

**SUPREME COURT OF THE STATE OF NEW YORK,
COUNTY OF SUFFOLK**

RECEIVED NYSCEF: 08/24/2020
Index#:

Date filed:

BROMBERG & LIEBOWITZ, CPA's

Plaintiffs,

-against-

PATRICIA O'BRIEN, JENNIFER O'BRIEN and 328 MAIN LLC

Defendants.

SUMMONS

**PLAINTIFF DESIGNATES
SUFFOLK COUNTY AS
THE PLACE OF TRIAL.
THE BASIS OF THE VENUE
IS DEFENDANTS'
RESIDENCE**

X

Plaintiff(s) **BROMBERG & LIEBOWITZ, CPA's**, a duly formed and Incumbent New York Professional Corporation, maintains offices for the transaction of business at 100 Broadhollow Road, Suite 101, Farmingdale, NY 11735;

Defendant(s) **PATRICIA O'BRIEN**, resides at 47 Country Club Road, Bellport, New York 11713 and maintains offices for the transaction of business at 16 Station Road, Village of Bellport, Center Moriches, NY 11713;

Defendant(s) **JENNIFER O'BRIEN**, resides at 99 Head of the Neck Road, Bellport, New York 11713 and maintains offices for the transaction of business at 16 Station Road, Village of Bellport, Center Moriches, NY 11713;

Defendant(s) **328 MAIN LLC**, a domestic entity maintains offices for the transaction of business at 47 Country Club Road, Bellport, New York 11713 and 16 Station Road, Village of Bellport, Center Moriches, NY 11713.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer if any, or if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff's Attorney(s) 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 herein.

The relief sought is a judgment against you in favor of Plaintiff **BROMBERG & LIEBOWITZ, CPA's** in an amount to be determined by a jury at trial of this action along with interest and the costs and disbursements of this action: **Upon the First Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$116,551.30**; **Upon the Second Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$116,551.30** along with exemplary and punitive damages as assessed by a Court and Jury at Trial; **Upon the Third Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$724,720.59** against Defendant **328 MAIN LLC** in the amount of **\$116,551.30**; **Upon the Fourth Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$909,720.59**; **Upon the Fifth Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$377,875.88** and continuing, and exemplary and punitive damages as assessed by a Court and Jury at Trial; **Upon the Sixth Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$834,725.59** and continuing; **Upon the Seventh Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$909,720.59** and continuing, exemplary and punitive damages as assessed by a Court and Jury at Trial;

Upon the Eighth Cause of Action, against Defendant(s) **PATRICIA O'BRIEN** in the amount of **\$1,101,266.88** and continuing; **Upon the Ninth Cause of Action**, against Defendant(s) **JENNIFER O'BRIEN** in the amount of **\$1,101,266.88** and continuing

Upon your failure to appear, judgment will be taken against you by default for the relief prayed and the costs of this action.

*Dated: Bethpage, New York
August 24, 2020*



Yours etc.,
JOSEPH C. ANDRUZZI
Attorney for Plaintiffs
326 Broadway, Suite 200
Bethpage, New York 11714
(516) 433-8600

**SUPREME COURT OF THE STATE OF NEW YORK,
COUNTY OF SUFFOLK**

Index#:

BROMBERG & LIEBOWITZ, CPA's

**VERIFIED
COMPLAINT**

Plaintiffs,

-against-

PATRICIA O'BRIEN, JENNIFER O'BRIEN and 328 MAIN LLC

Defendants.

Plaintiff(s), **BROMBERG & LIEBOWITZ, CPA's**, complaining of the Defendant(s) **PATRICIA O'BRIEN, JENNIFER O'BRIEN, and 328 MAIN LLC**, by their attorneys, JOSEPH C. ANDRUZZI, ESQS., alleges upon information and belief as follows:

1. Plaintiff(s), **BROMBERG & LIEBOWITZ, CPA's**, a duly formed and Incumbent New York Professional Corporation, maintains offices for the transaction of business at 100 Broadhollow Road, Suite 101, Farmingdale, NY 11735.

2. Defendant, **PATRICIA O'BRIEN**, resides at 47 Country Club Road, Bellport, New York 11713 and maintains offices for the transaction of business at 16 Station Road, Village of Bellport, Center Moriches, NY 11713.

3. Defendant, **JENNIFER O'BRIEN**, resides at 99 Head of the Neck Road, Bellport, New York 11713 and maintains offices for the transaction of business at 16 Station Road, Village of Bellport, Center Moriches, NY 11713.

4. Defendant, **328 MAIN LLC**, a domestic entity maintains offices for the transaction of business at 47 Country Club Road, Bellport, New York 11713 and 16 Station Road, Village of Bellport, Center Moriches, NY 11713.

5. In and around 9/1/2016 by written agreement and course of dealing, Plaintiff(s)-victims, **BROMBERG & LIEBOWITZ, CPA's**, did contract and agree with Defendant(s) **PATRICIA O'BRIEN** that Defendant(s) would sell and convey to them a local accounting practice (hereinafter, alternatively "the Practice" and the "Premises") as a going concern located at 328 Main Street, Center Moriches, New York 11934, the sale including its trade name "Consolidated Business Service," Good Will, fixtures, chattels and its book of

business including the client base and local professional office business expectancy in consideration of a performance-based purchase price formula (contract hereon, Schedule “A” herein, alternatively, “Practice Purchase Agreement”).

6. As a material term of the deal, Defendant(s) covenanted and agreed a prohibition against competing with the Practice sold and were prohibited from soliciting its customer base, fees and receivables and its business expectancy.

