arrangement lasted for at least two years (*see id.* at 1769:17-19).

127. Korbelin testified that he did not recall if the lease arrangement was submitted to the disinterested stakeholders for their review or approval (*see id.* at 1771:17-1772:4).

128. Not only did Curious, who was allegedly "cash strapped" (*see id.* at 1773:4-5), allow Cargo to utilize its space rent free, Curious additionally did certain work for Cargo without receiving any cash payments at all too (*see tr.* 1.20.26 at 1957:9-1958:11; *tr.* 1.16.26 at 1899:21-22).

129. At trial, Paley and Stewart both credibly testified that they were not aware of Curious' lease or that Curious was providing services to Cargo without proper cash remuneration (*see tr.* 1.27.26 at 2745:15-22, 2746:3-2747:3, 2781:13-2782:2).

130. The Defendants did not adduce any written agreements or evidence of any disclosure to the disinterested stakeholders let alone evidence of their approval.[26]

[26] The failure to obtain appropriate disinterested approval was a breach of fiduciary duty.

131. Instead of receiving payment for Cargo's sublease and trailer work, Korbelin testified that Curious accrued an approximate 10% ownership interest in Cargo (*see tr.* 1.16.26 1773:6-1775:2). No evidence was adduced that 10% was the appropriate amount to be accrued or that it should not be substantially greater than that given the size of its growing investment.

132. Curious' general ledger reflects that Cargo's obligation/Curious' investment amounted to $1,107,341.30 as of January 1, 2013 and increased each month in 2013 by $49,000 (*see* VEC 1-46 at 37).[27]

133. By December 31, 2013, the amount had grown to $1,696,435.68 (the **Cargo Investment**; VEC 1-46 at 37).

134. None of the evidence adduced at trial that suggests that the value of the Cargo Investment was any less than what was reported in the ledger which, as CEO, Korbelin was responsible for.

135. Korbelin's testimony that he did not believe that the value was approximately $1.7 million or that Cargo may have been recorded as a "book value" (*see tr.* 1.23.26 at 2607:2-3), and not a market value, was mere speculation and not credible particularly given the monthly accrual

[27] Following trial, the parties agreed (by emails, dated March 3, 2026) that they could cite to the native version of the ledger because the copy of ledger introduced by the Defendants at trial as VEC 1-46 had certain cells cut off. The parties have cited to portions of the native version of the ledger as part of their post-trial submissions and are properly considered by the Court as portions of the admitted evidence at trial.

indicated on Curious' ledger ***that he himself put into evidence and that he testified was accurate*** (*see tr.* 1.23.26 at 2606:25-2607:3).

136. To the extent that Curious was experiencing financial problems, the record does not reflect that any contemporaneous demand was made upon Cargo for the payment of rent or services upon threat of default.[28]

137. Ultimately, instead of demanding or drawing on Curious' interest in Cargo, which amounted to approximately $1.1 million in January 2013 and approximately $1.5 million in August 2013 (*see* VEC 1-46 at 37), a promissory note by Curious was executed in favor of Korbelin's wife's company (*see* VEC 1-29 at 1-4) pursuant to which she swiped Curious' equity in Cargo.

138. Specifically, Cargo issued a promissory note to Curious for $200,000 as of January 1, 2013 (the **Cargo Note**; VEC 1-29 at 1-4).

139. Per the terms of the Cargo Note, ***immediately***, (i) one-third of Curious' membership units in Cargo were transferred to Cargo as interest (***i.e., $366,666.67 of value for a $200,000 loan that was not even funded for another month*** [*compare* VEC 1-29 at 1, *with* VEC 1-46 at 78 (illustrating that the Cargo Note was funded on February 27, 2013, though the as of date was January 1, 2013)]) and where the obligation to repay such $200,000 remained outstanding after Curious "paid" one-third of its interest in Cargo to Cargo, (ii) the remaining two-thirds

[28] As discussed below, this too was a breach of fiduciary duty.

of Curious' interest in Cargo was pledged as security for the "loan" (*i.e.,* an additional $733,333.33 for the $200,000 loan of which $366,666.67 had already been transferred prior to funding in "interest payments"), and (iii) an immediate forfeiture of Curious' voting rights in Cargo (*see* VEC 1-29 at 1).

140. Lastly, pursuant to the terms of the Cargo Note, Curious would lose its entire investment in Cargo in the event of default on the $200,000 obligation (which investment was created by virtue of the fact that Cargo accrued its obligation to Curious as to rent and services provided to Cargo) (VEC 1-29 at 1-2). This was their plan. They never intended for Curious to pay it back, which Curious could have done (if it were a legitimate loan which it was not) by, among other things, giving back $200,000 of Curious' equity in Cargo for the $200,000 cash received pursuant to the Cargo Note when it was advanced in February (*see* VEC 1-46 at 78).[29]

141. At trial, both Paley and Stewart testified that they were also never informed of the promissory note between Curious and Cargo (*see tr.* 1.27.26 at 2782:3-5, 2743:14-2744:8).

142. The evidence adduced at trial establishes that neither Stewart nor Paley were informed of Curious' substantial interest in Cargo (*see id.* at 2781:9-12, 2744:23-2745:10), nor did either investor know that Korbelin was permitting Curious to forfeit a large asset during a time when it was cash strapped in exchange for a $200,000 loan in his wife's company (*see id.* at 2744:3-22, 2782:19-24).

[29] In fact, the $200,000 loan would not have been necessary if Grasic's company Cargo had paid Curious the over $1,000,000 that it owed Curious.

