

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

BRAD A. MART,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.: 3:10CV118
vs.	)	
	)	
BERKSHIRE HATHAWAY, INC.,	)	(JURY DEMANDED)
FOREST RIVER, INC. and	)	
PETER J. LIEGL,	)	
	)	
Defendants.	)	

---

**PLAINTIFF’S AMENDED COMPLAINT**

---

Comes now, Plaintiff Brad A. Mart (“Mart” or “Plaintiff”), and files this Amended Complaint against Defendants Berkshire Hathaway, Inc. (“Berkshire Hathaway”), Forest River, Inc. (“Forest River”) and Peter J. Liegl (“Liegl”) (together “Defendants”). For his claims against Defendants, Mart shows the Court as follows:

**I. INTRODUCTION**

1. Plaintiff Mart is a respected business executive who helped execute an estimated \$800 Million transaction between Warren Buffett, Chairman and CEO of Berkshire Hathaway and Peter Liegl of Forest River in 2005. Mart joined Forest River as an employee in 2006 to form a new subsidiary. Mart excelled in all respects and, in October of 2007, Mart was promoted to Chief Executive Officer of Forest River by its CEO, Peter Liegl, who was set to retire on December 31, 2008. *See* Exhibit 1.

2. In the Fall of 2008, while employed by Forest River, a wholly owned Berkshire Hathaway subsidiary, Mart uncovered conduct by Liegl and Forest River that violated many of the Ethical Standards of the Berkshire Hathaway Code of Business Conduct and Ethics (hereinafter the “Code”). Because the conduct was widespread, unlawful and systemic, Mart reported the Code violations directly to Berkshire Hathaway, through telephone calls directly to Warren Buffett and in-person-conversations with Liegl in the Fall of 2008.

3. More specifically, during his transition into his new role as CEO, Mart uncovered numerous unlawful schemes being perpetrated by Liegl and Forest River that diverted millions of dollars away from Berkshire Hathaway and into the pockets of Liegl.

a. Mart reasonably believes that some of the conduct may qualify as violations of the Racketeering and Corrupt Business Organizations Act (“RICO”). As noted below, if discovery demonstrates the existence of all of the elements of a RICO violation, he will seek leave to amend his complaint to assert such violations.

b. Buffett was aware of the conduct as early as October 12, 2008, the date of Mart’s first telephone conversation with Buffett on the issue, and no later than December 16, 2008, when Mart made his last telephone call to Buffett’s office. In addition, Mart informed Buffett that he was going to confront Liegl directly about Liegl and Forest River’s violations of the Code.

4. Mart confronted Liegl about his concerns about the unlawful business practices and Code violations. In confronting Liegl about the violations, Mart made an enemy of Liegl who responded with vitriol, verbally assaulting and abusing Mart, and defaming his character. Liegl eventually threatened Mart’s life and anyone else who would level accusations against

Liegl. Shortly after the confrontation, Liegl advised Mart that he and others were making progress in correcting a few of the unlawful practices.

5. Berkshire Hathaway, through Buffett, was aware of the wrong-doing, the threats to Mart's life and the general hostile work environment that Mart faced after he exposed Liegl's conduct based on multiple direct phone calls between Mart and Buffett. With knowledge of the conduct, Berkshire Hathaway took no corrective measures and thereby ratified the wrongdoing of both Liegl and Forest River.

6. Forest River and Liegl, in a retaliatory move, made a concerted effort to defame Mart's character and terminate his employment for exposing Liegl's corrupt business practices. Mart did his best to negotiate through the process and reached out to Berkshire Hathaway through Warren Buffett for assistance. Despite his efforts to resolve the issues, Mart was notified that he was being terminated for reporting "inappropriate activity" in a letter from Forest River on November 19, 2008.

7. On January 8, 2009, Forest River terminated Mart's employment retroactive to January 1, 2009. *See Exhibit 2.*

8. In the end, because Mart followed the Berkshire Hathaway Code of Business Conduct and Ethics and reported known or suspected violations of the Code by Liegl and Forest River to Warren Buffett, Mart lost his job and had his reputation destroyed. Liegl, on the other hand, fared much better, retaining his position as CEO of Forest River and keeping the millions of dollars he bilked from Forest River and Berkshire Hathaway.

