

Supreme Court of the State of New York
County of New York

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ANTHONY V. LOTITO, JR., Individually And :
Derivatively In The Name And Right Of :
LBB HOLDINGS USA, LLC, :

Plaintiff, :

-against- :

R. HUNTER BIDEN, JAMES B. BIDEN,
PARADIGM CAPITAL MANAGEMENT, INC.,
PARADIGM FOUNDERS, LLC, PARADIGM
EPC LLC, PARADIGM COMPANIES, LLC,
BG EQUITY PARTNERS, LLC, BG EQUITY
INVESTORS, LLC, BGPC ADVISORS, LLC,
LBB HOLDINGS USA, LLC, and JOHN DOES
NOS. 1-10,

Defendants. -----X

To the above named Defendants:

You Are Hereby Summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
January 5, 2007

KOSTELANETZ & FINK, LLP

By: 

Brian C. Wille

530 Fifth Avenue
New York, New York 10036
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Attorneys for Plaintiff

SUMMONS

07600045

Plaintiff Designates New York
County as the Place of Trial

The Basis of Venue Is That Plaintiff
And One or More Defendants
Reside in New York County

Plaintiff Resides at:

40 Park Avenue

New York, New York 10016

FILED

JAN 05 2007

NEW YORK
COUNTY CLERK

DEFENDANTS' NAMES AND ADDRESSES:

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Oldaker, Biden & Belair, LLP
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ANTHONY V. LOTITO, JR., Individually And :
Derivatively In The Name And Right Of :
LBB HOLDINGS USA, LLC, :

Index No.

Plaintiff, :

COMPLAINT

-against- :

Plaintiff Demands A Trial
By Jury on All Claims
Triable By Jury

07600045

R. HUNTER BIDEN, JAMES B. BIDEN,
PARADIGM CAPITAL MANAGEMENT, INC.,
PARADIGM FOUNDERS, LLC, PARADIGM
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NOS. 1-10,

Defendants. :
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NEW YORK
COUNTY CLERK'S OFFICE

Plaintiff Anthony V. Lotito, Jr., by his attorneys, Kostelanetz & Fink, LLP,

complaining against the defendants, alleges as follows:

PRELIMINARY STATEMENT

1. This is an action to recover for acts of fraud and breach of fiduciary duty. As described in greater detail below, in April 2006, plaintiff Anthony V. Lotito, Jr. ("Lotito"), together with defendants R. Hunter Biden ("Hunter Biden") and James Biden ("James Biden"), formed LBB Holdings USA, LLC ("LBB"), a limited liability company which, shortly after its formation, entered into a merger agreement (the "Merger Agreement") in which it secured the right to purchase a controlling interest in a series of hedge funds operated by Paradigm Companies, LLC ("PCL"), one of Wall Street's leading hedge fund companies. In fact, only weeks after the Merger Agreement was executed, and in flagrant disregard of their fiduciary obligations, the Bidens cut a secret side deal with PCL's parent company to purchase the same

assets which LBB had already secured the contractual right to purchase on terms more favorable than those originally secured by LBB. As part and parcel of this fraud, the Bidens secretly terminated LBB's rights under the Merger Agreement, and then, in an attempt to insulate themselves from liability for these acts, fraudulently induced Lotito into renouncing his interest in LBB unaware of his co-venturers' earlier wrongdoing. Lotito now sues, both individually and derivatively, for the usurpation and diversion of LBB's corporate opportunities, and for the fraud perpetrated on Lotito in concealing these acts.

THE PARTIES

2. Plaintiff Lotito is a citizen of the State of New York, having an address located at 40 Park Avenue, New York, New York 10016. Since in or about the mid-1980s, Lotito has been employed in various capacities as a financial advisor and consultant to hedge funds, private equity funds and other institutional and private clients. During the period relevant to the events set forth herein, Lotito owned a one-third interest in LBB, a company whose principal asset was its right to purchase a controlling interest in PCL, one of a series of companies that do business under the "Paradigm" name (collectively, "Paradigm" or the "Paradigm Companies"). In mid-September 2006, Lotito was fraudulently induced to dispose of that interest unaware that his co-fiduciaries in LBB, Hunter and James Biden, had only weeks before consummated a side deal to purchase these same assets on terms far more favorable than those earlier obtained by LBB.

3. Defendant Hunter Biden is the son of Senator Joseph P. Biden, the senior United States Senator from the State of Delaware. A lawyer and lobbyist, Biden once held a sub-cabinet post in the Clinton Administration, and today serves as a Bush Administration appointee to the Amtrak Reform Board. Hunter Biden's home address is unknown.

4. Defendant James Biden is a citizen of the Commonwealth of Pennsylvania, having an address located at 27 Raynham Avenue, Merion Station, Pennsylvania 19066. The brother of Senator Joseph P. Biden, Biden is a financial advisor and consultant, and a long-time friend of Lotito.

5. Defendant Paradigm Capital Management, Inc. ("PCMI") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 650 Fifth Avenue, New York, New York 10019. PCMI is the managing member of Paradigm Founders, LLC.

6. Defendant Paradigm Founders, LLC ("Paradigm Founders") is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business located at 650 Fifth Avenue, New York, New York 10019. During various times relevant to the events set forth herein, Paradigm Founders was the record holder of not less than 49.5% of the membership units of PCL, the parent company to entities that owned and/or managed the hedge funds operated by Paradigm.

7. Defendant Paradigm ECP LLC ("Paradigm ECP") is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business located at 650 Fifth Avenue, New York, New York 10019. During various times relevant to the events set forth herein, Paradigm Founders was the record holder of not less than 5% of the membership units of PCL.

