

CAUSE NO. **C-0166-17-H** _____

DENISE CANTU,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff</i>	§	
	§	
VS.	§	
	§	_____ JUDICIAL DISTRICT
JP MORGAN CHASE & CO.,	§	
LIONOR DE LA FUENTE and	§	
CARLOS I. URESTI	§	
	§	
<i>Defendants.</i>	§	HIDALGO COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

Plaintiff, Denise Cantu, files this Plaintiff's Original Petition against defendants' JP MORGAN CHASE & CO., LIONOR DE LA FUENTE and CARLOS I. URESTI, hereinafter called Defendants, and for cause of action shows unto the Court the following:

DISCOVERY-CONTROL PLAN AND CLAIM FOR RELIEF

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that the expedited-actions process in Texas Rule of Civil Procedure 169 does not govern this suit because plaintiff seeks monetary relief over \$1,000,000.

PARTIES

2. Plaintiff, Denise Cantu ("Plaintiff"), is an individual, U.S. citizen and resident of Texas.

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3. Defendant JP MORGAN CHASE & CO. ("CHASE") is a foreign, for profit corporation. It maintains its corporate headquarters at 350 North St. Paul St. in Dallas, Texas. It has thousands of bank branches transacting business throughout our State of Texas and may be served with process by serving its registered agent for service of process: C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3136.

4. Defendant LIONOR DE LA FUENTE ("DE LA FUENTE") is an individual that may be served with process at defendant's usual place of business in Bexar County at: JP MORGAN CHASE bank, 20845 US Hwy 281 N, San Antonio, Texas 78258, or wherever defendant may be found.

5. Defendant Carlos I. Uresti ("Uresti") is an individual that may be served with process at defendant's usual place of business in Bexar County at: The Uresti Law Firm, 924 McCullough Avenue, San Antonio, Texas 78215, or wherever defendant may be found.

JURISDICTION & VENUE

6. The subject matter in controversy is within the jurisdictional limits of this court.

7. This court has jurisdiction over Defendant Lionor de la Fuente because said Defendant is a resident of the State of Texas.

8. This court has jurisdiction over Defendant Carlos I. Uresti because said Defendant is a resident of the State of Texas.

9. This court has jurisdiction over Defendant CHASE BANK, because said Defendant purposefully availed itself of the privilege of conducting activities in the State

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of Texas. CHASE established minimum contacts sufficient to confer jurisdiction over said Defendant and the assumption of jurisdiction over CHASE BANK will not offend traditional notions of fair play & substantial justice. Further, it is consistent with the constitutional requirements of due process.

10. Plaintiff would show that Defendants CHASE bank, De la Fuente and Uresti engaged in activities constituting business within the State of Texas as provided by Section 17.042 of the Texas Civil Practice and Remedies Code, in that said Defendants contracted with a Texas resident and performance of the agreement in whole or in part thereof was to occur in Texas. Additionally, all Defendants committed torts in whole or in part in Texas.

11. Venue in Hidalgo County is proper in this cause pursuant to Section 15.002 of the Texas Civ. Pr. & Rem. Code because a substantial part of the events or omissions giving rise to this lawsuit occurred in this county. Furthermore, since venue is proper with respect to Defendant Uresti, venue for this action with respect to all Defendants is proper under 15.005 of the Texas Civil Practice and Remedies Code.

12. Plaintiff's causes of action against Defendants for breach of contract, fraud and negligent misrepresentations are based on purported schemes to induce Plaintiff Cantu to enter into an agreement through the use of representations which the defendants knew were false and with no intention of performing such representations. The false, verbal & written, representations made by Defendant Uresti to Plaintiff Cantu, were made while she was within Hidalgo County, therefore the causes of action accrued and arose in whole or in part within Hidalgo County,

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Texas. Further, Plaintiff relied upon the verbal and written representations made by Defendant Uresti (when he was seeking to convince Plaintiff) to *invest* almost a million dollars with his investment team. The verbal & written representations included but were not limited to: text messages, emails and phone calls all made by Defendant Uresti and presented or made to the Plaintiff while she was within Hidalgo County, Texas. These actions constitute misrepresentations and material omissions made by Defendant Uresti in furtherance of the breach of contract, fraud and negligent misrepresentations. Plaintiff reasonably relied upon these misrepresentations and material omissions to her detriment when she withdrew her money from Lone Star Bank in McAllen, TX and sent it to defendants CHASE & Uresti. The venue facts set forth above are further detailed and supplemented by Plaintiff's allegations above, in the fact section below & in the causes of action alleged below. All such allegations are incorporated in this paragraph and are subparts to it.

