

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

Langhenry Venture Partners, LLC) Case No.:
P.O. Box 23069)
Chagrin Falls, OH 44023) Judge
)
And)
) **COMPLAINT**
Langhenry Development II, Ltd) (Declaratory Judgment;
P.O. Box 23069) Fraudulent Transfers Act)
Chagrin Falls, OH 44023)
)
And)
) **Jury Demand Endorsed Hereon**
The V. Murfey 5G Trust FBO Mary V.)
Murfey Dated 5-24-82, by and through)
Maria Muth, Special Trustee)
629 Euclid Avenue, #720)
Cleveland, Ohio 44114)
)
And)
)
The Hat Creek Co., Inc.)
P.O. Box 473)
Valley City, Ohio 44280)
)
And)
)
The John J. Carney Revocable Trust)
Under Agreement dated October 5,)
2000)
By and through John J. Carney, Trustee)
Gemini Tower II)
2001 Crocker Road)
Westlake, Ohio 44145)
)
)
Plaintiffs,)
)
v.)
)
)

This is an action to:

- To declare that a series of multi-million dollar investments, and the authorization of certain corporate actions, were induced by fraud,
- To declare that there were illegal, fraudulent conversions and transfers of valuable property, including rigs, equipment, tools, money and drilling contracts, to void such transfers and order disgorgement of profits made with the unlawfully transferred assets
- to declare the lawful ownership rights of the Plaintiffs in the three Defendant LLC's, and all assets thereof, including all drilling rigs, equipment, tools, supplies, pipe, monies, past and future revenue, and contracts.

PARTIES

1. The V. Murfey 5G Trust FBO Mary V. Murfey Dated 5-24-82 ("Murfey Trust" or "Murfey") is a trust formed under the laws of the State of Delaware and for which Maria Muth serves as the Special Trustee appointed for the sole purpose of pursuing the claims stated herein. The Murfey Trust operates out of the office of Corning Advisors at 200 Public Square, Cleveland.

2. Langhenry Venture Partners, LLC ("LVP"), and Langhenry Development II, Ltd ("LDII"), are both Ohio limited liability companies, operating out of Cuyahoga County. The sole member of each is Joseph Langhenry, a resident of

Cuyahoga County. Collectively LDP and LVP will be referred to as “Langhenry,” where appropriate.

3. The Hat Creek Co., Inc. (“Hat Creek” or “Weber”), is an Ohio for profit corporation whose sole shareholder is Bryan Weber.

4. The John J. Carney Revocable Trust Under Agreement dated October 5, 2000 (“Carney”) is a trust formed under the laws of Ohio, for which John J. Carney serves as the Trustee. The trust is operated out of offices in Westlake, Ohio.

5. Defendant Browning Drilling, LLC (“Browning”) is a Delaware limited liability company with its principal place of business and headquarters at 29245 Chagrin Boulevard, Pepper Pike, Ohio, which was incorporated and operated by Oscar F. Villarreal for the purpose of committing fraud.

6. Defendant ICM US Operating, LLC, is a Delaware limited liability company with its principal place of business and headquarters at 29245 Chagrin Boulevard, Pepper Pike, Ohio, which was incorporated and operated by Oscar F. Villarreal for the purpose of committing fraud.

7. Defendant Mohican Equipment, LLC, is a Delaware limited liability company with its principal place of business and headquarters at 29245 Chagrin Boulevard, Pepper Pike, Ohio, which was incorporated and operated by Oscar F. Villarreal for the purpose of committing fraud.

8. The fraudulent inducement of the investments at issue, and the making of the investments occurred in Cuyahoga County. The mismanagement, theft, and conversion of Plaintiffs’ assets occurred by and through Defendants, out of the headquarters of Browning and ICM US in Pepper Pike.

FACTS COMMON TO ALL CLAIMS

9. Oscar F. Villarreal (“Villareal”) is an individual who during the relevant time period was a resident of Cuyahoga County, and either a U.S. Citizen or permanent resident of the United States. Mr. Villarreal and his fraudulent and criminal activities form the foundation of the Plaintiff’s claims. Mr. Villarreal was indicted by the U.S. Department of Justice, and sued by the Securities & Exchange Commission, for his criminally fraudulent activities.

10. In 2012, as part of vast web of fraudulent activities in the Cleveland area, for which he was indicted, Oscar Villarreal engaged a group of Cleveland investors, including Carney, Langhenry, Murfey, and Hat Creek (jointly, “**US Investors**”), presenting himself as having great experience in the Mexican oil market and personal rapport with key personnel at PEMEX, the government-controlled corporation which controls all oil exploration, drilling and refining operations in Mexico. For example, Villarreal represented that his mother was from one of the wealthiest families in Mexico, and that his father’s brother was the former CEO of PEMEX.

11. Villarreal committed the fraud and conversion, etc., at issue here primarily through two Mexican companies he formed, owned and controlled for the purposes of engaging in criminal and fraudulent activities.

Villarreal’s Mexican Companies

12. **ICM Mexico** –Industrias Costa Mesa, S.A. de C.V. (“ICM Mexico”) is a corporation, which upon information and belief, was formed in the Mexican United States (aka Mexico). ICM Mexico was wholly owned and completely controlled by

Defendant Villarreal. ICM Mexico is the parent corporation of ICM Servicios Petroleros (“SP”), and the entity through which Villarreal conducted the illegal and fraudulent transfers of Plaintiffs’ oil drilling property and contracts, and money.