8. Defendant PCL is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business located at 650 Fifth Avenue, New York, New York 10019. PCL is the parent to Paradigm Capital Management, LLC and

Paradigm Global Advisors, LLC, entities which act, respectively, as the general partner and investment manager to, among others, Paradigm Global Fund I, Ltd., Paradigm Equities, Ltd., Paradigm Master Fund, L.P., Paradigm Enhanced MasterFund, LLC, Paradigm Futures Fund I, Ltd., and Paradigm Equities Fund I, LLC (collectively, the "Paradigm Hedge Funds").

9. Defendant BG Equity Partners, LLC ("BG Partners") is a limited liability company organized and existing under the laws of the State of Delaware. Formed on July 21, 2006, the company is wholly owned by Hunter and James Biden. On August 11, 2006, BG Partners entered into a Purchase And Sale Agreement with PCMI pursuant to which BG Partners purchased PCL, expressly terminating, as part of that same agreement, the Merger Agreement then in place between PCL and LBB. BG Partners purchased said assets for at least \$13.2 million less than the price earlier negotiated by LBB.

10. Defendant BG Equity Investors, LLC ("BG Investors") is a limited liability company organized and existing under the laws of the State of Delaware. Formed on August 4, 2006, BG Investors is owned by BG Partners and an outside investor, Lawrence Rasky ("Rasky"), a longtime friend of the Biden family.

11. Defendant BGPC Advisors, LLC ("BGPC") is a limited liability company organized and existing under the laws of the State of Delaware. Formed on August 4, 2006, BGPC is owned by BG Investors and PCL. By agreement dated August 11, 2006, PCL purported to "contribute" to BGPC all of its right, title and interest in the Paradigm Companies, the very same assets that LBB had secured the right to purchase as part of the Merger Agreement.

12. Nominal defendant LBB is a limited liability company organized and existing

under the laws of the State of Delaware. LBB was formed for the purpose of acquiring a controlling interest in PCL. In connection therewith, on May 2, 2006, LBB entered into a Merger Agreement pursuant to which it acquired, among other things, the right to complete said purchase, subject to its satisfaction of various contingencies, on or before October 31, 2006. Prior to the October deadline, and in an effort to secure the fruits of that transaction for themselves, Hunter and James Biden consummated a side deal with Paradigm and its principals, the intent and effect of which was to cheat LBB out of contractual rights and revenue streams worth tens of millions of dollars.

13. Defendants John Does Nos. 1-10 are fictitious names meant to describe individuals or entities whose identities are presently unknown but who may be joined in this suit at a later date by virtue of the acts and omissions described below.

14. Defendants Hunter and James Biden are and/or were members of LBB's Board of Managers during the relevant period.

15. Lotito brings this action both individually and derivatively on behalf of and for the benefit of LBB. No demand has been made upon the Board of Managers of LBB prior to bringing this action. Demand upon the Board would be futile because the defendant members of the Board participated in, authorized and approved of the wrongful acts and conduct that is the subject of this Complaint. LBB is wholly dominated by these wrongdoers and such wrongdoers have demonstrated their hostility to the interests of LBB by engaging in the actions complained of in this Complaint. Moreover, said defendants have wrongfully asserted that Lotito no longer has an ownership interest in LBB and has no right to act on its behalf.

16. Lotito will fairly and adequately represent the interests of LBB.

THE FACTS

A. Lotito And The Paradigm Companies.

17. Lotito is a financial consultant and businessman who has spent the majority of his career providing financial and investment advice to institutional clients. Among other areas of concentration, Lotito has extensive experience advising public and private pension funds on how to invest their monies. Lotito also has broad experience advising hedge funds on how to secure investment monies from such sources, a portion of the investment sector known as the "Taft-Hartley marketplace."

18. Lotito had been a friend and business associate of James Biden since 2002, when Globex Financial Advisors, LLC ("GFA"), a company owned by Lotito, began doing business with Lion Hall Group, LLC ("LHG"), a Pennsylvania-based company owned and controlled by Biden. Later, in April 2005, the two joined with other investors to form Americore International Security, LLC ("Americore"), a New York-based company that provides personal and corporate security services. As their business relationship grew, so too did their friendship, as a consequence of which Lotito came to know several members of the Biden family.

19. James Biden is the brother of Senator Joseph P. Biden, whose two oldest sons, Beau and Hunter, have significant public profiles in their own right. Beau Biden is the Attorney General of the State of Delaware. Hunter Biden, in turn, is a lawyer and lobbyist, and a partner in the Washington law firm of Oldaker, Biden & Belair, LLP ("OBB").

20. Still in his mid-thirties, Hunter Biden's unique career trajectory has raised questions both inside and outside of government. In July 2003, for example, a New York Times article questioned Biden's rapid ascension to the executive vice-presidency of MBNA, a

Delaware-based credit card company that is his father's largest campaign contributor and that now pays Hunter's law firm a substantial annual retainer. More recently, a New York Times article raised questions about whether his law firm had a conflict of interest in representing, as part of an ongoing ethics investigation, a senior aide to the Chairman of the House Appropriations Committee at the very time his firm was lobbying the House of Representatives on behalf of other clients.

21. In early January 2006, James Biden called Lotito to inform him that his brother, Senator Joseph P. Biden, was concerned with the impact that Hunter's lobbying activities might have on his expected campaign for the 2008 Democratic presidential nomination. Biden told Lotito that, in light of these concerns, his brother had asked him to seek Lotito's assistance in finding employment for Hunter in a non-lobbying capacity. Lotito agreed to help, and, in connection therewith, began to consider whether any of his contacts in the financial community might be a good starting place in which to seek out employment on Hunter's behalf.

22. Lotito had initially understood that Hunter was interested in creating a legislative newsletter service for hedge funds and similar entities. As is so happens, Lotito's company, GFA, had been doing business with one of Wall Street's leading hedge funds -- Paradigm -- since 2002, making it a natural starting place in which to introduce Hunter to potential clients.