9. Berkshire Hathaway and Warren Buffett have continued to stand on the sidelines, aware of the conduct, taking no corrective measures and thereby ratifying the conduct.

## II. PARTIES

10. Brad Mart is a resident of the State of Michigan.

11. Berkshire Hathaway Inc. is a Delaware corporation with its principal place of business in Omaha, Nebraska. Berkshire Hathaway may be served through its registered agent, the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

12. Forest River, Inc. is an Indiana corporation with its principal place of business in Elkhart, Indiana. Forest River may be served through its CFO, Joe Greenlee, at the offices of Forest River, 55470 County Road 1, Elkhart, Indiana 46514.

13. Peter J. Liegl is the Chief Executive Officer of Forest River and can be served at the offices of Forest River, 55470 County Road 1, Elkhart, Indiana 46514.

## III. JURISDICTION AND VENUE

14. Exclusive federal subject matter jurisdiction exists in this matter pursuant to 28 U.S.C. § 1331 because Plaintiff asserts claims under 18 U.S.C. § 1514A, the Sarbanes-Oxley Act of 2002 (“SOX”), and 29 U.S.C. § 2601, the Family Medical Leave Act (“FMLA”). As noted below, before filing suit, Plaintiff timely filed a complaint with the United States Department of Labor and waited the requisite 180 days before filing this action.

15. Federal jurisdiction also exists due to the complete diversity of citizenship between Plaintiff Mart, a resident of Michigan, and all of the Defendants, who reside in Indiana and Nebraska. *See* 28 U.S.C. § 1332.

16. Venue is proper because the cause of action arose, in whole or in part, in the Northern District of Indiana, and two of the three defendants reside in this district. *See* 28 U.S.C. § 1391(a) and (b).

#### IV. CONDITIONS PRECEDENT

17. All conditions precedent have been performed or have occurred.

#### V. MATERIAL PREDICATE FACTS

##### *Mart Helps Execute Estimated \$800 Million Deal for Berkshire Hathaway and Forest River*

18. Mart is a respected business executive.

19. Mart met Peter Liegl in 2000 when Mart sold real estate to Liegl. They later became friends.

20. In 2005, as an independent consultant and friend of Liegl, Mart analyzed Forest River's business to develop strategic alternatives for Liegl. Mart, a student of Warren Buffett's investment style, believed that Forest River met the criteria for the type of business that Berkshire Hathaway would find attractive.

21. With Liegl's permission, Mart prepared a two-page business overview to be submitted to Warren Buffett. Mart contacted Buffett's office, submitted his overview of the company, and within an hour Warren Buffett called Mart to discuss the details of Forest River's company and talk about a possible acquisition.

22. Berkshire Hathaway purchased Forest River from Liegl in August of 2005 for an estimated \$800 Million, and Forest River became a wholly owned subsidiary of Berkshire Hathaway.

23. While Mart was pleased that he was able to introduce Buffett and Liegl, and successfully present them with a business opportunity, Mart was surprised that Buffett made the decision to purchase the company with virtually no due diligence, including no onsite visit to Forest River. This is important because, by the Fall of 2008, Mart would discover facts about

Forest River's business dealings that would likely have made a more conscientious buyer hesitant to complete such a transaction.

24. On February 28, 2006, in the Berkshire Hathaway Annual Report, Buffett wrote to Berkshire Hathaway's shareholders about the transaction and described it as follows:

Forest River, our second acquisition, closed on August 31. A couple of months earlier, on June 21, I received a two-page fax telling me – point by point – why Forest River met the acquisition criteria we set forth on page 25 of this report. I had not before heard of the company, a recreational vehicle manufacturer with \$1.6 billion of sales, nor of Pete Liegl, its owner and manager. But the fax made sense, and I immediately asked for more figures. These came the next morning, and that afternoon I made Pete an offer. On June 28, we shook hands on a deal.