143. Korbelin's communications to Stewart (*see* VEC 1-95) and his lack of communications to Paley (*see tr.* 1.27.26 at 2781:9-2782:14) were material misstatements and omissions by which he intended to induce Curious' stakeholder members' reliance and to take Curious' investment in Cargo with his wife's substantial assistance (*see Eurycleia Partners, LP*, 12 NY3d at 559).

144. As discussed below, by, among other things, fabricating this "loan" transaction and by executing both the Cargo Note and the August Taking Letter (hereinafter defined), Grasic provided substantial assistance in committing this fraud.

145. In the end, for Curious' mere five months receipt of $200,000 (*compare* VEC 1-29, *with* VEC 1-46 at 78), Grasic took Curious' over one-million-dollar stake in Cargo created by obligations that her company had to Curious (the **August Taking Letter**; VEC 1-29 at 5; *see also* VEC 1-46 at 37):[30]

> …
>
> August 1, 2013
> …
>
> Dear Jan,
>
> Please be advised your company is in default of that certain Promissory Note between our respective companies dated as of January 1, 2013. As a result of your default, you are hereby advised ***Cargo Entertainment shall in its sole discretion retain all right, title and interest in and to the Units transferred pursuant to said Promissory Note.***

[30] Although the August Taking Letter wipes out Curious' equity in Cargo (*see* VEC 1-29 at 5), Curious continued to accrue Cargo's obligations/Curious' equity such that as of December 31, 2013, it had grown to $1,696,435.68 (*see* VEC 1-46 at 37). Notwithstanding the foregoing, after taking Curious' stake in Cargo, the August Taking Letter permitted "repayment" on or before December 31, 2013.

> ***Pursuant to the terms of the Promissory Note, we retain all rights to additionally pursue Curious for repayment of the outstanding balance due on the Promissory Note.*** Notwithstanding the foregoing, we agree to provide you with an extension on repayment of the outstanding balance until December 31, 2013.

(VEC 1-29 at 5 [emphasis added]).[31]

146. Worse, even after they took Curious' approximately $1.7 million stake in Cargo, they retained the right for themselves to take more – *i.e.*, principal and interest due pursuant to the terms of the Cargo Note (*see id.*).

147. Given that both Korbelin and Paley testified that they would have taken steps to prevent the loss of Curious' assets had they been aware of the full facts (*see infra* § II, Korbelin's First Fraud), Paley has ultimately demonstrated conclusively what steps would have taken to prevent the loss of the Cargo Investment as well (*see Paley,* 233 AD3d at 591).

148. As such, given the material omissions and fraudulent misrepresentations that Paley and Stewart justifiably relied upon, and the damages Curious incurred, the loss that Curious could have avoided for Korbelin's Second Fraud is $1,696,435.68 less the $200,000 advanced under the Cargo Note, or $1,496,435.68 (*see* VEC 1-46 at 37, 1-29; *Paley,* 233 AD3d at 591; *Eurycleia Partners, LP*, 12 NY3d at 559).

Korbelin's Third Fraud

149. The record further demonstrates that Korbelin and Grasic were draining Curious' assets and cash to pay for Grasic's personal expenses ***even after she no longer worked for Curious.***

[31] In other words, they used the money Cargo owed Curious to have Cargo buy its equity back from Curious.

150. Grasic testified that she ceased working for Curious at the end of 2012 (*see tr.* 1.7.26 at 544:6-9).

151. Remarkably, Curious' general ledger (introduced by Korbelin at trial) reveals (i) two $2,558.33 payments labeled as "[s]alaries" to Grasic in September 2013, (ii) twelve $2,500 payments to Grasic between January and December 2013 labeled as "[b]onuses," and (iii) twelve $5,000 payments between January and December 2013 to Grasic's company, Dreamchase Inc., listed as "[s]alaries" – all following Grasic's departure from Curious (*see* VEC 1-179, 1-46; *see also tr.* 1.7.26 at 544:6-9).

152. In sum, Korbelin's testimony that Curious had difficulty paying its staff (*see e.g., tr.* 1.23.26 at 2588:9-2589:2) was caused in large part based on his and his wife's siphoning of Curious' assets including paying or accruing $95,116.66 in salary and bonuses for his wife (*see* VEC 1-179, 1-46) when she no longer worked there and in failing to require her company Cargo to pay Curious the over $1,000,000 that it owed Curious (*see* VEC 1-46 at 37).

153. At trial, Korbelin was unable to credibly explain why this was the case (*see tr.* 1.22.26 at 2342:4-19).

154. No evidence was adduced at trial that suggests that Grasic personally or through any of her entities provided any services to Curious after her 2012 departure. In fact, the opposite was

established – Curious provided services to her company, Cargo, and, as discussed above, Disney too expressed concern over Grasic's alleged involvement in Goldie and Little Bear by initially refusing to credit her as a producer on the show (*see* VEC 1-122 at 1).

155. Furthermore, Curious' general ledger lists a plethora of substantial payments made after Grasic's alleged departure from the company for an Amex card in Grasic's name (*see* VEC 1-179).

156. Several of these expenses incurred in Grasic's name are labeled as airfare, parking, taxis, meals, and cellphone bills (*see* VEC 179, 1-46).

157. No evidence was adduced at trial that suggests that Grasic's cellphone was used for any purpose relating to Curious (*see tr.* 1.22.26 at 2348:11-19). Nor was any evidence adduced at trial that indicated that any of these expenses were not personal in nature as they were incurred after she was no longer working at Curious.