13. **SP** - Industrias Costa Mesa Servicios Petroleros, S.A. de C.V. (“SP”) is a corporation, which upon information and belief, was formed in the Mexican United States (aka Mexico). SP, per its articles of incorporation, had two shareholders: ICM Mexico, and Tech Start Powering Success, a shell corporation with Villarreal and his mother as the nominal shareholders. As both of the shareholders were completely controlled by Villarreal, Villarreal had complete control over SP.

14. In early 2012, SP, which was newly formed, bid on a PEMEX contract to conduct oil drilling in Mexico, which was not only rejected, but resulted in SP being banned from submitting any bid to any branch of the Mexican government. After this rejection and ban, which Villarreal concealed, Villarreal concocted an elaborate scheme which is the basis of these claims.

Scheme Step 1 – Villarreal Misuses Carney Loan

15. On May 15, 2012, Plaintiff Carney, after conducting due diligence, and in reasonable reliance on what later proved to be demonstrably and knowingly false representations by Villarreal, loaned SP \$500,000.00, allegedly to fulfill SP’s obligations under certain Lease Agreements dated April 27, 2012 (number 559-11 and number 560-11) between SP and Pemex for land drilling equipment and maintenance operations in the Southern region of México.

16. What Carney did not know was that SP immediately used his \$500,000 to put a down payment towards the purchase the assets of a small Texas oil drilling

company known as Little Giant, which he renamed Browning Drilling, LLC, on May 31, 2012.

Scheme Step 2- Langhenry's Browning Loan

17. On September 7, 2012, after reasonably relying on persistent, elaborate, and fraudulent presentations, by Villarreal, and others acting as Villarreal's agent, Plaintiff Langhenry loaned Browning \$2,000,000.00, payable on August 31, 2013 ("**Browning Loan**"). Browning executed a promissory note in favor of Langhenry, and provided guarantees including a general lien upon Browning's accounts, general intangibles, and equipment, including the "Initial Rigs" (as defined hereunder).

18. On September 7, 2012 Langhenry transferred 25% of its interest in the Browning Loan and the Browning Option to Carney for \$500,000.

19. Villarreal immediately used the money from members Langhenry and Carney to make a further required payment for the assets of Little Giant drilling, including rigs (500hp) identified at that time as Rigs 1, 2⁵, 3, 5 and 6 (jointly, the "**Initial Rigs**"), along with a large quantity of drilling pipe, mud pumps, draw works, shale shakers and other oil drilling equipment, tools, and supplies.

20. Though neither he nor SP ever contributed capital to Browning, Villarreal falsely declared SP to have invested millions and to be the owner of all units of Browning. Villarreal never provided any accounting or proof of his or SP's phantom investments in Browning.

⁵ Rig 2 of the Initial Rigs was later confiscated by Mrs. Browning when Villarreal defaulted on the final payments for the assets of Little Giant.

21. Plaintiffs Langhenry and Carney later exercised their Options under the Browning Loan, and became the owners of both preferred and common units of the capital stock of Browning. In fact, they were the only true owners of Browning units.

22. Villarreal then negotiated an agreement to form a new LLC called Arrowhead, to be owned 66% by Browning, and 34% by experienced Texas oil drilling company Aquila. Arrowhead would purchase a high horsepower drilling rig, known as Rig 12, from Aquila, to drill for a huge Mexican conglomerate known as Cydsa, in the "Sales de Listmo," the huge salt domes of southern Mexico. Rig 12 would cost \$8, 483,817.46, and the Sales de Listmo contract would pay out tens of millions in profits.

23. Browning did not have the funds to close on the Rig 12 deal, having used all of the \$500,000 initial Carney money, and the later \$2,000,000 from Langhenry and Carney, to pay for most (but not all) of the sale price for Little Giant. Villarreal needed much more money.

Scheme Step 3- Formation of ICM US

24. On November 14, 2012, Villarreal formed Defendant ICM US Operating, LLC, for the sole purpose of further defrauding Plaintiffs out of millions of dollars. Villarreal claimed a high valuation for ICM US on the false premise that his Mexican company SP had invested millions and should be the majority shareholder, when in fact SP had contributed nothing in return for any share interest, and ICM US was simply a newly formed shell company.

25. In December 2012, Villarreal, personally and through agents, made elaborate, and knowingly fraudulent representations to the then-existing investors in

Browning (Langhenry and Carney), and also to Plaintiffs Murfey and Hat Creek, for the purpose of inducing Langhenry and Carney to relinquish their ownership of Browning in exchange for ownership in ICM US, and inducing Murfey and Hat Creek to collectively invest millions in ICM US.