FACTS

13. Starting on or about May 2014 through March 2015, the defendants engaged in a civil conspiracy to deprive plaintiff of her property (money). The defendants agreed amongst themselves to participate, each via their own independent role, in a scheme seeking to induce Ms. Cantu to deposit with defendant CHASE bank (for bank's own financial benefit) almost one million dollars. Defendant CHASE bank, via its employees, created & provided untrue/false documents, which represented Four Winds Logistics (FWL) as being worth almost nineteen million (\$18,798,896.68) dollars. *See attached Exhibit 1.* FWL never had that money in its bank account. Defendant bank

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created & provided such false documents, including Exhibit 1 & 2, to entice Ms. Cantu to deliver her money to the defendants. *See attached Exhibit 2.*

14. To secure her money, defendants (and others) tricked her into believing that she was “investing in frac sand” with FWL. However, the defendants all knew that FWL never owned nor intended to purchase any frac sand with her money. On June 11, 2014, Defendant Uresti, Plaintiff and others entered into a Joint Venture Agreement (the “Agreement”). The purpose of the agreement was to create a joint venture between the Parties which would purchase, warehouse, and resell lots of fracking sand for use in the production of petroleum products (the “Venture”). To trick the plaintiff, FWL - DC, LLC was created and a bank account under the name of FWL - DC, LLC was opened (the “Venture Account”) with defendant Chase Bank (the “Bank”). Under the terms of the Agreement, Plaintiff deposited Nine hundred thousand dollars (\$900,000.00) into the Venture Account. Thereafter, the money would be used to purchase ten thousand (10,000) tons of “frac sand” under the name of FWL-DC, LLC. Once sand was purchased and resold, all remittances from the sale of the sand would be deposited “directly and only to the Venture account.” Defendants were to manage the Venture Assets, including the Venture Account and funds therein.

15. On June 16, 2014 Plaintiff deposited eight hundred thousand dollars (\$800,000.00) into defendant CHASE bank’s Venture Account. However, within a month of Plaintiff depositing the money into defendant CHASE bank’s Venture Account (and unbeknownst to Plaintiff) the defendants’ agreed amongst themselves to

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transfer Seven hundred eighty-seven thousand dollars (\$787,000.00) of her money into a different account ending on 8761 and then distributed it amongst themselves.

BREACH OF CONTRACT

16. Plaintiff, repeats and re-alleges, as if fully set forth herein, all factual paragraphs above.

17. All conditions precedent to the contract have been performed or have occurred.

18. Plaintiff has performed her obligations under the contract, that is, Ms. Cantu deposited Nine hundred thousand dollars with defendant CHASE bank.

DEFENDANTS' BREACH

19. Defendant Uresti breached the joint venture agreement when FWL did not invest as agreed and did not pay as agreed.

20. Secondly, defendant Uresti breached the agreement by changing material terms of the agreement once plaintiff had already partially or fully performed her share of duties within the agreement.

21. Defendant CHASE breached the banking agreement when it presented the false FWL statements seeking to induce plaintiff to give defendants her money.

22. Defendant CHASE breached the banking agreement when it allowed Mr. Stan Bates to zero out the FWL Venture account without the required two signatures. The banking agreement required Ms. Cantu's signature to withdraw out of the FWL Venture account.

23. CHASE breached the agreement by changing material terms of the agreement once plaintiff had already fully performed her share of duties within the agreement.

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24. Defendants' breached the agreement by transferring multiple amounts of money into a separate account without the plaintiff's knowledge and consent. Defendants further failed to inform plaintiff of all transactions being made and refused to give her the accounting she requested on numerous occasions.

25. Defendants' breach caused injury to plaintiff, which resulted in various damages, including but not limited to, out of pocket damages in the amount of Nine hundred thousand dollars (\$900,000.00).

CONSPIRACY

26. Plaintiff repeats and re-alleges, as if fully set forth herein, all factual paragraphs above.

27. All three Defendants (and others) participated in a civil conspiracy to defraud Plaintiff Cantu of almost a million dollars. The defendants had a meeting of the minds on the course of action since they agreed to their independent role in this conspiracy. The unlawful acts are partially evidenced by Exhibits 1 & 2. The overt acts performed by the defendants include: (1) the use of Exhibits 1 & 2 to trick Plaintiff Cantu, (2) falsely representing to plaintiff that they would invest her money to purchase frac sand, (3) falsely representing that FWL would pay as agreed and (4) representing a false lucrative business relationship amongst all parties. The details of the scheme further described within the facts section. Lastly, Plaintiff Cantu suffered an injury (the loss of her \$900,000) as a proximate result of defendants' wrongful acts.