158. At trial, both Paley and Stewart testified that they were not aware of the expenses in Curious' ledger that were attributable to Grasic after her departure from Curious (*see e.g., tr.* 1.27.26 at 2751:1-23, 2782:15-18).

159. This too was a material omission (*see Eurycleia Partners, LP*, 12 NY3d at 559).

160. Korbelin's communications to Stewart (*see* VEC 1-95) and his lack of communications to Paley were material misrepresentations and omissions about the true financial position of Curious and were designed to induce their reliance.

161. Although Korbelin testified that these expenses could have been connected to Cargo and provision of services to Curious (*see e.g., tr.* 1.22.26 at 2348:3-8), the testimony was not credible. No evidence was adduced at trial that establishes that Cargo provided any specific services to Curious at the time that these expenses were incurred (*see id.* at 2350:5-8; *see also tr.* 1.27.26 at 2745:11-22, 2780:22-25). In fact, trial established the opposite was true. Curious provided services to Cargo and Korbelin was unable to credibly identify anything that Grasic or Cargo did other than leach off of Curious' money and assets at his direction as CEO.

162. Indeed, ***Korbelin conceded at trial that there were in fact "certain charges accrued which probably shouldn't have been accrued"*** (*see tr.* 1.22.26 at 2356:5-8).

163. Given that both Korbelin and Paley testified that they would have taken steps to prevent the loss of Curious' assets had they been aware of the full facts (*see infra* § II, Korbelin's First Fraud), Paley has ultimately demonstrated conclusively what steps he would have taken to prevent the loss of the Cargo Investment as well (*see Paley,* 233 AD3d at 591).

164. Indeed, Paley testified that "[a]ny expenses after Marina Grasic's employment at Curious would have been an immediate red flag," and as such he "would have contacted [his]

attorney, … done everything to stop the expenses, … informed Glenn Stewart, the other owner of the business, that there was something fishy going on, and ….would have done anything in [his] power to stop it" (*tr.* 1.27.28 at 2783:15-20).

165. As such, the loss that Curious could have avoided for Korbelin's Third Fraud is $185,962.28 (*see* VEC 1-179, 1-46; *Paley,* 233 AD3d at 591; *Eurycleia Partners, LP*, 12 NY3d at 559).

Korbelin's Fourth Fraud

166. Additionally, Curious' general ledger reflects payments to Cargo and payments for the benefits and salary of certain of Grasic's company Cargo's employees (*see* VEC 1-178, 1-46).

167. As discussed above, no credible evidence was adduced at trial to suggest that Cargo provided any work for Curious to warrant such payment or that these transactions were ever disclosed to the stakeholder members of Curious.

168. Korbelin's statements about Curious' financial position which did not explain these amounts were thus material misstatements (*see* VEC 1-95 at 1-2; *see tr.* 1.6.26 at 287:25-289:15) and were based on the material omission of material facts (*see* tr. 1.27.26 at 2749:17-2750:10, 2780:22-2782:14) which were intended to induce reliance and which did in fact induce reliance and caused damages (*see Eurycleia Partners, LP*, 12 NY3d at 559).

169. Given that both Korbelin and Paley credibly testified that they would have taken steps to prevent the loss of Curious' assets had they been aware of the full facts (*see infra* § II, Korbelin's First Fraud), and that Paley further testified that any charges attributable to Grasic would have been a red flag (*see infra* § II, Korbelin's Third Fraud), Paley has ultimately demonstrated conclusively what steps he would have taken to prevent the loss of Curious' funds for baseless payments to Cargo and for the benefit of Cargo's employees as well (*see Paley,* 233 AD3d at 591).

170. The loss that Curious could have avoided for Korbelin's Fourth Fraud is $168,429.36 (*see* VEC 1-178, 1-46; *Paley,* 233 AD3d at 591; *Eurycleia Partners, LP*, 12 NY3d at 559).

171. Thus, in total, Paley proved that based on his justifiable reliance, fraud damages of (i) $1,320,000 for Korbelin's First Fraud, (ii) $1,696,435.68 less the $200,000 advanced under the Cargo Note (or $1,496,435.68) for Korbelin's Second Fraud, (iii) $185,962.28 for Korbelin's Third Fraud, and (iv) $168,429.36 for Korbelin's Fourth Fraud.

III. Paley Proved that Curious Could Have Performed and Profited Under the Transferred Contracts and that the Value of the Corporate Opportunities that were Usurped was $2,583,435.68

172. Usurpation of corporate opportunity occurs where a corporate fiduciary diverts for its own benefit "an opportunity that should be deemed an asset of the corporation" (*In re Gupta*, 38 AD3d 445, 447 [1st Dept 2007]).

173. Paley provided that Korbelin usurped three of Curious' corporate opportunities and that Curious could have performed.

Korbelin Usurped Curious' Goldie and Bear Project and Curious' Amanda's Alligator Project[32]

174. As discussed above, per the APA, Korbelin transferred the Goldie and Bear Project, the Amanda's Alligator Project, Curious' equipment, and Curious' software licenses to his wife's company (*see infra* § I-II; VEC 1-84; *In re Gupta*, 38 AD3d at 447 [1st Dept]).

175. Korbelin and his wife offered a number of explanations as to why the Goldie and Bear Project and Amanda's Alligator Project needed to be transferred and that they were only interested in "saving the projects." Their testimony was not credible.

176. The first rationale that the Defendants offered at trial for why Curious' projects had to be entirely transferred was staffing.