27. Villarreal's elaborate and wholly false representations including the following:

- a) He had been making his partners a lot of money;
- b) He was a talented businessman as well as a concert pianist;
- c) he had drilling contracts with Pemex and Cydsa (the Sales De Listmo contract);
- d) the investors would be investing alongside Villarreal and his wealthy family; he was from one of the seven most important, wealthiest families that control business in Mexico
- e) Villarreal, his Mexican companies, and his family invested millions in ICM US, they owned the preferred equity shown on the books of ICM US.
- f) this was a "great deal" and that they "can't lose" as this is a hard asset investment;
- g) "all we have to do is deliver the equipment";
- h) "I will make you FU money";
- i) this was a "great opportunity";

Scheme Step 4- the First ICM US Financing Plan

28. As part of his fraudulent scheme to separate Plaintiffs from their money,

Villarreal then prepared an elaborate Memorandum of Terms, with extensive corroborating legal documents, containing the principal terms and conditions of an equity and debt financing plan for ICM US⁶ ("**MOT 1**"), by the terms of which ICM US would, inter alia, use Plaintiffs' funds from the debt and equity issuance to acquire **(a)** 100% of existing Browning units; and, **(b)** 66% of available Arrowhead units⁷. Pursuant to the terms set forth in MOT 1, the following transactions were executed on December 28, 2012:

29. Langhenry contributed all of his Browning membership units, for which he had paid \$1,500,000; and, **(ii)** invested an additional \$350,000.00; and, in exchange, ICM US issued Langhenry common and preferred units of ICM US and granted a cognovit promissory note for \$1,000,000.00 in favor of Langhenry.

30. Carney contributed all of his Browning units, for which he had invested \$500,000 , and ICM US issued Carney⁸ common and preferred units, and executed promissory notes for \$550,000.00.

31. SP allegedly contributed all of its Browning units to ICM US and, in exchange, ICM US issued common units of ICM US in favor of SP. This transaction was phantom, fraudulent and voidable, as SP had never contributed any actual money or capital to Browning.

32. Having been induced by fraud, Murfey directly contributed

⁶ Pursuant to section 2.05 of ICM US By-Laws', ICM US corporate purpose is limited to holding interests in Browning and Arrowhead, and SP was the manager of ICM US.

⁷ 34% of Arrowhead units were owned by Eagle & Oil Gas Co out of Texas.

\$4,000,000.00 to ICM US for common and preferred units of ICM US, and ICM US issued \$2,000,000.00 worth of preferred shares to Murfey, and executed a cognovit promissory note in the amount of \$2,000,000.00.

33. Notwithstanding it was a shell company with no real assets, SP guaranteed all payment obligations of ICM US under the promissory notes. This was expressly established in MOT 1 and the promissory notes.

34. In addition, Browning guaranteed all the Promissory Notes issued by ICM US, and entered a Security Agreement with all Plaintiffs (except Hat Creek), which granted Plaintiffs Carney, Murfey and Langhenry a general lien upon all of Browning's accounts, general intangibles and equipment, including the Initial Rigs.

35. Plaintiff Hat Creek Company, relying on the same fraudulent representations made to Plaintiff Murfey, and having read the same documents, was induced to become a member of ICM US, investing \$163,500 in return for the exercise of options on ICM US units.

36. Since Villarreal, ICM and SP had never actually contributed any funds or capital to Browning, or to ICM US, they had no legally recognizable ownership interest in Browning or ICM US. Carney and the owners of ICM US, that is Plaintiffs collectively, became the sole members and owners of both Browning and ICM US, with all the attendant rights and powers of the controlling owners. These rights include:

- a. The right to select the Managing Member
- b. The right to control day to day operations,
- c. The power to approve, modify, or veto any transaction, contract, agreement or undertaking, or series of any of them, which would or

might result in the sale, pledge, mortgage or encumbrance of substantially all of the assets of the corporation.

- d. The right to liquidate and dissolve the LLC
- e. The right to all earnings, profits and income of the LLC.

37. Villarreal ignored this reality and continued to represent that his company SP had invested millions in both Browning and ICM US and was entitled to be the Manager of both.

38. Using the over \$5,000,000 newly obtained from Plaintiffs by defrauding them into investing it in ICM US, Villarreal, through Browning, moved ahead with the Arrowhead deal to purchase Rig 12 from Aquila that month, to perform the Sales de Listmo contract for Cydsa, at a cost of nearly \$9,000,000. Rig 12 was transported across the border to perform this contract, with Plaintiff's approval, with the written promise that profits from that contract would flow to Browning and then to ICM US members, including Plaintiffs.

39. Villarreal then went on a buying spree through Browning. Between January and April of 2013 Browning agreed to purchase six rigs identified at that time as **(i)** Big Giant Rig 1; **(ii)** Big Giant Rig 2; **(iii)** Pioneer Rig 3; **(iv)** Pioneer Rig 4 (that included four extra mud pumps); **(v)** ADA Energy Rig 7; and **(vi)** DHS Drilling Rig 9 (jointly, "**Texas Rigs**").

40. Villarreal borrowed heavily from Plaintiff Langhenry during this period.

Scheme Step 5 –Langhenry Loans to ICM US & Mohican Equipment, LLC

41. On December 31, 2012 Langhenry loaned an additional \$497,500.00 to ICM US, documented by a cognovit promissory note for such amount made by ICM US.

42. In February, 2013, induced by further fraud by Villarreal, Plaintiffs Langhenry and Hat Creek loaned \$740,000 to Defendant Mohican Equipment, LLC, specifically for the purchase of oil drilling equipment and tools, including mud pumps, shale shakers, top heads, etc., exclusively for use in Browning operations.

43. On April 29, 2013, In further reliance on fraudulent statements by Villarreal, Langhenry loaned an additional \$500,000.00 to ICM US, documented by a promissory note for such amount made by ICM US.