On November 12, 2005, an article ran in The Wall Street Journal regarding Berkshire Hathaway's unusual acquisition and managerial practices. In it Liegl declared, "It was easier to sell my business than to renew my driver's license."

25. Berkshire Hathaway has securities registered under Section 12 of the Securities Exchange Act of 1934 ("Exchange Act") and is required to file reports under Section 15(d) of the Exchange Act. Berkshire Hathaway controls Forest River by way of, among other things, Berkshire Hathaway's Code of Business Conduct and Ethics ("Code"). The Code specifically states that it "applies to all Berkshire Hathaway directors, officers and employees, as well as to directors, officers and employees of each subsidiary of Berkshire Hathaway."

26. Liegl, as CEO of Forest River, had at all relevant times direct supervisory authority over Mart. Liegl and Forest River are, and at all relevant times were, bound by the policies of Berkshire Hathaway, including, *inter alia*, the Code.

***Mart Becomes General Manager of Forest River Financial Services***

27. After the Forest River acquisition, Liegl agreed to have Mart form a new business unit for Forest River, called Forest River Financial Services. As the name suggests, the new

division was to provide financing to dealers and customers of Forest River products including RVs, boats, etc. Mart accepted the opportunity and was named General Manager of the division. Forest River Financial Services was an immediate success due, in large part, to Mart's excellent analytical and organizational skills. In the process, Mart garnered the further respect of Liegl, Forest River employees and high level managers and executives at other Berkshire Hathaway companies.

***Mart is Promoted to Chief Executive Officer of Forest River, Inc.***

28. In the Fall of 2007, Liegl expressed to Mart his desire to retire from Forest River and asked Mart to take over the company as Chief Executive Officer. Mart struggled with the idea because his family had lived in Illinois for 20 years and accepting the position with Forest River would require him to sell his Illinois home and move his wife and three teenage daughters away from their family, schools and friends.

29. After lengthy negotiations with Liegl, where Mart disclosed his concern about moving his family, Liegl ultimately convinced Mart that he and his family would prosper as the CEO of a Berkshire Hathaway-owned subsidiary.

30. On October 31, 2007, Mart accepted the position and entered into a written agreement (hereinafter "Agreement") with Liegl and Forest River, Inc. to become Chief Executive Officer effective immediately. See Exhibit 1.

***Mart Moves His Family to Indiana and Receives Oral Confirmation That He Is the New CEO***

31. After executing the Agreement, Mart and his wife immediately began looking for a house in the Elkhart, Indiana area and purchased a house in Granger, Indiana on December 7, 2007.

32. From November 2007 through February 2008, Mart made repeated attempts to discuss the transition plan to CEO of Forest River (including securing Warren Buffett's approval, making a company-wide announcement, press release, etc.) with Liegl, but Liegl successfully evaded Mart's efforts to do so.

33. On February 29, 2008, Mart asked Liegl two direct questions: (a) "Are you still planning to retire at the end of 2008"; and (b) "Are you still planning for me to be CEO." Liegl answered "hell yes" to both questions.

34. As a result of Liegl's answers to these two questions, Mart signed an agreement on March 1, 2008 with a contractor to complete significant renovations and updates to the 20-year old house he had purchased in Granger. Had Mart not received the affirmation from Liegl, he would never have entered into the agreement with the contractor. The renovations cost approximately \$900,000, making the total investment in the house over \$2.2 million. Mart made all of these improvements and updates to the house because he relied on the enforceability of the Agreement and Liegl's subsequent assurance of compliance. Mart and his family planned to live in the house until Mart's eventual retirement as CEO of Forest River.

35. On July 18, 2008, after six months of significant renovation and remodeling, Mart relocated his family, which had lived in Illinois for 20 years, to Granger, Indiana. This move was especially stressful and difficult for Mart's three daughters (aged 17, 14 and 12 at the time).

36. Mart carried all costs of both the Illinois and Indiana homes until September 25, 2008 when Mart finally closed on the sale of his Illinois home. In addition, Mart took an estimated loss of \$150,000 on the sale.