[32] As discussed above, the Appellate Division determined that the only issue for trial on the usurpation of corporate opportunity claim as it relates to the transferred contracts, is whether or not Curious could have performed and profited on these contracts:

> Because only fiduciaries are subject to claims for usurpation of corporate opportunity, the claims should have been dismissed as to all defendants except Korbelin, the only defendant who was employed by Curious at the time of the transfer (*see Alexander & Alexander o N.Y. v Fritzen*, 147 AD2d 241, 246 [1st Dept 1989]). ***However, factual issues exist as to whether Curious could have performed and therefore profited under the transferred contracts, and, if so, the value of the opportunity.***

(*Paley,* 233 AD3d at 592 [emphasis added]).

177. Specifically, Korbelin testified at trial that Grasic's "expertise and know-how" was the reason that the Goldie and Bear Project was transferred to Microseries (*see tr.* 1.23.26 at 2645:1-21).

178. However, Grasic at this point had limited experience in animation (*see id.* at 2645:23-2646:5 [Korbelin testified that Grasic had played a role in one animation project prior]).

179. As discussed above, Grasic testified that Curious chose to transfer the Goldie and Bear Project for tax reasons (*see tr.* 1.9.26 at 956:15-957:2). This testimony was not credible. The credible evidence established that the transfers per the APA (including Goldie and Little Bear and Amanda's Alligator), and as discussed above, were solely to benefit his wife's company (*see In re Gupta*, 38 AD3d at 447).

180. Second, Korbelin testified that he chose to transfer the Goldie and Bear Project instead of working with ICON because ICON did not have enough staff (*see* 1.23.26 at 2641:25-2642:9). This testimony too was not credible. For starters, as Tony Brackett explained, only the necessary work to obtain the tax credits needed to be assigned to a different company (which Disney stood ready to approve) (*see* VEC 1-88). Second, Disney did work directly with ICON ultimately (*see* 1.23.26 at 2647:23-24) which established that Curious could have done so as well. Finally, the Court notes that Korbelin conceded that ICON could staff up (*see id.* at 2647:1-2648:3).

181. Korbelin also testified that the Goldie and Bear Project was transferred because of Curious' alleged financial difficulties (*see tr.* 1.21.26 at 2082:4-2083:15). As discussed above, much of the financial difficulties were created, however, by Korbelin and Grasic and could have been addressed merely by having Cargo pay Curious what it owed Curious.

182. Furthermore, to the extent that Korbelin testified that he was concerned as to Curious' ability to pay rent or salaries (*see tr.* 1.23.26 at 2571:24-2572:1; *tr.* 1.21.26 at 2082:4-21), no credible evidence was adduced to suggest that the landlord was then threatening termination of the lease, or lawsuit for back rent or that a deal could not be made with the landlord based on the incoming Production Fee (had the fraudulent transfer not occurred). The landlord had previously worked out back rent issues in previous years (*see tr.* 1.20.26 at 2022:2-15). In fact, Korbelin's testimony was undermined by his own contemporaneous communications to Stewart where he indicated the landlord was not threatening seeking a deficiency and that workers could be furloughed:

> >>> On Nov 22, 2013, at 12:55 PM, "Janko (Curious)" <jkorbelin@curiouspictures.com> wrote:
> >>>
> >>> Hi Glenn,
> >>>
> …
> I spoke with the landlord and we can work it out, he is ok with leaving. We are looking at alternatives, including Connecticut, where there are additional tax credits available. We might furlough people for December until the series hits.
> …
> >>> Best,
> >>> Jan

(*see* VEC 1-149 at 1).

183. It is significant in this regard that previously the landlord had brought a lawsuit against Curious and that the parties amicably resolved the dispute (*see* VEC 1-136). By contrast, at the time of APA, the landlord had not however initiated any such lawsuit or served Curious with a cure notice or anything like that.

184. As to Curious' ability to perform, Korbelin informed Stewart on November 4, 2013 that they only will have $450,000 in production related costs and $100,000 in general costs for the rest of the year (*see* VEC 1-95 at 2). This was less than the amount that Cargo owed Curious at that time.

185. Production related costs are generally production budget items – *i.e.*, items to be paid by Disney.

186. Even if this were not the case, a simple demand to Cargo and payment by Cargo would have essentially covered all of these costs. At that time Cargo owed over $1,000,000 (*see* VEC 1-46 at 37).

187. Equally importantly, Korbelin told Stewart that $850,000 would be coming into the company by the end of the year (*see* VEC 1-95 at 2).

188. Although Korbelin testified that the $850,000 revenue was merely aspirational (*see tr.* 1.22.26 at 2394:9-21), nothing in his communication to Stewart suggests that (*see id.* at 2397:10-15; VEC 1-95 at 2).

189. Grasic conceded that all Curious needed to perform the Goldie and Bear Project was money (*see tr.* 1.7.26 at 615:18-22).

190. However, the Goldie and Bear Project was transferred to an entity that only had $11,665.75 in its bank account – Milk Barn – and an entity that only had $1,392.36 in its bank account - Microseries (*see* VEC 1-15 at 1, 1-7 at 1) at a time when Cargo owed Curious over $1,000,000 (*see* VEC 1-46 at 37).