23. Paradigm has long been recognized as a leader in the hedge fund industry. Formed in 1991, Paradigm was one of the first hedge funds to organize itself as a so-called "fund of hedge funds," a term that refers to hedge funds which, rather than invest directly in stocks or other financial instruments, invest in other hedge funds which themselves hold such assets.

Fund-of-funds hedge funds are generally considered to be less volatile than typical hedge funds and, as such, have proven to be extremely popular with hedge fund investors.

24. The Paradigm Hedge Funds have historically outperformed most competing funds. Much of their success has been credited to the work of Dr. James Park ("Park"), the founder and then-principal owner of the Paradigm Companies, and a leading theorist in hedge fund investing.

25. In late January 2006, Lotito, James Biden and Hunter Biden met with Paradigm in the hopes that they might interest Paradigm in Hunter's proposed newsletter. Although Paradigm had no interest in Hunter's proposed service, several days after the meeting a Paradigm executive called Lotito to inform him that the company might be amenable to being purchased by outside investors. Interested in pursuing such a business opportunity, and wishing to act on Senator Biden's request, Lotito contacted James Biden to propose that he, Lotito and Hunter Biden together purchase a controlling interest in Paradigm as part of an arrangement whereby Hunter would then assume a senior executive position with the company.

C. The LBB/Paradigm Transaction.

26. The prospect of acquiring Paradigm excited Lotito for several reasons. Although the hedge funds managed by Paradigm already had significant assets under management, Lotito believed that the company could quickly expand its network of investors, particularly among public employee pension funds in the Taft-Hartley marketplace. As negotiations over a possible acquisition progressed, Lotito became increasingly convinced of Paradigm's untapped potential. In fact, during the course of due diligence, Lotito became convinced that Paradigm's operating costs were unnecessarily high, suggesting that, with even

modest changes to the company's management structure, the company could become even more profitable than it already was.

27. The parties ultimately agreed to a multi-pronged transaction among Lotito, the Bidens, and the Paradigm Companies. As its first element, Lotito and the Bidens agreed to form a limited liability company -- LBB -- that would be the vehicle through which they would purchase a controlling interest in Paradigm. It was agreed that LBB would, in turn, then assume immediate managerial control over the Paradigm Companies as part of a merger in which it would pay \$21.33 million and acquire a 54% interest in PCL, the parent to Paradigm's investment advisory and asset management companies.

28. As substantially all of the agreed purchase price was to be secured from outside investors and/or through bank financing, it was agreed that LBB would fund its purchase in two stages, with the first payment, a \$330,000 "proxy payment," due at inception, and the remainder due within 180 days thereafter. A substantial portion of the purchase price was to be paid in the first instance to Paradigm Founders and Paradigm ECP, which owned not less than 49.5% and 5%, respectively, of PCL's issued and outstanding stock. Ultimately, however, the majority of the monies to be paid by LBB would go to Park, who owned 100% of Paradigm Founders through PCMI and its parent, Paradigm Holding Corp. ("PHC").

29. As an integral part of these agreements, it was agreed that LBB and Paradigm would enter into a series of separate agreements with Lotito and the Bidens that would set forth and define their respective roles with each of these organizations going forward. It was agreed, for example, that Lotito and James Biden would become consultants to LBB, entitling them, among other things, to a placement fee for securing the funding needed to complete LBB's

purchase of Paradigm. It was further agreed that Lotito and James Biden would be separately retained by PCL to seek out pension funds and others who might be interested in investing in the Paradigm Hedge Funds, entitling them to commissions for successfully securing such investments. In addition, it was agreed that Hunter Biden would become the president and chief executive officer of PCL, thereby insuring LBB's effective control over Paradigm while at the same time fulfilling Senator Biden's wish that Hunter secure employment in a non-lobbying capacity.

30. On April 18, 2006, and as the first step in the transaction, Lotito, Hunter Biden and James Biden formed LBB. In connection therewith, each was issued equal one-third interests in the company, and each was granted an equal vote on matters requiring the approval of its members.

31. Two weeks later, on May 2, 2006, LBB, PCMI, Paradigm Founders, Paradigm ECP and Park executed a Merger Agreement (see Exhibit A) formalizing LBB's planned merger with and into PCL. As agreed, LBB promptly tendered to Paradigm Founders and Paradigm ECP payments of \$300,000 and \$30,000, respectively, thus achieving what Section 2.8 of the Merger Agreement described as the "Phase I Closing," and with it securing immediate operational control over PCL. Under Section 2.1 of the Merger Agreement, LBB had 180 days from that date -- i.e., through October 31, 2006 -- in which to fund the remaining purchase price for PCL, described in the Merger Agreement as the "Phase II Closing." (See Exhibit A, pp. 7, 10.)

32. Simultaneous with the execution of the Merger Agreement, Lotito and James Biden entered into an "Engagement Agreement" with LBB and a "Services Agreement" with

PCL. (See Exhibits B and C.) Pursuant to Sections 3 and 5 of the Engagement Agreement, Lotito and James Biden were each appointed as LBB's exclusive agents for securing the capital and/or financing needed to complete LBB's purchase of Paradigm. Under Section 6 of that accord, LBB agreed to pay Lotito and Biden a 10% placement fee for any such capital and/or financing located by either of them, as well as \$25,000 monthly consulting fees, payable separately to each, for providing advice to LBB concerning the development of its business.

(See Exhibit B, pp. 1-4.)

33. Pursuant to the Services Agreement, Lotito and James Biden were retained by PCL to locate pension funds and other potential investors for the Paradigm Hedge Funds. Under Section 2 of that accord, Lotito and Biden were to share 50% of all management and other fees paid to PCL on any investment dollars that either of them brought to the Paradigm Hedge Funds.

(See Exhibit C, p. 2.)