***Mart Discovers Wrongdoing at Forest River***

37. During the Fall of 2008 through the date of his “retroactive” termination date of January 1, 2009, Mart discovered that Forest River, its acting CEO Peter Liegl, and at least two shadow-companies privately owned by Liegl, were involved in a number of unlawful transactions that violated the Sarbanes-Oxley statute, possibly violated the Racketeering and Corrupt Organization Statute, and most certainly represented multiple violations of the Berkshire Hathaway Code of Business Conduct and Ethics.

38. More specifically, Mart discovered that Liegl had siphoned money from Forest River to himself through a series of unlawful maneuvers and schemes that included, by way of example:

- a. appropriating hundreds of thousands of dollars in cash from factory vending machines owned by Forest River in Indiana (and possibly Michigan and other states) for deposit in Liegl’s personal banking account;
- b. requiring Forest River to purchase RV parts and supplies from National Supply, a company wholly-owned by Liegl, at inflated prices, pouring millions of dollars into Liegl’s pockets over a period of years;
- c. requiring Forest River management personnel to use an airline charter service called Travel Management Company, Ltd. (“Travel Management”), another Liegl-owned entity, steering additional money to Liegl, at inflated prices over other charter services in a competitive market;
- d. using Forest River management offices, overhead and employees to run both National Supply and Travel Management;

e. directing a Liegl family member employed by Forest River to commit unlawful acts including, without limitation, collecting cash proceeds from Forest River vending machines in Indiana and possibly Michigan and other states, hand-carrying the cash to Forest River's corporate offices, and then hand-carrying the cash to Liegl's bank for deposit in Liegl's personal bank account;

f. intimidating employees through threats, intimidation and verbal abuse;  
and

g. providing full-employment status with salary and/or benefits to individuals who were not fully or actively performing duties at Forest River as compensation for maintaining their confidence.

39. Mart worked dutifully to understand the complexities involving the transactions, and how they had been permitted to continue unchecked for nearly three years as a wholly owned subsidiary of Berkshire Hathaway. The more Mart questioned and probed the conduct, the more "pushback" he encountered from Liegl.

40. Mart reasonably believed that Liegl's conduct with respect to the vending machines amounted to a violation of sections 1341 and 1343, was a violation of Federal law relating to fraud upon shareholders and was fraud upon Berkshire Hathaway's shareholders.

41. Mart reasonably believed that Liegl, Forest River's CEO, by using Forest River resources to operate Travel Management, a company Liegl owned personally, committed a fraud upon Berkshire Hathaway's shareholders, violated sections 1341 and 1343, and violated Federal laws relating to fraud upon shareholders.

42. In the Fall of 2008, Mart learned that National Supply, a company personally owned by Liegl, was one of Forest River's 15 largest suppliers, and that Forest River had

purchased \$5.6 million in products from National Supply for the first eight months of 2008. After being provided with a document confirming this fact and listing the total purchases from over 2,000 suppliers and confronting Liegl about his conflict of interest, Forest River required Mart to return the document.

43. Liegl's practice of "ghost payrolling," where employees who no longer work for Forest River receive continued salaries and/or health insurance benefits from Forest River, is a fraud upon Berkshire Hathaway's shareholders, is a violation of sections 1341 and 1343, and a violation of Federal law relating to fraud upon shareholders. Mart reported this to Jeff Rowe, Forest River's Director of Human Resources on November 3, 2008.

44. When the extent of the corruption at Forest River became clear, Mart reported these violations of the Berkshire Hathaway Code of Business Conduct and Ethics directly to Warren Buffett. Mart reported the violations during six separate telephone conversations and three messages to Buffett occurring from October through December, 2008.

45. During Mart's employment, and after learning of the conduct, Buffett took no action to correct the deficiencies and, therefore, ratified the conduct on behalf of Berkshire Hathaway.

46. After informing Buffett of the activities during telephone conversations and with Buffett's consent, Mart attempted to resolve the issues by confronting Liegl directly, as provided in the Berkshire Hathaway Code of Business Conduct and Ethics. In response, Liegl became infuriated and, over time, responded by verbally assaulting Mart, bullying him, threatening Mart's life, otherwise subjecting Mart to a hostile work environment, and eventually terminating Mart's employment.