191. As discussed above, Paley testified that among other things he would have contacted Stewart, and Stewart testified that he would have funded the amounts necessary (*see infra* § II; *Paley,* 233 AD3d at 592; *see In re Gupta*, 38 AD3d at 447). Given Stewart's previous fundings of at least approximately six to six and a half million dollars (*see tr.* 1.6.26 at 381:17-20), this testimony was credible and established that Curious could have performed under the Curious Goldie and Bear PSA (*see infra* § II; *Paley,* 233 AD3d at 592). As discussed above, the value of this opportunity was worth a minimum of $1,080,000 (*i.e.,* if the series had been renewed, an additional Production Fee would have been earned) (*see infra* § I; *Paley,* 233 AD3d at 592; *In re Gupta*, 38 AD3d at 447).

192. As to the Amanda's Alligator Project, as discussed above, the credible evidence established that the project did not go forward because of the unlawful transfer (*see* § II). Had it not occurred, the credible evidence was that Curious could have performed this contract as well (*see id.*; *Paley,* 233 AD3d at 592). Inasmuch as no evidence of potential value was

introduced other than the $7,500 contract rights fee paid, the established damages are $7,500 (*see infra* § I; *Paley,* 233 AD3d at 592; *In re Gupta*, 38 AD3d at 447).

Korbelin Usurped Curious' Investment in Cargo

193. Korbelin usurped Curious' $1.7 million dollars of equity in Cargo to be transferred to Cargo itself for $200,000 (*see* VEC 1-46 at 37; VEC 1-29 at 5). This at a time when Korbelin testified that Curious needed money (*see tr.* 1.16.26 at 1773:4-5) and where he could not identify any legitimate basis for this sham transaction.

194. In fact, Korbelin testified at trial that Curious had rightfully earned this equity by allowing Cargo to occupy Curious' office space and by providing certain services to Cargo – all without receiving a cash payment (*see id.* at 1773:6-1775:2, 1899:21-22).

195. As discussed above, Curious would not have needed a loan in the first place had Korbelin and Grasic not taken Curious' assets, and this sham loan arrangement occurred solely to benefit Korbelin's wife in taking Curious' equity in Cargo (*see infra* § II; *In re Gupta*, 38 AD3d at 447).

196. Ultimately, Curious could have maintained and profited under the Cargo Investment had Korbelin not committed fraud. Given that Korbelin had Curious value its investment in Cargo at 1,696,435.68, the value of this corporate opportunity is $1,696,435.68 less the $200,000 advanced under the Cargo Note (or $1,496,435.68) (*see* VEC 1-46 at 37, 1-29; *Paley,* 233 AD3d at 592; *In re Gupta*, 38 AD3d at 447).

197. Thus, in total, Paley proved usurpation of corporate opportunity damages consisting of (i) $1,080,000 for the Goldie and Bear Project, (ii) $7,500 for the Amanda's Alligator Project, and (iii) $1,696,435.68 less the $200,000 advanced under the Cargo Note (or $1,496,435.68) for the Cargo Investment.

IV. Korbelin Committed Four Breaches of Fiduciary Duty and Caused $3,170, 827.32 in Damages

198. In order "[t]o state a claim for breach of fiduciary duty, plaintiffs must allege that (1) defendant owed them a fiduciary duty, (2) defendant committed misconduct, and (3) they suffered damages caused by that misconduct" (*Besen v Farhadian*, 195 AD3d 548, 549 [1st Dept 2021]).

199. As discussed below, Korbelin committed at least four instances of breach of fiduciary duty.[33]

200. The Appellate Division Decision indicated that Korbelin owed fiduciary duties to Curious' stakeholder members (*Paley*, 233 AD3d at 591).

Korbelin's First Breach of Fiduciary Duty

201. The trial record reveals that Korbelin committed misconduct by failing to inform Curious' stakeholder members of the financial arrangement with Cargo (**Korbelin's First Breach of Fiduciary Duty**).[34]

[33] As discussed below, Grasic provided substantial assistance to all of these breaches (*see infra* § V).
[34] Actually, although identified as Korbelin's First Breach of Fiduciary Duty, Korbelin committed multiple breaches of fiduciary duty in connection with his management of the Cargo relationship.

202. He never disclosed that Cargo was receiving space and services without cash payment (*see tr.* 1.27.26 at 2745:15-22, 2746:6-2747:3, 2781:13-2782:2; *Besen*, 195 AD3d at 549).

203. He never disclosed the substantial accrual of expenses by Cargo (*see tr.* 1.27.26 at 2745:1-10, 2781:9-12; *Besen*, 195 AD3d at 549).

204. No credible evidence was adduced at trial that indicates that Korbelin sought a proper valuation of Cargo to justify the 10% equity that he attributed to Curious' "investment" in Cargo (*see Besen*, 195 AD3d at 549).

205. He never sought stakeholder member approval (*see tr.* 1.27.26 at 2781:3-12, 2744:23-2745:22), and no evidence was adduced that indicates that he sought disinterested director or stakeholder member approval of the services and rent for equity arrangement (*see Besen*, 195 AD3d at 549).

206. He never disclosed the substantial amount of money that Curious had accrued as an "investment" in Cargo when he entered into the sham loan transaction with his wife's company Cargo (*see tr.* 1.27.26 at 2744:3-22, 2745:8-10, 2781:9-12, 2782:19-24; *Besen*, 195 AD3d at 549).

207. He never sought disinterested director or stakeholder member approval of such a sham loan transaction (*see Besen*, 195 AD3d at 549).

208. Lastly, Korbelin never sought proper valuation or disinterested approval of the interest charged (*see tr.* 1.22.26 at 2329:8-17; *Besen*, 195 AD3d at 549).