44. The loans from Langhenry were still not enough to fuel Villarreal’s plans. Villarreal wanted to purchase the most powerful land drilling rig on the continent and others nearly as powerful. On April 5, 2013, Villarreal, through Browning agreed to a contract to purchase from Unit Drilling Co. four rigs identified at that time as Unit Rigs 184 (3000hp), 254 (2000hp), 38 (2000hp) and 203 (2000 hp) (“the Unit Rigs”), for a total price of \$22,634,000. To pay for them Villarreal desperately needed more money. So he approached Plaintiffs with a new proposal to get them to invest another \$10,000,000 with him.

Scheme Step 6 – the Second ICM US Financing Plan

45. On June 3, 2013 Villarreal presented Plaintiffs with a second Memorandum of Terms containing the main terms and conditions of a debt financing plan for ICM US (“**MOT 2**”), by which ICM US **(i)** would execute promissory notes for the principal amount of \$10,000,000.00; **(ii)** grant holders of such promissory notes

an option to purchase ICM US common units; and, **(iii)** use the funds received from the debt issuance to purchase the Unit Rigs (as defined hereunder) from Unit Drilling Company.

46. Under the terms of Plaintiffs' investment under MOT 2 Browning (fully owned at this time by ICM US) would lease the Unit Rigs to Pemex and in exchange receive approximately \$60,000,000.00 from Pemex in two years. In addition to the debt issuance, in order to purchase the Unit Rigs, ICM US would obtain a loan¹¹ from Unifin Financiera, S.A.P.I. de C.V. ("**Unifin**") for \$15,000,000.00.

47. Pursuant to the terms established in MOT 2, on June 12, 2013 Langhenry loaned another \$1,600,000.00 to ICM US, documented in a cognovit promissory note from ICM US. And, Murfey loaned \$6,000,000.00 to ICM US, documented in a cognovit promissory note from ICM US.

48. In order to induce Murfey and Langhenry to invest this additional \$7,600,000 in ICM US, for the represented purpose of paying for the Unit Rigs, Villarreal also represented that his company, SP, was investing an additional amount in excess of \$4,000,000 into the new round of financing. This was a completely fraudulent statement. Villarreal also represented that:

- a. this was going to be "a great deal";
- b. "this is the motherlode";
- c. "we can't lose because we have the contract with Pemex and we can always sell it. It's real. It's on the public website of Pemex";
- d. you investors will own hard assets and we have real contracts;

¹¹ A sale and lease back arrangement was never disclosed in MOT 2. It was always referred to as a "loan".
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- e. the investors would have a guarantee on all of the assets to be purchased by Browning as Browning was guaranteeing everything;
- f. a special trust will be managed by Scotia Bank to act as a sinking fund to prepay the money loaned by Langhenry and Murfey; and
- g. Browning would pledge additional rigs and equipment as collateral for Murfey and Langhenry, to be secured with UCC filings.

49. These statements were materially misleading for the reasons set forth above, and for the additional reason that Defendants had failed to obtain a lien on the Rigs or make any UCC filings.

50. However, pursuant to the terms and conditions of MOT 2 and the aforementioned promissory notes,

- Browning granted Langhenry and Murfey a general lien upon Rigs 1 and 4, and 4 mud pumps, of the Texas Rigs (as defined hereunder).
- Browning granted Murfey a general lien upon Rig 3 (Texas Rig).

51. After Murfey and Langhenry invested the additional \$7,600,000 into ICM US/Browning in June, 2013, Plaintiffs' respective total cash investments in SP, ICM and Mohican are:

<u>Member</u>	<u>Invested Amount</u>
Langhenry	\$ 5,187,500.00
Carney	\$ 1,000,000.00
Murfey	\$10,000,000.00
Hat Creek	\$ 163,500
Total:	\$16,351,000

52. Villarreal used the \$7,600,000.00 fraudulently obtained from Murfey and Langhenry, to secure the first three Unit Rigs (38, 180, 182), and made an additional deposit of \$1,500,000.00 to acquire Unit Rig 184 (3000hp) (jointly, "Unit Rigs").

53. In August, 2013, after news reports of a potential FBI Investigation of his other funds, Villarreal made a presentation to investors, including many of the Plaintiffs, in which he repeatedly assured them his investments for them were real, and that they would be as financially lucrative as promised. Villarreal's representative circulated a detailed memo attaching drilling contracts with PEMEX along with a spreadsheet showing tens of millions in profits from these contracts.

54. To further assure Plaintiffs, Villarreal arranged a trip in fall 2013 to take Plaintiffs on tours of the rigs purchased. On that trip, he introduced them to the drilling crews and managers, to reassure them their investments were real and profitable.

55. In fact, however, Villarreal was secretly moving hundreds of trucks across the U.S.- Mexico border, carrying all the rigs, equipment, pipe and supplies owned by Browning, and purchased with Plaintiffs' money, which had not already been authorized by Plaintiffs to be taken there to fulfill contractual obligations. All of these hard assets of Plaintiffs, along with the remaining cash of ICM US and Browning, as well as all of the Browning/ICM US contracts, were converted to Villarreal's control and ownership in Mexico, without the knowledge, authorization, or ratification of any of the Plaintiff investors, and accomplished by fraud, forgery and bribery. Villarreal plyed customs officials with money and women to bring hundred of truckloads of rigs, equipment, tools, pipe, etc. into Mexico, , obtained false

notary verifications putting title in the name of his ICM Mexico, and failed to pay the Value Added Tax ("VAT") on tens of millions in equipment by declaring all the products of drilling were designated for export.