34. Simultaneous with the execution of these agreements, Hunter Biden entered into an Employment Agreement with PCL pursuant to which he became PCL's president and chief executive officer. The Employment Agreement entitled Hunter, who had no previous experience running a hedge fund (or other business), to an annual salary of \$1.2 million.

35. Because the merger was to take place in two stages, the Merger Agreement contained several provisions that were intended to, and which did in fact, safeguard LBB's ability to successfully complete its purchase of PCL. For example, under Section 6.1.11 of the Merger Agreement (see Exhibit A, p. 25), PCMI, Paradigm Founders, Paradigm ECP, PCL and Park were prohibited from taking any action

that is intended or is reasonably likely to result in (A) any of its representations and warranties set forth in this Agreement being or becoming untrue in any

material respect at any time at or prior to Closing, (B) any of the conditions to the merger . . . not being satisfied or (C) a violation of any provision of this Agreement

36. Section 6.1.11 was supplemented by the provisions of Section 6.5 of the Merger Agreement (see Exhibit A, p. 27), which expressly forbade PCMI, Paradigm Founders, Paradigm ECP and Park from soliciting or knowingly encouraging competing bids for Paradigm and/or its subsidiaries, requiring, in the event of such a solicitation or offer, that LBB be promptly informed of same:

PCMI, Founders, ECP and Park, shall not, and shall use their best efforts to cause the Company and the Current Members not to, directly or indirectly, and shall instruct their respective officers, directors, employees, agents or advisors or other representatives (including, without limitation, any investment banker, attorney or accountant retained by them) not to, directly or indirectly, solicit, initiate or knowingly encourage . . . or take any other action knowingly to facilitate, . . . the making of any proposal or offer . . . that constitutes, or may reasonably be expected to lead to, any Competing Transaction (as defined below) PCMI, Founders, ECP and Park shall notify LBB promptly if any proposal or offer, or any inquiry or contact with any person with respect thereto, regarding a competing transaction is made.

37. Pursuant to Section 10.1 of the Merger Agreement (see Exhibit A, pp. 36-37), such notice had to be forwarded to LBB not only at its corporate offices in Washington, D.C. (c/o Hunter Biden's law firm), but at the New York offices of LBB's corporate counsel, thus insuring that each of LBB's members, including Lotito, would receive notice of any potential interference with the Merger Agreement.

D. The Bidens' Seizure Of Control Over PCL.

38. Given Hunter Biden's inexperience in the securities industry, it was agreed among and between LBB's members that Lotito would maintain an office at PCL's New York offices in order to assist Biden in discharging his duties as PCL's president.

39. Unfortunately, several of Biden's earliest actions as PCL's president, decisions undertaken with his uncle's knowledge and approval, raised concerns about his honesty and competency as an executive. For example, only days after Biden assumed PCL's presidency, Lotito discovered that Hunter had committed to hire two high-salaried "executives" to work for PCL, one of whom was a family friend, and both of whom were to be paid by LBB. When Lotito objected to saddling LBB's payroll with such expenses, James Biden told Lotito that Hunter's hiring practices were none of his business, noting that one of the alleged "executives" had been hired at the direction of the "Biden family."

40. Even more troubling was the manner in which the Bidens thwarted Lotito's efforts to raise the capital needed to complete LBB's merger with PCL. On repeated occasions in, during, and after the period May 2006, Lotito advised his co-fiduciaries that he had located several investors who were interested in supplying all or part of the financing needed to consummate the merger. Such investors included a high profile professional athlete and partner of the Tisch family; Michael R. Machanich, a former president of the Union Life Insurance Company; Frederic Jouhet, an attorney and investment banker; Evolvence Capital, a Dubai Trust; Madison Capital, a New York-based private equity firm; and Empire Financial, an investment banking firm based in San Francisco. The Bidens rejected each and every such proposed investor, cynically claiming that none were "suitable" for LBB.

41. Lotito's relationship with the Bidens deteriorated rapidly in the weeks ahead. In mid-June 2006, the Bidens informed Lotito that he was no longer welcome at PCL's facilities, claiming that his presence "undermined" Hunter's authority in the eyes of PCL's employees. Although Lotito agreed to vacate his desk at PCL, he insisted that he receive regular updates on

the status of PCL's business. The Bidens ignored Lotito's demands, refusing to provide him with even the most basic information about PCL's business and financial affairs.

42. On July 17, 2006, Lotito was summoned to an afternoon meeting with James Biden at a Manhattan hotel. During the meeting, Biden demanded that Lotito renounce his interest in LBB on terms to be determined. Shortly thereafter, the Bidens offered to jointly purchase Lotito's one-third interest in LBB for \$1 million. Believing the amount to be wholly inadequate, Lotito refused the offer.

43. Angered by Lotito's refusal, the Bidens took steps to intimidate Lotito into disposing of his interest on-the-cheap. For example, when the Bidens found themselves embroiled in a dispute with LBB's corporate counsel over his bill, they seized on the dispute to gain the upper hand over Lotito. The Bidens refused to pay the bill, repeatedly citing their political connections and family status as a basis for disclaiming the obligation. When pressed further, the Bidens bizarrely claimed that Lotito had received "kickbacks" from LBB's counsel, a charge which the Bidens knew to be untrue, but which they leveled in the hopes that it would force Lotito to sell his interest in LBB for far less than its true value.

44. Ultimately, the Bidens threatened to use their alleged connections with a former United States Senator to retaliate against counsel for insisting that his bill be paid, claiming that the former senator was prepared to use his influence with a federal judge to disadvantage counsel in a proceeding then pending before that court. While the Bidens' claims about the former senator's intention to intervene in the case were, upon information and belief, untrue, their willingness to issue such outlandish threats demonstrated to Lotito the lengths to which the Bidens were willing to go to secure Lotito's exit from LBB.