209. Korbelin's management of the Cargo relationship was a breach of fiduciary duty, and Curious was damaged in the amount of $1,696,435.68 less the $200,000 advanced under the Cargo Note (or $1,496,435.68) as a result of Korbelin's misconduct (*see* VEC 1-46 at 37, 1-29; *Besen*, 195 AD3d at 549).

Korbelin's Second Breach of Fiduciary Duty

210. Korbelin also committed misconduct by permitting and failing to disclose that Curious was paying or accruing salary and bonuses for Grasic and that Grasic was using Curious' funds after her departure from Curious (**Korbelin's Second Breach of Fiduciary Duty**; *see* VEC 1-179, 1-46; *see also tr.* 1.27.26 at 2747:5-2748:2, 2751:21-23, 2752:23-2753:15, 2782:15-18; *tr.* 1.13.26 at 1268:16-23; *Besen*, 195 AD3d at 549).

211. Curious was damaged in the amount of $185,962.28 as a result of Korbelin's misconduct, and accordingly the payments to his wife after she left Curious and to her personal expenses are a breach of fiduciary duty (*see* VEC 1-179, 1-46; *Besen*, 195 AD3d at 549).

Korbelin's Third Breach of Fiduciary Duty

212. Korbelin committed misconduct by permitting and failing to disclose that Curious was baselessly paying or accruing Cargo and the benefits and salary of certain Cargo employees

(**Korbelin's Third Breach of Fiduciary Duty**; *see* VEC 1-178, 1-46; *tr.* 1.27.26 at 2745:25-2746:2, 2782:6-14; *Besen*, 195 AD3d at 549).

213. Curious was damaged in the amount of $168,429.36 as a result of Korbelin's misconduct, and accordingly the unearned payments to Cargo and to Cargo's employees are a breach of fiduciary duty (*see* VEC 1-178, 1-46; *Besen*, 195 AD3d at 549).

Korbelin's Fourth Breach of Fiduciary Duty

214. Korbelin committed misconduct by permitting and failing to disclose that Curious was transferring its assets by way of the APA without justification or adequate compensation (**Korbelin's Fourth Breach of Fiduciary Duty**; *see infra* §§ I, II; *Besen*, 195 AD3d at 549).

215. Curious was damaged in the amount of $1,320,000 as a result of Korbelin's misconduct, and, accordingly, the theft of Curious' assets by way of the APA is a breach of fiduciary duty (*see infra* § I*; Besen*, 195 AD3d at 549).

216. Thus, in total, Paley proved breach of fiduciary duty damages consisting of (i) $1,696,435.68 less the $200,000 advanced under the Cargo Note (or $1,496,435.68) for Korbelin's First Breach of Fiduciary Duty, (ii) $185,962.28 for Korbelin's Second Breach of Fiduciary Duty, (iii) $168,429.36 for Korbelin's Third Breach of Fiduciary Duty, and (iv) $1,320,000 for Korbelin's Fourth Breach of Fiduciary Duty (*see Besen*, 195 AD3d at 549).

V. *Grasic Aided and Abetted her Huband's, Korbelin's, Breaches of Fiduciary Duty that Caused $3,170,827.32 in Damages*

217. The elements of aiding and abetting breach of fiduciary duty are: "(1) a breach by a fiduciary of obligations to another, (2) that the defendant knowingly induced or participated in the breach, and (3) that plaintiff suffered damage as a result of the breach (*Kaufman v Cohen*, 307 AD2d 113, 125 [1st Dept 2003]).

218. To constitute aiding and abetting breach of fiduciary duty, a defendant must have provided "substantial assistance…in effecting the breach" by "affirmatively assist[ing], help[ing] conceal[ing] or fail[ing] to act when required to do so, thereby enabling the breach to occur"(*Monaghan v Ford Motor Co.*, 71 AD3d 848, 850 [2d Dept 2010]).

219. As discussed above, Korbelin committed at least four breaches of fiduciary duty (*see infra* § III).

220. The record at trial reflects that his wife, Grasic, was the primary beneficiary of Korbelin's breaches and that Grasic provided substantial assistance to all of these breaches.

221. For the avoidance of doubt, Grasic was not a mere passive or incidental beneficiary of Korbelin's breaches; rather, she was a central architect of Korbelin's four instances of breach of fiduciary duty (*see Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850).

Grasic's First Aiding and Abetting Breach of Fiduciary Duty

222. Grasic provided substantial assistance to Korbelin's First Breach of Fiduciary Duty by (i) having Cargo receive services and cash-free rent and accrue an obligation to Curious and (ii)

by creating a sham loan arrangement so that the substantial sums owed to Curious by Cargo would be wiped out once she had learned that the Goldie and Bear Project was "about to be greenlit" and was no longer speculative (**Grasic's First Aiding and Abetting Breach of Fiduciary Duty**; *see infra* §§ II-IV; *tr.* 1.16.26 at 1773:6-1775:2, 1899:21-22; VEC 1-29; *Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850; *see also*, VEC 1-153;).

223. Curious was damaged in the amount of 1,696,435.68 less the $200,000 advanced under the Cargo Note (or 1,496,435.68) by Grasic's First Aiding and Abetting Breach of Fiduciary Duty (*see* VEC 1-46 at 37; *Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850).

Grasic's Second Aiding and Abetting Breach of Fiduciary Duty

224. Grasic provided substantial assistance to Korbelin's Second Breach of Fiduciary Duty when she pursued and accepted salary and bonuses after leaving Curious and used Curious' funds for her personal expenses (**Grasic's Second Aiding and Abetting Breach of Fiduciary Duty**; *see infra* §§ II, IV; VEC 1-179, 1-46; *tr.* 1.13.26 at 1268:16-23; *Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850).