56. Not until a trip to Mexico City in late April and early May, 2014, did Plaintiffs realized that Villarreal had sold, pledged and transferred all their equity in ICM US without their consent or knowledge.

Conversion and Theft of Plaintiffs' Assets

57. All of the rigs and equipment purchased with the Plaintiffs' money, whether invested in Browning, ICM US, or Mohican Equipment, were taken by Villarreal into Mexico, and illegally converted to the ownership and control of his ICM Mexico. Specifically:

58. The **Initial Rigs** Browning purchased from Little Giant Drilling were never operational, and since the date they were purchased were locked in a yard in Archer City, Texas. With the exception of Rig 2, which the seller confiscated for failure to pay in full, Villarreal, under the guise of Browning operations, repeatedly picked these rigs picked apart, and stole equipment and pipe, which sent to Mexico. There, the equipment and other Browning assets were used fit out complete drilling rigs to meet PEMEX's inspection and approval requirements. The rigs were unlawfully transferred and converted to the ownership of ICM Mexico, along with the contracts.

59. **Rig 12**, owned by Arrowhead, the LLC in which Browning (and thus Plaintiffs) hold a 2/3 interest, was imported into Mexico in order to operate under the Daywork Drilling Contract entered on January 15, 2013 among ICM Mexico, as contractor, and Sales del Istmo, S.A. de C.V., as Operator. Browning's (and thus

Plaintiff's) interest in this rig and lucrative contract were unlawfully transferred and converted by Villarreal to his ICM Mexico.

60. The **Texas Rigs**, at the time they were purchased, were originally successfully operated by Browning in West Texas (with the acknowledgment of Plaintiffs). Later, without Plaintiffs' knowledge or authority, these rigs were illegally imported into Mexico, and also converted by Villarreal to his ICM Mexico by dismantling them to equip ICM Mexico operating under PEMEX contracts.

61. The **Unit Rigs** were originally imported into Mexico with permission of the Plaintiffs in order to operate under the **(i)** 7 Rig Pemex Contract; **(ii)** the Services Agreement entered on September 19, 2012 among ICM Mexico and Pemex ("3 Rig Pemex Contract"); and, **(iii)** the Daywork Drilling Contract entered on April 11, 2014 among ICM Mexico, as contractor, and Halliburton de México, S. de R.L. de C.V. ("Halliburton"), as Operator ("Halliburton Contract") Plaintiffs agreed Browning would borrow from Unifin to buy the Unit Rigs, but Villarreal illegally converted the Unit Rigs to the ownership of his ICM Mexico.

The Unifin Sale Leaseback- ICM and Villarreal Convert Rig 12

62. Within days of obtaining more than \$7,600,000 of new money from Plaintiffs, through the second refinancing of ICM US, Villarreal illegally retitled Rig 12 from Arrowhead to ICM Mexico, without notice to or approval of Plaintiffs. On June 26, 2013, ICM Mexico then sold Rig 12 to Unifin for \$15,000,000.00 and a Master Lease Agreement was entered among Unifin, as lessor, ICM Mexico as lessee, and Villareal and Tech Start Powering Success, S.A. de C.V. ("**Techstart**")¹⁹, as joint

¹⁹ Techstart is the owner of 50% of ICM SP. Techstart is owned 75% by Villareal and 25% by his mother, Virginia Martínez Cantú ("**Mrs. Martínez**").

obligors, pursuant to which Unifin would lease Rig 12, and the Unit Rigs (all purchased with Plaintiffs' money) to ICM Mexico to perform the oil drilling contracts.

63. As the true owners of Browning, Plaintiffs entitled to all income and profits made from the equipment, rigs, pipe, tools, contracts, etc. obtained with their money, whether by sale, sale/leaseback, performance of drilling contracts, etc. But one example: Plaintiffs are 66% owners of Arrowhead, and thus are entitled to a 66% interest in Rig 12, to 66% of the money received by ICM Mexico for this conversion and sale of Arrowhead's Rig 12, and to 66% of all profits from the Sales De Listmo Contract.

The CSI Sale Leaseback- ICM and Villarreal Make \$55,000,000 Selling Plaintiffs' Assets

64. Two months after raising millions by fraudulently transferring title to Rig 12 and cashing in the value of that rig, Villarreal converted did it again with the Unit Rigs. On August 30, 2013 and November 25, 2013 Master Equipment Lease Agreements were entered among CSI Leasing México, S. de R.L. de C.V. ("**CSI**"), as lessor, ICM Mexico, as lessee, and Villareal, as joint obligor, by the terms of which CSI would purchase from and lease to ICM Mexico the Unit Rigs. The Unit Rigs and equipment were purchased with Plaintiffs' money, through Browning, then illegally transferred to ICM, and subsequently sold to CSI under this sale and lease back arrangement.

65. As a result of the unauthorized and illegal transaction executed by ICM Mexico with a CSI, Villarreal obtained funds for approximately \$55,000,000.00, by the conversion and sale of assets owned by Plaintiffs through CSI and Browning. And, the

sale/leaseback arrangements with Unifin and CSI completely breached all of the written investment, ownership, operation, payment, guarantee and security agreements between Plaintiffs and Browning, ICM US, and SP, allowing Plaintiffs to exercise their secured lien rights in rigs, and rights to equity in exchange for unpaid loans.