45. Equally bizarre was the Bidens' reaction to news that a senior PCL executive had a substance abuse problem, a disclosure that the Bidens likewise tried to parlay to their own advantage. Just as they had with the billing dispute, the Bidens seized on the incident to accuse Lotito of wrongdoing, insisting that Lotito, who had no insight into the man's personal habits, was somehow responsible for not discovering his substance abuse problem. In this case as well, the Bidens never believed their ridiculous claim, using it instead as leverage in which to force Lotito's exit from LBB on terms favorable to them.

E. The Bidens' Secret Side Deal.

46. In fact, at the very time the Bidens were seeking to force Lotito from the company, they had already set in motion a plan to cancel the Merger Agreement and replace it with a new accord that would allow them to complete the purchase of PCL through an entity owned exclusively by them.

47. On July 21, 2006, and in furtherance of this plan, the Bidens formed BG Partners. Two weeks later, on August 4, 2006, the Bidens formed BG Investors and BGPC. Each was formed as a Delaware limited liability company with a principal place of business at 818 Connecticut Avenue, N.W. Washington, D.C., the same address as Hunter Biden's law firm.

48. One week later, on August 11, 2006, BG Partners and PCMI entered into a Purchase And Sale Agreement (the "Purchase Agreement") pursuant to which BG Partners purchased all of PCMI's right, title and interest in Paradigm Founders in return for a promissory note in the face amount of \$8.1 million. (See Exhibit D, pp. 3-4.) In connection with, and as a consequence of, the foregoing, BG Partners became the beneficial owner of the entirety of Paradigm Founders' interest in PCL, the same interests that LBB had the contractual right to

purchase as part of the Merger Agreement. BG Partners, in turn, then transferred those interests to BG Investors, which, in turn, then acquired a 99.9% interest in BGPC. (See Exhibit E, p. 5; Exhibit F, Schedule A.) Simultaneously therewith, PCL transferred all of its right, title and interest in the Paradigm Companies to BGPC for a .1% interest in the company, thus completing the transfer of the interests that were to be sold to LBB to entities owned and controlled by the Bidens. (See Exhibit F, p. 3; Schedule A.)

49. Pursuant to Section 10(a) of the Purchase Agreement, the Merger Agreement was cancelled. (See Exhibit D, p. 11.) Neither the Bidens nor anyone from the Paradigm Companies ever informed Lotito of the foregoing, an act undertaken in blatant violation of the Bidens' fiduciary obligations to LBB and the mandates separately imposed on the Paradigm Companies under the Merger Agreement.

50. While the fact that the Bidens would secretly cancel LBB's rights under the Merger Agreement was appalling enough, so too was the fact that the purchase terms they had secured for BG Partners were far more favorable than those originally secured by LBB. Thus, while the Merger Agreement required that LBB pay \$21.33 million for its interest in PCL, BG Partners was able to purchase the very same assets for \$8.1 million, payable not, as LBB was required to do, in cash, but in the form of a promissory note guaranteed by the Bidens. The terms secured by BG Partners were, in fact, a corporate opportunity of LBB which the Bidens had a fiduciary obligation to present to LBB for its consideration.

F. The Fraudulently Induced Buy Out.

51. Understanding the legal jeopardy they had created for themselves and Paradigm, beginning in mid-August, the Bidens renewed their efforts to force Lotito from LBB,

committing further breaches of their fiduciary obligations as they tried to engineer Lotito's exit from the company. For example, in an attempt to persuade Lotito that his interest in LBB had little value, Hunter and James Biden repeatedly advised Lotito during this period that LBB had made little progress in finding the capital needed to complete the Phase II Closing; that, as a consequence, LBB's option to complete its purchase of PCL would in all likelihood expire worthless; and that, in view of the foregoing, they could now not possibly pay him more than \$250,000 for his interest in the company, \$750,000 less than originally offered.

52. In seeking to persuade Lotito to accept their now-reduced offer, the Bidens offered to execute mutual general releases absolving Lotito of any further liability with respect to LBB's affairs, releases which the Bidens claimed were extremely valuable given what they claimed were LBB's "substantial" liabilities at the time. In fact, rather than having "substantial" liabilities at the time of these discussions, LBB had substantial claims against both the Bidens and the Paradigm Companies, none of which were disclosed during these conversations. Indeed, at no point during these discussions or otherwise did the Bidens inform Lotito that, only weeks earlier, they had consummated a side deal with PCMI that had allowed them to purchase the same assets that LBB had earlier contracted to purchase on terms far more favorable than those originally secured by LBB, cancelling, as part of those very same agreements, the Phase II Closing which the Bidens were now representing was "unlikely" to take place.

53. In mid-September, and wholly unaware of their wrongful and fraudulent conduct, Lotito agreed to the Bidens' buy-out proposal. In connection with the foregoing, on September 14, 2006, Lotito executed an agreement (the "Settlement And Buy-Out Agreement") pursuant to which he sold his interest in LBB to the Bidens, renounced his rights under the

Engagement and Services Agreements, and exchanged mutual general releases with the Bidens, LBB, and the Paradigm Companies.

54. Upon information and belief, the Bidens are currently running the Paradigm Hedge Funds, which they own and control by virtue of their ownership interest in BG Partners, BG Investors, and BGPC.

FIRST CAUSE OF ACTION
For A Declaratory Judgment Deeming The Settlement
And Buy-Out Agreement Voided And Rescinded
(Individually Against Defendants Hunter And James Biden)

55. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 54 of this Complaint with the same force and effect as if set forth here in full.

56. During the negotiations that preceded the execution of the Settlement And Buy-Out Agreement, Hunter and James Biden, and each of them, represented that LBB had made little progress in finding the capital needed to complete the Phase II Closing, and that LBB's option to complete its purchase of PCL would in all likelihood expire worthless. Hunter and James Biden, and each of them, further represented to Lotito that LBB had "substantial" liabilities as a consequence of the foregoing.