225. Curious was damaged in the amount of $185,962.28 by Grasic's Second Aiding and Abetting Breach of Fiduciary Duty (*see* VEC 1-179, 1-46; *Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850).

Grasic's Third Aiding and Abetting Breach of Fiduciary Duty

226. Grasic provided substantial assistance to Korbelin's Third Breach of Fiduciary Duty allowed Curious to fund Cargo and the benefits and salary of certain Cargo employees without rendering any services in return (**Grasic's Third Aiding and Abetting Breach of Fiduciary Duty**; *see infra* §§ II, IV; VEC 1-178, 1-46; *tr.* 1.27.26 at 2745:25-2746:2, 2782:6-14; *Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850).

227. Curious was damaged in the amount of $168,429.36 by Grasic's Third Aiding and Abetting Breach of Fiduciary Duty (*see* VEC 1-178, 1-46; *Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850).

Grasic's Fourth Aiding and Abetting Breach of Fiduciary Duty

228. Grasic provided substantial assistance to Korbelin's Fourth Breach of Fiduciary Duty when she facilitated the theft of the Goldie and Bear Project, certain software and equipment owned by Curious, and the Amanda's Alligator Project from Curious to her shell without justification and for inadequate compensation (**Grasic's Fourth Aiding and Abetting Breach of Fiduciary Duty**; *see infra* §§ I-IV; VEC 1-84; *Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850).

229. Curious was damaged in the amount of $1,320,000 by Grasic's Third Aiding and Abetting Breach of Fiduciary Duty (*see infra* § I; *Kaufman*, 307 AD2d at 125; *Monaghan*, 71 AD3d at 850).

230. Thus, in total, Paley proved aiding and abetting breach of fiduciary duty damages consisting of (i) $1,696,435.68 less the $200,000 advanced under the Cargo Note (or $1,496,435.68) for

Grasic's First Aiding and Abetting Breach of Fiduciary Duty, (ii) $185,962.28 for Grasic's Second Aiding and Abetting Breach of Fiduciary Duty, (iii) $168,429.36 for Grasic's Third Aiding and Abetting Breach of Fiduciary Duty, and (iv) $1,320,000 for Grasic's Fourth Aiding and Abetting Breach of Fiduciary Duty.

VI. *Korbelin, Microseries, Milk Barn, and Grasic Committed Tortiously Interfered with Two Prospective Economic Advantages and Caused $1,087,500 in Damages*

231. To state a cause of action for tortious interference with prospective economic advantage, a plaintiff must allege "that the defendant's interference with its prospective business relations was accomplished by wrongful means or that [the] defendant acted for the sole purpose of harming the plaintiff" (*Tsatskin v Kordonsky*, 189 AD3d 1296, 1298 [2d Dept 2020] [internal citations and quotation marks omitted]).

232. Wrongful means generally requires "physical violence, fraud or misrepresentation, civil suits and criminal prosecutions, and some degrees of economic pressures" (*Guard-Life Corp. v S. Parker Hardware Mfg. Corp.*, 50 NY2d 183, 191[1980]).

233. Conduct that is not criminal or independently tortious is deemed "lawful" and, thus, insufficiently culpable to create liability for interference with prospective contracts or other nonbinding economic relations (*Carvel Corp. v Noonan*, 3 NY3d 182 [2004]).

234. In sum, Korbelin, Microseries, Milk Barn, and Grasic committed tortious interference with prospective economic advantage with respect to two of Curious' contracts.

235. More specifically, as discussed in depth above, Korbelin engaged in fraud and misrepresentation with respect to the Goldie and Bear Project and the Amanda's Alligator Project, and Grasic intentionally offered substantial assistance in Korbelin's shenanigans by transferring these projects to Microseries and Milk Barn through sham transactions (*see infra* §§ II-V).

236. Both Korbelin's and Grasic's conduct form the necessary predicate for a tortious interference with prospective economic advantage claim (*see Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191).

The Defendants' First Instance of Tortious Interference with Prospective Economic Advantage

237. As discussed above, Curious entered into a contract with Disney to produce the Goldie and Bear Project (*see* VEC 1-90; *Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191).

238. Defendants Korbelin, Grasic, Microseries, and Milk Barn were aware of the Curious Goldie and Bear PSA, and they intentionally interfered with it by creating a scheme to take the Goldie and Bear Project from Curious (*see infra* § II; *Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191**)**.

239. The Defendants fraudulently and by wrongful means transferred the Goldie and Bear Project to Grasic's shell companies (*see infra* § II; *Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191; *see also* VEC 1-84).

240. The Defendants' interference resulted in the termination of Curious' relationship with Disney pursuant to the Goldie and Bear Project (*see* VEC 1-84; *Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191; *see also* VEC 1-88).

241. As such, the Defendants are liable for tortious inference with prospective economic advantage in the amount of $1,080,000 for their inference with the Curious Goldie and Bear PSA (*see infra* § I; *Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191).

The Defendants' Second Instance of Tortious Interference with Prospective Economic Advantage

242. As discussed above, Curious entered into the Curious Amanda's Alligator Contract to produce the Amanda's Alligator Project (VEC 1-131).

243. Defendants Korbelin, Grasic, Microseries, and Milk Barn were aware of the Curious Amanda's Alligator Project, and they intentionally interfered with it by creating a scheme to steal the Amanda's Alligator Project from Curious (*see infra* § II; *Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191).