***Mart Is Named “President” of Forest River Instead of CEO***

47. In October of 2008, during the Forest River Finance Committee Meeting, Liegl announced to members of the committee that Mart was taking over as “President” of Forest River, Inc. At first, Mart had thought that Liegl intended to say “President and CEO.” Later that same day, however, Liegl sent a company-wide e-mail to all Forest River employees announcing that Mart had “assumed the role of President of Forest River, Inc.” and the e-mail was signed “Peter J. Liegl, CEO Forest River, Inc.”

48. Liegl had never once mentioned the idea of demoting Mart to the previously non-existent role of “President” of Forest River. Mart had believed he was sharing the role as Chief Executive Officer until Liegl retired on December 31, 2008.

49. Mart had meetings with Liegl on October 9, 2008 regarding the Agreement, the CEO position, Mart’s agreed upon transition into the CEO position, and Liegl’s e-mail demoting Mart to president. The meeting became heated, at which time Liegl refused to discuss the matter further.

***Mart is Hospitalized***

50. As a direct result of several confrontational meetings with and threats from Liegl, including Liegl’s threat on Mart’s life, and the related stress of dealing with these very difficult issues, Mart suffered a sudden and serious health condition qualifying for emergency leave under the FMLA. This serious health condition resulted in Mart being hospitalized for ten days.

***Mart Suffers Retaliation for Reporting Misconduct***

51. Subsequent to Mart’s release from the hospital on October 27, 2008, Forest River sent Mart a letter, dated November 19, 2008, which informed Mart that his employment was being terminated. Remarkably, the letter admits the primary reason behind Mart’s termination

was his reporting of known or suspected violations of the Code and possible fraud on the shareholders of Berkshire Hathaway to Warren Buffett.

52. On information and belief, Berkshire Hathaway was involved, or should have been involved, in Mart's termination. Buffett's awareness of Liegl's acts, Buffett's status as CEO and Chairman of the Board of Berkshire Hathaway, and Buffett's control over Forest River, as displayed by the Code and Buffett's directives to Mart to report the matter directly to Liegl in accordance with the Code further demonstrate that Berkshire Hathaway was involved in Mart's termination. Certainly, Berkshire Hathaway had the authority, and the duty, to prevent Forest River from terminating Mart, or to rescind the wrongful termination pursuant to the Code. Therefore, based on the above, upon information and belief, Liegl acted as an agent of Berkshire Hathaway in terminating Mart, after Mart had conveyed his concerns to Berkshire Hathaway and had followed Berkshire Hathaway's instructions regarding reporting of potential misconduct.

53. Mart's reporting of the aforementioned instances of possible shareholder fraud constituted a "lawful act done by [an] employee" and was protected activity under the Sarbanes-Oxley Act.

54. Forest River, Liegl and Berkshire Hathaway knew that Mart had engaged in this lawful activity, as Mart had reported the instances of shareholder fraud to Liegl and Berkshire Hathaway.

55. Mart's termination constituted an unfavorable personnel action.

56. Mart was discharged as a result of his lawful activity of reporting Liegl's wrongful acts.

57. Mart was never installed as CEO because he would not agree to cover up, let alone continue, the corrupt transactions and business practices that he observed at Forest River

and had reported violations of the Berkshire Hathaway Code of Business Conduct and Ethics to directly to Warren Buffett. By failing to install Mart as CEO, Forest River breached the October 31, 2007 Agreement with Mart. *See* Exhibit 1.

58. In a letter dated November 19, 2008, Mart was formally chastised by Forest River's Human Resources Officer, Jeff Rowe, who stated in writing that "As a practical matter, the alleged inappropriate activity you reported in your calls to Mr. Buffett (or his office) can be summarily dismissed as either being misunderstood by you or entirely appropriate and legal. But it is especially disturbing that you bypassed Pete [Liegl] (particularly given your open discussions and ample opportunity to raise these concerns with him directly) in favor of apparently seeking to undermine his authority and credibility with Mr. Buffett and Berkshire Hathaway."