The Loan from Mexoil & Impulso- Villarreal Raises \$100,000,000 For Himself

66. In December 2013 Villarreal engaged Messrs. Eduardo Tricio Haro and Daniel Servitje Montull (jointly, “the **Mexican Investors**”), seeking funds for ICM Mexico, with an offer that was not disclosed to Plaintiffs, the true owners of ICM US, Browning, and all of the rigs, contracts and assets as aforescribed, nor was ever approved or ratified by them.

67. On January 30, 2014, Villarreal, through ICM Mexico and SP, borrowed \$100,000,000 from Impulso Energía, S.A. de C.V. (“**Impulso**”), and Compañía de Energía Mexoil, S.A. de C.V. (“**Mexoil**”); by this illegal transaction Villarreal, Browning, ICM US, and SP further converted Plaintiffs’ rigs, equipment and contracts into \$100,000,000.00 cash through the following agreements:

(i) a Convertible Loan Agreement among ICM Mexico, as borrower, and Impulso and Mexoil, as lenders, for \$100,000,000.00 (“**Convertible Loan**”), in order for ICM Mexico to acquire and manage the necessary equipment to fulfill its obligations under certain Lease Agreement entered between ICM Mexico and Pemex on December 5, 2013 (“**PEP Agreement**”).²¹

²¹ Clause 5 of the Convertible Loan granted lenders the option to collect the loan by receiving ICM Mexico’s shares.
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(ii) a Guaranty, Management, and Source of Payment Irrevocable Trust Agreement ("**Trust**"), among ICM Mexico, as settlor and second beneficiary, Impulso and Mexoil, as first place beneficiaries, and Scotiabank, as trustee, by which terms ICM Mexico guaranteed its payment obligations under the Convertible Loan by transferring its collection rights under the PEP Agreement to the Trust.

(iii) Letter Agreement among Impulso, Mexoil, Villarreal and Techstart²², in which terms the parties agreed to enter into a Shareholders' Agreement regulating the possible participation of Impulso and Mexoil in ICM Mexico's capital stock, within 60 days following the Convertible Loan's disbursement date.

(iv) Promissory notes subscribed by ICM Mexico for \$50,000,000.00 each, in favor of Impulso and Mexoil, respectively.

Plaintiffs Discover Villarreal's Fraud and Conversion

68. By April, 2014 Plaintiffs were highly suspicious that Villarreal had engaged in illegal activity. Plaintiffs traveled to Mexico City, and on May 1, 2014, held a joint meeting with representatives of ICM Mexico (not including Villarreal), Mexoil and Impulso. During that meeting, Plaintiffs' detailed their investments in Villarreal's ventures, and the agreed purpose of such investments; confirmed that ownership/title to the Rigs, corresponded solely and exclusively to ICM US/Browning and not to ICM Mexico; confirmed that the Rigs were encumbered to guarantee obligations to the Plaintiffs; advised that any transfer/conveyance of any

²² Villarreal and Techstart at this time were the only shareholders of ICM. Villarreal owns 75% of Techstart, his mother nominally own the other 25%.

interest in or ownership of the Rigs, equipment or contracts to ICM Mexico, and then to Unifin, CSI, Mexoil and Impulso was illegal and fraudulent and, consequently, Plaintiffs would pursue all available legal actions.

69. At the May 1, 2014, meeting the representatives of Mexoil confirmed they had loaned Villarreal \$100,000,000 secured by all of ICM Mexico's assets: rigs, equipment, pipe, tools, contracts, revenues from the Pemex contracts, etc.

70. Plaintiffs and Mexoil and Impulso agreed to cooperate in the pursuit of Villarreal, and Plaintiffs provided them with full documentation of Plaintiffs' investments with Villarreal.

Mexoil and Impulso Force Villarreal to Hand Over ICM Mexico to Them

71. However, without Plaintiffs' knowledge, almost immediately after the May 1, 2014, meeting Mexoil and Impulso engaged in criminal conduct in Mexico, which resulted in the detention of Villarreal by Mexican judicial authorities on June 6, 2014.

72. On June 17, 2014, while Villarreal was incarcerated, and through duress, coercion, and assault, Mexoil and Impulso obtained Villarreal's signature on a Settlement Agreement wherein Villarreal forfeited all of his interest in ICM Mexico in favor of the Mexoil and Impulso, so that as of June 17, 2014, Mexoil and Impulso obtained sole ownership and control of ICM Mexico and ICM Mexico's affiliated and subsidiary Mexican entities. They acquired all of ICM Mexico's capital stock, they acquired a pledge of all of the stock of SP, and a pledge of all the stock of the owners of SP, that is, Villarreal and his mother.

73. As a result of obtaining ownership and control of ICM and SP by

criminal conduct and coercion, Mexoil and Impulso control all flows of money and any and all operations of ICM, including the use and operation of the Rigs (whose property was illegally and fraudulently conveyed from ICM US to ICM Mexico), and the rights under any and all agreements entered between ICM Mexico (directly or indirectly) with Pemex and/or Halliburton, including the Contracts.