244. The Defendants fraudulently and by wrongful means transferred the Amanda's Alligator Project to Grasic's shell companies (*see infra* § II; *Tsatskin*, 189 AD3d at 1298 [internal

citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191; *see also* VEC 1-84).

245. The Defendants' interference resulted in the termination of Curious' relationship with Mo Willems Studio pursuant to the Curious Amanda's Alligator Contract (*see* VEC 1-84; *Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191; *see also* VEC 1-150).

246. As such, the Defendants are liable for tortious inference with prospective economic advantage in the amount of $7,500 for their inference with the Curious Amanda's Alligator Contract (*see infra* § I; *Tsatskin*, 189 AD3d at 1298 [internal citations and quotation marks omitted]; *Guard-Life Corp.*, 50 NY2d at 191).

VII. $2,000,000 is Due in Punitive Damages as well as Attorneys' Fees

247. Punitive damages are appropriate where "the wrongdoing is intentional or deliberate, has circumstances of aggravation or outrage, has a fraudulent or evil motive, or is in such conscious disregard of the rights of another that it is deemed willful and wanton" (*Swersky v Dreyer & Traub*, 219 AD2d 321, 328 [1st Dept 1996]; *Georgitsi Realty, LLC v Penn-Star Ins. Co.*, 21 NY3d 606, 611 [2013]).

248. Additionally, a court holds the discretion to award attorneys' fees in light of a party's misconduct (*see e.g., O'Mahony v Whiston*, 224 AD3d 609, 611-612 [1st Dept 2024]).

249. The trial record established beyond doubt that Korbelin and Grasic intentionally deliberatively conspired to perpetrate a massive fraud and multiple breaches of fiduciary duty in complete brazen disregard of Paley, Stewart, and Curious' rights. They willfully and wantonly stripped Curious of its assets and money with the intent of, among other things, frustrating Paley's rights to the $1,000,000 that he had settled his claims for and otherwise funded Grasic's personal expenses after she was no longer working for Curious.

250. As such, Paley is entitled to an award of $1,000,000 of punitive damages as against Korbelin and $1,000,000 as against Grasic and reasonable attorneys' fees because Korbelin and Grasic engaged in conduct that was willful, wanton, and malicious, evinced a high degree of moral culpability, and demonstrated a conscious disregard for Paley's rights (*see Swersky*, 219 AD2d at 328; *Georgitsi Realty, LLC*, 21 N.Y.3d at 611; *O'Mahony*, 224 AD3d at 611-612).

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that Paley shall submit judgment to Part 53 via email (sfc-part53@nycourts.gov) providing for: (i) $1,080,000 Production Fee plus prejudgment interest from January 1, 2014 against Korbelin, Microseries, Milk Barn, and Grasic (as the alter-ego of Milk Barn and individually), (ii) $7,500 for the Curious Amanda's Alligator Contract against Korbelin, Microseries, Milk Barn, and Grasic (as the alter-ego of Milk Barn and individually) plus prejudgment interest from January 1, 2014, (iii) $220,000 for Curious' equipment against Korbelin, Microseries, Milk Barn, and Grasic (as the alter-ego of Milk Barn and individually) plus prejudgment interest from January 1, 2014, (iv) $12,500 for Curious' software against Korbelin, Microseries, Milk Barn, and Grasic (as the alter-ego of Milk Barn and individually) plus prejudgment interest from January 1, 2014, (v) $185,962.28 for Grasic's salary

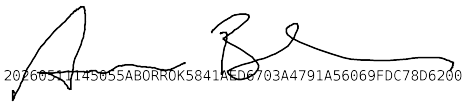
and bonuses after leaving Curious and for accruals and payments for Grasic's personal expenses plus prejudgment interest from the date that each expense was recorded on the ledger against Korbelin and Grasic, (vi) $168,429.36 for improper payments to Cargo and payments of benefits and salary to certain Cargo employees plus prejudgment interest from the date that each expense was recorded on the ledger against Korbelin and Grasic, (vii) the $1,696,435.68 less the $200,000 advanced under the Cargo Note (or $1,496,435.68) for the Cargo Investment plus prejudgment interest from December 31, 2013 against Korbelin and Grasic, and (viii) $1,000,000 against Korbelin and $1,000,000 against Grasic in favor of Paley in punitive damages, together in each case with post-judgment interest as calculated by the Clerk of the Court;[35] and it is further

ORDERED that the issue of the amount of reasonable attorneys' fees, expenses, and costs that is due by Defendant Korbelin and Grasic to Paley is hereby severed and referred to the Special Referee Clerk (Room 119 M, 646-386-3028 or spref@courts.state.ny.us) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this Court at https://www.nycourts.gov/courts/new-york-county-supreme-court-civil-term at the "References General Info" link), shall assign this matter to an available Special Referee to determine as specified above; and it is further

ORDERED that Plaintiff's counsel shall serve a copy of this Decision and Order with notice of entry on Defendants within five days of the filing of this Decision and Order and that counsel for

[35] As discussed above, Paley may also include the amount determined in the Special Referee Decision in this judgment.

Plaintiff shall, after thirty days from service of those papers, submit to the Special Referee Clerk by fax (212-401-9186) or by email an Information Sheet (which can be accessed at https://www.nycourts.gov/LegacyPDFS/courts/1jd/supctmanh/SR-JHO/SRP-InfoSheet.pdf) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part.



DATE: 5/11/2026 **ANDREW BORROK, JSC**

Check One: [x] **Case Disposed** [ ] **Non-Final Disposition**

Check if Appropriate: [ ] **Other (Specify _____)**