57. Hunter and James Biden made the foregoing representations, among other times, during the period mid-August 2006 through and including early September 2006. These representations were made, among other times, during a face-to-face meeting held between Lotito, Hunter Biden and James Biden on August 17, 2006 in New York, New York, and during various telephone conversations between Lotito, on the one hand, and Hunter and/or James Biden, on the other, at their respective homes and/or offices.

58. In fact, at the time of these representations, Hunter and James Biden had already executed the Purchase Agreement on behalf of BG Partners, cancelling, in connection therewith, LBB's right to complete its merger with PCL. The foregoing gave rise to substantial claims on behalf of LBB against Hunter and James Biden, among others, none of which were disclosed to Lotito.

59. Said defendants' acts in failing to disclose the existence of the Purchase Agreement and the transactions effected thereby, in failing to disclose the claims which LBB then had against the Bidens and others, and in representing that LBB was "unlikely" to find the capital needed to consummate the Phase II Closing when, in fact, the Bidens had already secretly cancelled LBB's right to pursue said transaction, constitute material misrepresentations and omissions under the common law.

60. Said defendants made such misrepresentations and omissions knowing that they were false and with the intent to defraud Lotito, and to induce Lotito to agree to dispose of his interest in LBB for less than its fair value, to execute the Settlement and Buy-Out Agreement, and, in connection therewith, to provide general releases to the Bidens and others.

61. Lotito believed said defendants' misrepresentations to be true and, reasonably relying upon them, agreed to renounce his interest in LBB, to execute the Settlement And Buy-Out Agreement, and, in connection therewith, to provide the Bidens and others with general releases.

62. Lotito would not have agreed to renounce his interest in LBB, to execute the Settlement And Buy-Out Agreement, or to provide the Bidens and others with general releases had he known the true facts regarding the Bidens' cancellation of LBB's rights under the Merger

Agreement and their execution of the Purchase Agreement on behalf of entities owned and controlled by them.

63. By virtue of the above-described material misrepresentations and omissions, all of which were made in breach of their fiduciary duties to Lotito as co-venturer in LBB, Lotito is entitled to treat the Settlement And Buy-Out Agreement, including the general releases executed in connection therewith, as voided and rescinded, and to reclaim his one-third interest in LBB. Upon information and belief, defendants Hunter and James Biden dispute Lotito's right to exercise such election.

64. There thus exists an actual and justiciable controversy, within the jurisdiction of this Court, concerning Lotito's right to treat the Settlement And Buy-Out Agreement as voided and rescinded and to reclaim his one-third interest in LBB. Unless a declaratory judgment immediately issues recognizing the force and effect of such election, Lotito's and LBB's interests will be irreparably injured.

65. By virtue of the foregoing, Lotito seeks and is entitled to a judicial declaration declaring that the Settlement And Buy-Out Agreement (and all agreements executed therewith) are hereby voided and rescinded, and further declaring that Lotito is the lawful owner of a one-third interest in LBB.

SECOND CAUSE OF ACTION
Claim For Common Law Fraud
(Individually Against Defendants Hunter And James Biden)

66. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 65 of this Complaint with the same force and effect as if set forth here in full.

67. The acts, misrepresentations and intentional material omissions made by defendants Hunter Biden and James Biden constitute common law fraud.

68. As a direct and proximate result of the foregoing, plaintiff has been injured in an amount to be determined at trial, but in an amount not less than \$20 million.

69. In engaging in said acts, said defendants acted willfully, and with oppression, fraud, and malice; plaintiff is, therefore, also entitled to punitive damages.

THIRD CAUSE OF ACTION
Claim For Breach Of Fiduciary Duty
(Individually And Derivatively Against Defendants Hunter And James Biden)

70. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 69 of this Complaint with the same force and effect as if set forth here in full.

71. In undertaking their respective roles in LBB, Hunter and James Biden, and each of them, acted as co-venturers with Lotito. As Lotito's co-venturer, Hunter and James Biden, and each of them, had a fiduciary duty of individual loyalty and good faith in all acts undertaken on behalf of, and with respect to, LBB.

72. As such, Hunter and James Biden, and each of them, had an obligation to refrain from misrepresenting facts and/or failing to disclose facts that would constitute a fraud upon Lotito and/or LBB, to refrain from converting, misappropriating, looting or commingling Lotito's and/or LBB's property and assets, and to refrain from otherwise acting in ways that violated their fiduciary duties.

73. By consummating a transaction to purchase the same assets that LBB had already contracted to purchase on terms more favorable than those originally secured by LBB;

by failing to disclose the existence of said transaction to Lotito and, in so doing, fraudulently inducing him into selling his interest in LBB for less than its true value; by representing that LBB was unlikely to find the capital necessary to consummate the Phase II Closing when, in fact, they had already expressly cancelled LBB's rights under the Merger Agreement; by representing that LBB had "substantial" liabilities when, in fact, it had substantial undisclosed claims against the Bidens and others; by thwarting Lotito's efforts to secure the capital necessary to effect the Phase II Closing and, in connection therewith, rejecting potential investors on the purported grounds that they were not "suitable" for LBB; by refusing, despite due demand, to provide Lotito with information about LBB's business and financial affairs; by saddling LBB's payroll with employees who were family friends; and by leveling accusations against Lotito knowing that they were untrue, Hunter and James Biden, and each of them, have breached their common law fiduciary duties to Lotito and LBB.

74. As a direct and proximate result of the foregoing, Lotito and LBB have been injured in an amount to be determined at trial, but in an amount not less than \$20 million.

FOURTH CAUSE OF ACTION
Claim For Usurpation Of Corporate Opportunity
(Derivatively Against Hunter And James Biden)

75. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 74 of this Complaint with the same force and effect as if set forth here in full.