59. Rowe concluded that "[i]n simple terms, your conduct violated Pete [Liegl]'s trust." Amazingly, Rowe claimed that Mart's transparent reporting of Liegl's violations of the Code and unlawful conduct "was a breach of your duty of loyalty to Forest River."

***Mart Attempts to Resolve the Problem in a Professional Manner***

60. From October through December, 2008, Mart made every effort to reconcile his interest in preserving his employment against the unlawful conduct he observed and the flagrant violations of the Berkshire Hathaway Code of Business Conduct and Ethics. Mart repeatedly stated that he did not want to engage in litigation and that he wanted to negotiate a peaceful resolution, despite the fact that Liegl had verbally assaulted him and threatened his life. Mart continued to reasonably believe that executives at Berkshire Hathaway, if not Warren Buffett himself, would intercede to correct the deficiencies and allow Mart to run the company the way a Berkshire Hathaway company is supposed to be run.

61. On December 16, 2008, Mart again reached out to Buffett to seek his help in reaching a resolution but received no assistance other than a return call from his assistant with the message from Buffett that “he just can’t get involved in issues like this at subsidiaries.” Ironically, when Buffett was interested in purchasing the company in 2005, he called Mart within one hour of receiving Mart’s two-page overview of the company and ultimately purchased the company for an estimated \$800 Million. Yet when Mart called to report numerous violations of the Berkshire Hathaway Code of Business Conduct and Ethics and to seek Buffett’s assistance in resolving retaliatory actions against Mart, Buffett turned and looked the other way, took no corrective action and thereby ratified the conduct of Forest River and Liegl.

***Mart Is Retroactively Terminated***

62. Liegl and Forest River terminated Mart in a letter dated January 8, 2009 which purports to be retroactive to January 1, 2009. *See* Exhibit 2.

**COUNT ONE: BREACH OF CONTRACT AGAINST FOREST RIVER**

63. Mart incorporates all preceding paragraphs by reference.

64. On October 31, 2007, Plaintiff entered into the written employment agreement with Forest River attached hereto as Exhibit 1.

65. On February 29, 2008, Liegl reaffirmed the terms of the Agreement.

66. Forest River breached the Agreement by failing to make Mart CEO and failing to pay his full compensation.

67. Plaintiff was damaged as a result of this conduct.

68. Plaintiff also seeks special damages for losses he incurred on selling his home in Illinois, for improvements made to the home he purchased in Indiana, as well as realtor, legal and other closing costs to sell the Indiana home and for moving expenses. Liegl was aware of

the extensive improvements planned on the house at the time that Mart requested the assurance on February 29, 2008. Knowing that Mart was about to make significant improvements to the home, Liegl provided the assurance and, therefore, the special damages for the improvements to the house in Indiana, as well as the loss taken by Mart on the home sold in Illinois, were all foreseeable.

69. Plaintiff also seeks attorneys fees to the extent allowed under Indiana law, prejudgment interest, post judgment interest and taxable costs.

**COUNT TWO: VIOLATION OF THE SARBANES-OXLEY  
ACT OF 2002 AGAINST ALL DEFENDANTS**

70. Mart incorporates all preceding paragraphs by reference.

71. At all relevant times, there was in full force and effect a statute commonly known as the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley Act"). Section 802 of the Sarbanes-Oxley Act, 18 U.S.C. § 1514A, which provides in part as follows:

(a) No company with a class of securities registered under section 12 of the [Exchange Act] ..., or that is required to file reports under section 15(d) of the [Exchange Act] ..., or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee --

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344 or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by --

\* \* \*

(C) a person with supervisory authority over the employee  
(or such other person working for the employer who has the  
authority to investigate, discover, or terminate misconduct)

...

This action is brought pursuant to Section 802 of the Sarbanes-Oxley Act.

72. Mart reasonably believed he was being terminated on November 19, 2008 when he received a letter from Forest River advising him he would be terminated

73. On February 17, 2009, Mart reported a violation of the Sarbanes-Oxley Act of 2002 to the United States Department of Labor. After 182 days of inactivity by the United States Department of Labor, Mart elected to notify the Department of Labor that he intended to pursue his SOX claim in the appropriate United States District Court. *See* Exhibit 3.