74. Mexoil and Impulso have failed to recognize Plaintiffs' investments in and ownership of the assets of ICM US, Browning, and Mohican, including the rigs, equipment, drilling contracts, and past and future revenue, notwithstanding Plaintiffs having provided full documentation in support of their ownership and their illegal and fraudulent transfer/conveyance to ICM Mexico.

75. Mexoil and Impulso conspired to assume title to equipment which Mexoil and Impulso knowingly understood belonged solely and exclusively to ICM US, Browning, and/or Mohican, and which equipment was guaranteeing obligations of such entities in favor of US Investors.

Indictment of Villarreal

76. Over the course of several years, Villarreal engaged in the same patten and practice of fraud he perpetrated on Plaintiffs here: lying about his contacts in Mexico, lying about the existence of multimillion dollar companies he controlled in Mexico, and lying about investing millions with his Cleveland partners, personally and through his Mexican companies, wealthy family and "affiliates."

77. On September 9, 2014, after an exhaustive investigation by the FBI, Villarreal was indicted by the U.S. Department of Justice for multiple counts of Wire Fraud, Investment Advisor Fraud, Money Laundering and Filing a False Tax Return, arising out of a separate fund, known as WWIII Capital Partners, LLC, through which

Villarreal defrauded 46 investors, mostly Cleveland area businessmen, out of nearly \$10,000,000.00. Like Plaintiffs, he promised the WWIII investors he would use his extensive contacts in Mexico, and his knowledge of the oil and steel industries there, to leverage their investments into lucrative profits.

78. The Indictment was amended by a Superseding Indictment on January 6, 2015. (Attached hereto as Exhibit A), which details the same pattern of fraud and self-dealing at issue here. Indeed, some of the investors here are the same, and it was through SP that Villarreal perpetrated fraud on the members of WW Capital Partners, LLC, as he did with Plaintiffs here.

The SEC Sues Villarreal

79. A little over three months after Plaintiffs' May 1, 2014, meeting with the representative of Mexoil and Impulso in Mexico City, the U.S. Securities & Exchange Commission filed a Complaint against Villarreal, a

“man with a talent for using lies and his charm to separate investors from their money. Villarreal’s fraud, which spanned from at least 2009 through 2013, included his raising of \$18.4 million from 51 investors, mostly from the Cleveland, Ohio area, based on lies and deceit.” (See Exhibit B, attached). “

The SEC sued for multiple counts of securities fraud, seeking disgorgement of all ill-gotten income, injunction and massive civil penalties.

80. The SEC Complaint was based on both the fraud committed on the WWIII Capital Partners, LLC investors, which included Villarreal telling that Fund’s investors “that Fund III had ownership interests in several U.S. and Mexican oil drilling companies,” and telling investors in his next fraudulent fund, known as Standard Asset Management, their money would also be invested in those Mexican heavy industries in which Villarreal had extensive connections, experience and

knowledge. Instead, Villarreal pilfered and stole investors' money for his own investments and gain, as he did with Plaintiffs, who constituted the third large group of Cleveland investors he cheated.

81. Preceding these U.S. Federal actions, the Federal Bureau of Investigation conducted an extensive investigation of Villarreal and his activities, investments, banking and financial transactions, which established that, inter alia:

- a. Villarreal never his invested his own money in any ventures, nor did his family members or other Mexican "associates" or colleagues, and all of his representations that they did were lies, and
- b. That Villarreal's businesses, ICM Mexico and SP, were shell corporations used as vehicles for fraud. (See Exhibit C, attached).

Murfey & Langhenry Obtain Judgments v. ICM US

82. Further evidencing Plaintiffs rights to 100% ownership of ICM US, and Browning, and all equipment, rigs, tools, pipe, contracts and profits obtained with their money:

a. On September 12, 2014, in Cuyahoga County Case No. CV 14-832700, Plaintiff Murfey obtained judgments on the Cognovit Promissory Notes issued to Murfey by ICM US, for the full principal amounts of \$8,000,000.00, along with interest of \$2,580,000.00 for a total judgment of \$10,580,000.00. These notes were guaranteed by Browning and by SP.

b. On September 25, 2014, in Cuyahoga County Case No. CV 14-833435, Plaintiff Langhenry obtained judgments on the Cognovit Promissory Notes issued to Langhenry by ICM US, for the full principal amounts of \$8,000,000.00, along with interest of \$2,580,000.00 for a total judgment of \$10,580,000.00. These notes were guaranteed by Browning and SP.

COUNT I
(Declaratory Judgment)

83. Plaintiffs reincorporate as if fully rewritten herein, all of the allegations and averments of the preceding Paragraphs of this Complaint, and further state there exists a present, active, justiciable controversy over the right, title, and ownership of the oil drilling assets purchased with Plaintiffs' \$16,351,000 in investments in ICM US, Browning, Mohican and SP. Plaintiffs further state there exists a present, active, justiciable controversy over the right, title and ownership to the revenue and profits of drilling contracts which could not have been procured and performed without Plaintiffs' \$16,351,000 in investments in ICM US, Browning, Mohican and SP.