76. The rights, entitlements and privileges secured by and reflected in the Purchase Agreement represented a corporate opportunity which Hunter Biden and James Biden, and each of them, were lawfully required to offer to LBB.

77. LBB was at all times ready, willing and able to pursue such opportunity.

78. Neither Hunter Biden nor James Biden ever presented such an opportunity to LBB, instead securing said opportunity for entities owned and controlled exclusively by them.

79. The foregoing constitutes usurpation of corporate opportunity under the common law.

80. As a direct and proximate result of the foregoing, LBB has been injured in an amount to be determined at trial, but in an amount not less than \$20 million.

FIFTH CAUSE OF ACTION
Claim For Unjust Enrichment
(Individually And Derivatively Against Hunter And James Biden)

81. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 80 of the Complaint with the same force and effect as if set forth here in full.

82. As described elsewhere in this Complaint, Hunter and James Biden, and each of them, committed a series of wrongful and fraudulent acts against Lotito and LBB. As a consequence of said acts, said defendants were able to obtain property, money and other rights at Lotito's and LBB's expense. Said defendants' retention of the foregoing would, if permitted, enrich them under such circumstances as shock the conscience and mandate the return of such property, money and other rights.

83. The foregoing constitutes unjust enrichment under the common law.

84. As a result of the foregoing, Lotito and LBB are entitled to recover at trial in an amount equal to the value of the money, property and other rights wrongfully obtained by defendants Hunter Biden and James Biden.

SIXTH CAUSE OF ACTION
Claim For Tortious Interference With Contract
(Derivatively Against All Defendants)

85. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 84 of the Complaint with the same force and effect as if set forth here in full.

86. Defendants, and each of them, were either parties to or were aware of, the Merger Agreement and its terms. Defendants, and each of them, intentionally, willfully and with malice interfered with LBB's rights under the Merger Agreement by, among other things, participating and/or assisting in the consummation of the Purchase Agreement.

87. Said acts were wrongful, without lawful cause, and undertaken by defendants solely to harm LBB and enrich themselves.

88. The foregoing constitutes tortious interference with contract under the common law.

89. As a direct and proximate result of the foregoing, LBB has been injured in an amount to be determined at trial, but in an amount not less than \$20 million.

SEVENTH CAUSE OF ACTION
Claim For Breach of Contract -
Violation of Section 6.1.11 of the Merger Agreement
(Derivatively Against PCMI, Paradigm Founders And Paradigm ECP)

90. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 89 of the Complaint with the same force and effect as if set forth here in full.

91. Under Section 6.1.11 of the Merger Agreement, PCMI, Paradigm Founders and Paradigm ECP were contractually bound to refrain from taking any action that was intended

to, or that was reasonably likely to result in, any of the conditions necessary for the completion of LBB's merger with PCL not taking place.

92. By participating and/or assisting in the consummation of the Purchase Agreement, said defendants made the completion of LBB's merger with PCL impossible, thus breaching Section 6.1.11 of the Merger Agreement.

93. The foregoing constitutes a breach and/or anticipatory breach of contract for which LBB is entitled to recover in an amount to be determined at the trial, but in an amount not less than \$20 million.

EIGHTH CAUSE OF ACTION

Claim For Breach of Contract -

Violation of Section 6.5 And Section 10.1 of the Merger Agreement (Derivatively Against PCMI, Paradigm Founders And Paradigm ECP)

94. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 93 of the Complaint with the same force and effect as if set forth here in full.

95. Under Section 6.5 of the Merger Agreement, PCMI, Paradigm Founders and Paradigm ECP were prohibited from soliciting, initiating or knowingly encouraging, or taking any other action to knowingly facilitate, competing bids for any of the assets or corporate opportunities which, under the Merger Agreement, LBB had already contracted to purchase and/or was contractually entitled to pursue.

96. Under Section 6.5 of the Merger Agreement, PCMI, Paradigm Founders and Paradigm ECP were contractually bound to promptly notify LBB of any such solicitation or bid. Under Section 10.1 of the Merger Agreement, such notice had to be given to LBB both at its corporate offices in Washington, D.C. and at the offices of its corporate counsel in New York,

New York. The requirement that LBB's corporate counsel be given notice was understood to be, and was in fact, intended to insure that all of LBB's members, including Lotito, receive notice of any such solicitation or bid so that, among other things, said members could take prompt action to protect LBB's rights.

97. PCMI, Paradigm Founders and Paradigm ECP, and each of them, breached Section 6.5 of the Merger Agreement by executing, engaging and acquiescing in, and consenting to, the Purchase Agreement. In addition to the foregoing, said defendants breached both Section 6.5 and Section 10.1 of the Merger Agreement by failing to provide notice of said agreement, or its solicitation or bid, to LBB's corporate counsel, thus preventing Lotito from receiving notice of same.

98. The foregoing constitutes a breach of contract for which LBB is entitled to recover in an amount to be determined at the trial, but in an amount not less than \$20 million.

NINTH CAUSE OF ACTION
Claim For An Accounting To Determine
Monies Due Lotito Under Section 2 of the Services Agreement
(Individually Against PCL and James Biden)

99. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 98 of the Complaint with the same force and effect as if set forth here in full.

100. Under Section 2 of the Services Agreement, Lotito and James Biden were to receive 50% of all management and other fees paid to PCL on any investment dollars brought by either of them to the Paradigm Hedge Funds. Under Section 2.2 of the Services Agreement, said monies were to be paid by PCL within ten (10) days of PCL's receipt of such fees from a client. Said fees were to be split by Lotito and James Biden on a 50/50 basis.

101. Upon information and belief, PCL may now owe Lotito and James Biden monies under Section 2 of the Services Agreement, and/or James Biden may now be holding Lotito's share of such monies.