74. Berkshire Hathaway, Forest River and/or Liegl qualify as parties that have a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. § 78l and/or are required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 780(d)), and/or qualify as an officer, employee, contractor, subcontractor, or agent of such company and are thus subject to the provisions of the Sarbanes-Oxley statute.

75. Berkshire Hathaway, Forest River and/or Liegl did in fact discharge, demote, suspend, threaten, harass, and otherwise discriminate and retaliate against an employee, here Mart, in the terms and conditions of the employee's employment because the employee, here Mart, provided information, caused information to be provided, or otherwise assisted in an investigation regarding conduct which the employee, Mart, reasonably believed constituted a violation of a statute, rule or regulation of the Securities and Exchange Commission and/or Federal law relating to fraud against shareholders, when the employee, here Mart, reported the conduct identified herein to Warren Buffett, Chairman and CEO of Berkshire Hathaway, and Liegl, CEO of Forest River, all qualifying as persons with supervisory authority over the

employee Mart and/or qualifying as persons with the authority to investigate, discover, or terminate the misconduct reported.

76. The employer here was both Forest River and/or Berkshire Hathaway.

77. The employer knew of the protected activity.

78. Mart suffered an unfavorable personnel action as a result of his reporting the activity in question and identified herein.

79. As described in the facts above, circumstances exist to suggest that the protected activity was a contributing factor to the unfavorable action, i.e., the discharge, demotion, suspension, threats, harassment, and otherwise discriminatory and retaliatory conduct against an employee, here Mart.

80. Mart was damaged as a direct, proximate and foreseeable result of the conduct at issue as were all shareholders of the publicly traded company and the public in general.

81. Mart specifically pleads for all damages available under SOX including actual damages, statutory damages, special damages, exemplary damages, attorneys fees, taxable costs, prejudgment interest, post judgment interest, etc. Mart further requests an order of reinstatement as CEO of Forest River with full back pay plus interest.

82. Mart requests that the court appoint a receiver for Forest River to prohibit and avoid further unlawful conduct, harassment, threats, and associated activities of Forest River. Mart will seek a motion for receivership at the appropriate time.

### **COUNT THREE: RETALIATORY DISCHARGE AGAINST FOREST RIVER**

83. Mart incorporates all preceding paragraphs by reference.

84. Mart, an employee of Forest River, opposed certain unlawful practices as described in the facts herein.

85. Mart was the object of a retaliatory adverse employment action as described in the facts herein.

86. The retaliatory adverse employment action was caused by Mart's opposition to the unlawful conduct described herein.

87. Mart was damaged as a direct, proximate and foreseeable result of the conduct at issue.

88. Mart specifically pleads for all damages available under Indiana law for retaliatory discharge including actual damages, statutory damages, special damages, exemplary damages, attorneys fees, taxable costs, prejudgment interest, post judgment interest, etc.

89. Mart requests that the court appoint a receiver for Forest River to prohibit and avoid further unlawful conduct, harassment, threats, and associated activities of Forest River. Mart will seek a motion for receivership at the appropriate time.

**COUNT FOUR: NEGLIGENT MISREPRESENTATION BY ALL DEFENDANTS**

90. Mart incorporates all preceding paragraphs by reference.

91. Mart, an employee of Forest River, was provided with false information by Liegl, Forest River and Berkshire Hathaway (through Warren Buffett) in the course of his employment for guidance in his business transactions as described in the facts herein. More specifically, Mart was advised that he was to be named the CEO of Forest River, would act as CEO of Forest River, that Berkshire Hathaway would follow and apply its Code of Business Conduct and Ethics and that Forest River and/or Berkshire Hathaway would otherwise employ Mart.

92. Mart relied upon the misrepresentations to his personal detriment.

93. Mart had the right to reasonably rely upon the information provided. Mart was damaged as a direct, proximate and foreseeable result of the conduct at issue.