84. R.C. 2721.02(A) authorizes the Court to issue declaratory judgments regarding "rights, status, and other legal relations, whether or not further relief is or could be claimed." Plaintiffs therefore seek a declaration from this Court that:

- a. Browning Drilling, ICM US Operating, LLC, and Mohican Equipment, LLC, were each incorporated by Oscar Villarreal for purposes of defrauding investors, including Plaintiffs;
- b. Oscar Villarreal created, controlled and managed ICM Mexico, SP and Mohican for purposes of committing fraud.
- c. No legal person other than Plaintiffs invested any funds into ICM US Operating, LLC, Browning Drilling, LLC, or Mohican, and therefore, there were and are no legally recognizable ownership, membership or equity interests in either Browning, ICM US, or Mohican other than the ownership, membership and equity interests of Plaintiffs.
- d. Villarreal exerted operational control of ICM US, Browning, and Mohican, directly and through SP, for purposes of carrying out his plan to commit fraud upon Plaintiffs, and to illegally transfer and convert their money, and the assets, including drilling rigs,

equipment, tools, pipe and contracts, procured with their money, to ICM Mexico, for his personal use and benefit.

- e. Villarreal did in fact, commit fraud upon Plaintiffs, and did illegally transfer and convert all of Plaintiffs' money invested in Browning and/or ICM US and/or Mohican, and the assets, including drilling rigs, equipment, tools, pipe and contracts, procured with their money, to ICM Mexico, for his personal use and benefit.
- f. There is no lawful basis to recognize the formal legal existence of Browning Drilling, LLC, or ICM US Operating, LLC, or any lawful distinction between the two, as they both were sham corporations incorporated and operated by Villarreal for purposes of fraud and criminality.
- g. Plaintiffs Carney, Langhenry, Murfey and Hat Creek therefore were, from the inception of Villarreal's fraudulent scheme to incorporate and operate Browning, and through the present, the lawful and absolute owners of all monies they invested in Browning and ICM US, and all of the assets, including drilling rigs, equipment, tools, supplies pipe and contracts, obtained and procured with their money, and later converted and transferred to the ownership of ICM Mexico.
- h. To the extent ICM US Operating, LLC, had or has any legally cognizable existence, Plaintiffs collectively hold all ownership interests, and the right and title to dissolve ICM US Operating, LLC, and upon such dissolution, to distribute amongst themselves all assets of any kind, manner and description, of ICM US Operating, LLC, including 100% of any lawfully cognizable ownership interests in Browning Drilling, LLC.
- i. To the extent Browning Drilling, LLC, had or has any legally cognizable existence, Plaintiffs collectively hold all ownership interests, and the right and title to dissolve Browning Drilling, LLC, and upon such dissolution, to distribute amongst themselves all assets of any kind, manner and description, of Browning Drilling LLC, including all rights to rigs, equipment, supplies, tools, pipe and contracts and any other assets, illegally converted and transferred by Villarreal to ICM Mexico.
- j. Plaintiffs Carney, Murfey and Langhenry have a general lien upon all of Browning's accounts, general intangibles and equipment, by virtue of Browning's Guarantee of all the Promissory Notes issued by ICM US in December, 2012, the Security Agreement Browning entered with all Plaintiffs (except Hat Creek) at that time, and the

judgments against ICM US obtained by Plaintiffs Langhenry and Murfey.

k. Plaintiff Langhenry's \$740,000 investment in Mohican was induced by fraud, and the money invested was not put to its intended use, but used to purchase equipment and other assets unlawfully taken by Villarreal and transferred and converted to the use of ICM Mexico, for his benefit. Mohican was a sham corporation.

l. Plaintiff Langhenry was and is still the lawful owner of all assets procured by the \$740,000 fraudulently obtained from him, and all profits realized from use of those assets.

m. Plaintiff Carney's initial \$500,000 investment in SP, a sham corporation, was induced by fraud, and the money invested was not put to its intended use, but used to purchase equipment and other assets held in the name of Browning, and then unlawfully taken by Villarreal and transferred and converted to the use of ICM Mexico, for Villarreal's benefit.

n. In addition to the rights and interests arising from Carney's direct \$500,000 investment in Browning, later contributed to ICM US, Plaintiff Carney was and is still the lawful owner of all assets procured by the initial \$500,000 fraudulently obtained from Carney, allegedly for investment in SP, and all profits realized from use of those assets.

COUNT II
(Fraudulent Transfer of Plaintiffs' Assets)

85. Plaintiffs reincorporate as if fully rewritten herein, all of the allegations and averments of the preceding Paragraphs of this Complaint, and further state that all the transfers of assets of ICM US, Browning, and Mohican to ICM Mexico, as aforescribed, were transfers of assets of the Plaintiffs, and all such transfers were fraudulent transfers to ICM Mexico in violation of the Ohio Uniform Fraudulent Transfers Act, O.R.C. §1336.01 et. seq. In particular, such transfers were made with actual intent as defined in O.R.C. §1336.04(B), but were also in violation of numerous other provisions of the Ohio Uniform Fraudulent Transfers Act, e.g.,

because they were unauthorized by Plaintiffs and no consideration was paid in exchange for assets worth tens of millions of dollars.

Wherefore, Plaintiffs pray for an Order against Defendants ICM US, Browning, and Mohican which:

(i) voids all transfers of property to ICM Mexico, as aforescribed, and return of all assets so transferred to the ownership of Plaintiffs only, and

(ii) compels disgorgement of all profits realized from the use of Plaintiffs' assets.

Respectfully submitted,

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