102. By virtue of the foregoing, Lotito seeks, and is entitled to, an accounting of the monies owed to him under Section 2 of the Services Agreement and, upon said accounting, a judicial declaration directing the payment to Lotito of any monies so owed.

TENTH CAUSE OF ACTION
Claim For Imposition Of A Constructive Trust
(Derivatively Against Hunter Biden, James Biden, BG Partners, BG Investors And BGPC)

103. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 102 of the Complaint with the same force and effect as if set forth here in full.

104. Defendants Hunter Biden, James Biden, BG Partners, BG Investors and BGPC are currently in possession of assets belonging to LBB.

105. Such possession is in diminution of LBB's superior right, title and interest in said assets.

106. Said defendants came into possession of these assets through acts of fraud, deceit and breach of fiduciary duty. Defendants' continued possession of these assets is wrongful.

107. In view of the foregoing, LBB is entitled to imposition of a constructive trust over all such assets wrongfully held by said defendants, together with any profits earned by said defendants while in wrongful possession of these assets.

WHEREFORE, plaintiff respectfully demands judgment against defendants,

jointly and severally, as follows:

(a) On plaintiff's First Cause of Action, for a declaratory judgment concerning the Settlement And Buy-Out Agreement (see ¶¶ 55-65), declaring that, by virtue of the conduct described herein, the Settlement And Buy-Out Agreement (and all agreements executed therewith) are hereby deemed to be voided and rescinded;

(b) On plaintiff's Second Cause Of Action, for common law fraud (see ¶¶ 66-69), awarding plaintiff the actual, consequential, and incidental damages suffered as a result of defendants' wrongful and improper conduct, in an amount to be determined at trial, but in an amount not less than \$20 million, together with an award of punitive damages;

(c) On plaintiff's Third Cause of Action, for breach of fiduciary duty (see ¶¶ 70-74), awarding plaintiff, individually and derivatively on behalf of LBB, the actual, consequential, and incidental damages suffered as a result of defendants' wrongful and improper conduct, in an amount to be determined at trial, but in an amount not less than \$20 million;

(d) On plaintiff's Fourth Cause of Action, for usurpation of corporate opportunity (see ¶¶ 75-80), awarding plaintiff, derivatively on behalf of LBB, the actual, consequential, and incidental damages suffered as a result of defendants' wrongful and improper conduct, in an amount to be determined at trial but in an amount not less than \$20 million;

(e) On plaintiff's Fifth Cause of Action, for unjust enrichment (see ¶¶ 81-84), awarding plaintiff, individually and derivatively on behalf of LBB, judgment in an amount equal to the value of the money, property and other rights wrongfully obtained by defendants Hunter Biden and James Biden;

(f) On plaintiff's Sixth Cause of Action, for tortious interference with contract

(see ¶¶ 85-89), awarding plaintiff, derivatively on behalf of LBB, the actual, consequential, and incidental damages suffered as a result of defendants' wrongful and improper conduct, in an amount to be determined at trial, but in an amount not less than \$20 million;

(g) On plaintiff's Seventh and Eighth Causes of Action, for breach and/or anticipatory of contract (see ¶¶ 90-98), awarding plaintiff, derivatively on behalf of LBB, the actual, consequential, and incidental damages suffered as a result of defendants' wrongful and improper conduct, in an amount to be determined at trial, but in an amount not less than \$20 million;

(h) On plaintiff's Ninth Cause of Action, for an accounting (see ¶¶ 99-102), directing a judicial accounting of the monies due Lotito under Section 2 of the Services Agreement and, upon said accounting, directing the payment of such monies to Lotito;

(i) On plaintiff's Tenth Cause of Action, for imposition of a constructive trust (see ¶¶ 103-107), imposing such trust upon the defendants named in said count, and requiring the return of the assets wrongfully converted for defendants' use and benefit, together with any profits, income or monies earned by defendants during the period of their wrongful possession of said property; and

(j) On all claims, awarding plaintiff the costs and fees associated with this action, including reasonable attorney's fees, together with such other, further or different relief as this

Court deems just and proper under the circumstances.

Dated: New York, New York
January 5, 2007

Yours, etc.,

KOSTELANETZ & FINK, LLP

By: 

Brian C. Wille
(A Member of the Firm)

530 Fifth Avenue
New York, New York 10036
(212) 808-8100

Attorneys for Plaintiff

PLEASE take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on

Dated,

Yours, etc.,

KOSTELANETZ & FINK, LLP

Attorneys for

Office and Post Office Address:

530 Fifth Avenue

NEW YORK, N.Y. 10036

To

Attorney(s) for

NOTICE OF SETTLEMENT

PLEASE take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on

at

M.

Dated,

Yours, etc.,

KOSTELANETZ & FINK, LLP

Attorneys for

Office and Post Office Address:

530 Fifth Avenue

NEW YORK, N.Y. 10036

To

Attorney(s) for

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ANTHONY V. LOTITO, JR. Individually And Derivatively
In The Name And Right Of LBB HOLDINGS USA, LLC Plaintiff,

-against-

R. HUNTER BIDEN, JAMES B. BIDEN, PARADIGM
CAPITAL MANAGEMENT, INC., PARADIGM FOUNDERS,
LLC, PARADIGM EPC LLC, PARADIGM COMPANIES, LLC,
BG EQUITY PARTNERS, LLC, BG EQUITY INVESTORS, LLC,
BGFC ADVISORS, LLC, LBB HOLDINGS USA, LLC, and
JOHN DOES NOS. 1-10 Defendants.

SUMMONS AND COMPLAINT

Signature (Rule 130-1.1a)

Print name beneath

KOSTELANETZ & FINK, LLP

Attorneys for

Plaintiff

Office and Post Office Address:

530 Fifth Avenue

NEW YORK, N.Y. 10036

(212) 808-8100

To

Attorney(s) for

Service of a copy of the within is hereby admitted.
Dated,

Attorney(s) for