94. Mart specifically pleads for all damages available under Indiana law for negligent misrepresentation including actual damages, statutory damages, special damages, exemplary damages, attorneys fees, taxable costs, prejudgment interest, post judgment interest, etc.

95. Mart requests that the court appoint a receiver for Forest River to prohibit and avoid further unlawful conduct, harassment, threats, and associated activities of Forest River. Mart will seek a motion for receivership at the appropriate time.

**COUNT SIX: VIOLATION OF FAMILY MEDICAL LEAVE ACT BY FOREST RIVER**

96. Mart incorporates all preceding paragraphs by reference.

97. Mart was an eligible employee under FMLA because he was employed by Forest River for at least 12 months and worked for at least 1,250 hours.

98. Forest River is an employer under the FMLA because it is engaged in commerce or in any industry or activity affecting commerce while employing 50 or more employees for in the current or preceding calendar year.

99. Mart was entitled to leave under the FMLA due to a serious health condition that made the employee unable to perform the functions of the position of such employee. Specifically, because of the threats to his life made by Liegl, and other conduct by Liegl, Mart suffered a serious health condition that made him temporarily unable to perform his job duties. Mart provided proof of his serious health condition and no one questioned the veracity of this condition.

100. After less than a full 30 days of leave, Mart was released to return to work. The Human Resources Manager at Forest River requested that Mart complete a non-HIPPA compliant request for medical information form and eventually notified Mart by e-mail that Mart should not return to work.

101. Defendant failed to comply with the FMLA requirement that he be reinstated to his job upon return from the leave, thereby improperly denying him the benefits guaranteed under the FMLA.

102. Mart specifically pleads all remedies available under the FMLA including reinstatement to his contracted position as CEO, actual damages consisting of back and front pay, statutory damages, special liquidated damages, exemplary damages, attorneys fees, taxable costs, prejudgment interest, post judgment interest, etc.

**COUNT SEVEN: DEFAMATION (INCLUDING SLANDER *PER SE*, LIBEL *PER SE*)  
AGAINST LIEGL AND FOREST RIVER**

103. Mart incorporates all preceding paragraphs by reference.

104. After Mart reported the unlawful conduct described herein, Forest River and Liegl made false and defamatory statements about Mart's medical health and managerial capabilities both in writings and in oral communications with Forest River personnel and, on information and belief, to employees at Berkshire Hathaway and to the public in general. These false statements were made with malice and directly related to Mart's business and profession causing him damages.

105. Mart specifically pleads for all damages available under Indiana law for defamation, slander *per se*, and/or libel *per se* including actual damages, statutory damages, special damages, exemplary damages, attorneys fees, taxable costs, prejudgment interest, post judgment interest, etc.

**VI. JURY DEMAND**

106. Plaintiff demands trial by jury for all claims so triable.

## VII. PRAYER

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment against Defendants as follows:

1. That Forest River breached the Agreement;
2. That all defendants violated SOX;
3. That all defendants committed retaliatory discharge;
4. That all defendants made negligent misrepresentations;
5. That Forest River violated the FMLA;
6. That Forest River and Liegl engaged in defamation, slander *per se*, and/or libel *per se* by making false statements about Mart's business and/or professional abilities;
7. That Mart be awarded all general damages;
8. That Mart be awarded all special damages arising from Defendants' conduct;
9. That Mart be reinstated as the CEO of Forest River;
10. That Mart be awarded attorneys' fees;
11. That Mart be awarded taxable costs;
12. That Mart be awarded pre-judgment interest;
13. That Mart be awarded post-judgment interest; and
14. That Mart be awarded such other relief to which he may show himself entitled.

Dated: April 5, 2010

Respectfully submitted,

By: \_\_\_\_\_  
Angelica C. Schultis

NAME: ANGELICA C. SCHULTIS  
Indiana Bar Number: 28774-71  
Email address: aschultis@yahoo.com

**ANGELICA C. SCHULTIS, ATTORNEY**  
313 Runaway Bay Circle, Suite 2A  
Mishawaka, Indiana 46545  
Phone: 574.298.4466

ATTORNEY FOR PLAINTIFF