COMMON LAW FRAUD

28. Plaintiff repeats and re-alleges, as if fully set forth herein, all factual paragraphs above.

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29. Defendants made misrepresentations to plaintiff Ms. Cantu. The representations were material. CHASE bank's representation regarding the account balance of FWL was false. *See Exhibits 1 & 2.* DE LA FUENTE's representations regarding the account balance & financial wellbeing of FWL were false. Defendants made false statements of fact since they made statements of fact that were untrue, deceptive or misleading concerning past or present facts. Furthermore, Defendants each played a role within the scheme to defraud Plaintiff Cantu. Defendants made false promises of future performance, when there was never an intention of performing them.

30. When the Defendants made their representations, the defendants all knew their representations were false. Further, the defendants made their representations recklessly, as positive assertions, and without knowledge of their truth. Furthermore, defendants made their representations with the intent to trick Plaintiff Cantu to act on it. Ms. Cantu, did in fact, rely on defendants' misrepresentations when she deposited nine hundred thousand dollars with defendant CHASE bank for the benefit of all defendants. Defendants' false representations caused Ms. Cantu injuries.

NEGLIGENT MISREPRESENTATION

31. Plaintiff would show that all Defendants supplied false information in the course of their business, profession or employment, or in the course of a transaction in which all Defendants have a pecuniary interest. All Defendants supplied such information for the guidance of Plaintiff in the transactions described. All Defendants failed to exercise reasonable care or competence in obtaining or communicating such information. Defendant Uresti made false representations (promises of future performance) regarding

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FWL, when defendant Uresti knew that FWL had no intention to perform towards Plaintiff Cantu. Plaintiff avers that Plaintiff suffered pecuniary loss, described more fully herein below, which was proximately caused by Plaintiff's justifiable reliance on such information.

32. Plaintiff therefore asserts a cause of action for negligent misrepresentation against Defendants, as provided by Federal Land Bank Association of Tyler v. Sloane, 825 S.W.2d 439 (Tex. 1991).

ECONOMIC DAMAGES

33. Plaintiff Ms. Cantu sustained the following economic and/or actual damages as a result of the actions and/or omissions of Defendants described hereinabove:

- (a) Out-of-pocket damages;
- (b) Loss of use;
- (c) Lost profits;
- (d) Loss of credit and damage to credit reputation;
- (e) Loss of the "benefit of the bargain";
- (f) Restitution Damages "Quantum Meruit";
- (g) Attorney Fees.

EXEMPLARY DAMAGES

34. Plaintiff Cantu would further show that the acts and omissions of Defendants complained of herein were committed knowingly, willfully, intentionally, with actual awareness, and with the specific and predetermined intention of enriching said Defendants at the expense of Plaintiff. In order to punish said Defendants for such

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unconscionable overreaching and to deter such actions and/or omissions in the future, Plaintiff also seek recovery from Defendants for exemplary damages as provided by Section 41.003(1) of the Texas Civil Practice and Remedies Code and by Section 27.01 of the Texas Business and Commerce Code.

ATTORNEY'S FEES

35. Request is made for all costs and reasonable and necessary attorney's fees incurred by or on behalf of Plaintiff herein, including all fees necessary in the event of an appeal of this cause to the Court of Appeals and the Supreme Court of Texas, as the Court deems equitable and just, as provided by: (a) Section 17.50(d) of the Texas Business and Commerce Code, (b) Section 27.01(e) of the Texas Business and Commerce Code, (c) Chapter 38 of the Texas Civil Practice and Remedies Code, (d) Section 37.009 of the Texas Civil Practice and Remedies Code and, (e) common law.

JURY DEMAND

36. Plaintiff demands a jury trial and has paid the appropriate fee with this petition.

REQUEST FOR DISCLOSURE

37. Under Texas Rule of Civil Procedure 194, Plaintiff requests that defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

RULE 193.7 NOTICE TO ALL PARTIES

38. Pursuant to Texas Rule of Civil Procedure 193.7, Plaintiff hereby provides notice to all parties that plaintiff intends to use any and all documents produced by all

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parties in written discovery, attached to pleadings as exhibits, attached to depositions as exhibits, or produced for inspection at depositions in this case at any hearings, pre-trial or at trial against the party that produced such documents.

PRAYER

40. For these reasons, Plaintiff asks that the defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants for the economic damages requested hereinabove in an amount in excess of the minimum jurisdictional limits of the Court, together with prejudgment and post-judgment interest at the maximum rate allowed by law, attorney's fees, costs of court, and such other and further relief to which the Plaintiff may be entitled at law or in equity, whether pled or unpled.

Respectfully submitted,

**OSCAR R. ALVAREZ
LITIGATOR**

/s/ Oscar R. Alvarez

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