7. By or on behalf of the Plaintiff(s) payments were rendered for the purchase of the Practice to the Defendant(s) **PATRICIA O’BRIEN** on account of the agreement(s) and in conformity therewith, as follows:

Down Payment on contract 9/16/2016	\$40,000.00
through 12/31/2017	\$87,561.52
through 12/31/2018	\$56,802.63
through 12/31/2019	\$52,591.22
through 6/11/2020	\$27,301.02

for a total of **\$224,256.39** as of 5/31/2020 paid to Defendant **PATRICIA O’BRIEN** and/or her designee-payee Defendant **328 MAIN LLC**, to date, since the purchase (hereon, Schedule “B”).

8. Additionally, as a material term of the deal, for continuity of office operations, Defendant **JENNIFER O’BRIEN** was retained at the Practice as an associate staff accountant, office manager and commission-based compensated agent of the Plaintiff(s) and was paid compensation by the Plaintiff(s) she victimized over the period 12/2/2016 through 6/5/2020 in the amount of \$223,301.62 (hereon, Schedule “C”).

9. Also as a material term of the deal, for continuity of office operations, Defendant **PATRICIA O’BRIEN** was retained in the Practice as a consultant and staff accountant with a periodic on-site presence through June, 2020.

10. Although repeatedly soliciting and accepting purchase-price payments through 6/11/2020, Defendant(s) **PATRICIA O’BRIEN**, in concerted action with Defendant **JENNIFER O’BRIEN**, failed to perform and failed to honor and did breach the Practice Purchase Agreement and the agreements, in various ways, to the detriment of Plaintiff(s)-victims **BROMBERG & LIEBOWITZ, CPA’s**.

11. Amongst other things, throughout the term of the Practice Purchase Agreement, the Defendant(s) engaged in persistently illicit and otherwise prohibited activity in solicitation of Practice clients to a side accounting business, diverting them away in serial breach of the non-competition provisions of the Practice Purchase Agreement.

12. Defendant(s) illicitly appropriated the Practice trade name “Consolidated Business Service” to an outside enterprise and siphoned away existing clients of the Practice in an ongoing campaign to defeat its geographically local business expectancy, breaching the Practice Purchase Agreement. The activity is ongoing.

13. During a period of office-shut down commencing in late March, 2020 Principals of the Plaintiff had occasion to make on-site visits at the Practice offices in Center Moriches and began to appreciate irregularities, including discovery of numerous instances of Federal income tax returns having been filed on behalf of the Practice by Defendant(s) through utilization Plaintiff(s’) Principals’ Certified Public Accountant Federal Preparer Identification Number(s), returns which those accountants did not file and about which they had no knowledge for a number of clients and matters which were unfamiliar or unknown to the Plaintiff(s).

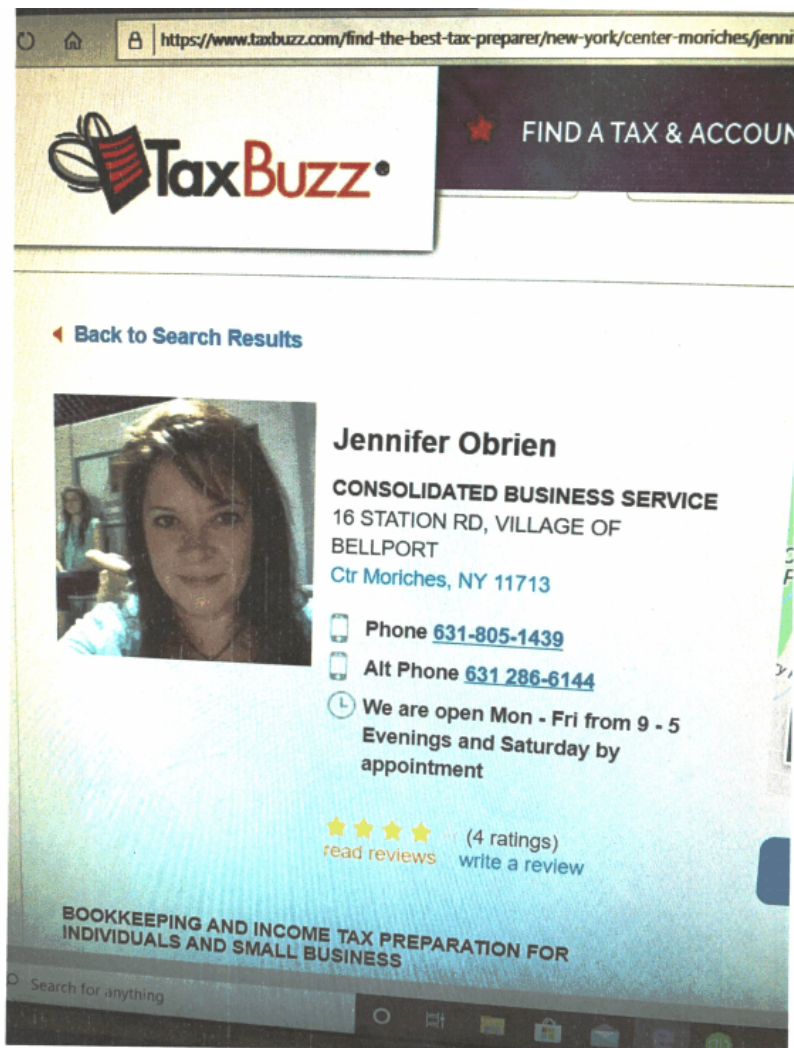
14. Closer inspection revealed that the Practice fees for these unknown filings which Defendant(s) entered into the Federal System by unauthorized use of Plaintiff(s’) Principals’ ID numbers (as CPAs) did not exist in the record receivables or collections of the Practice.

15. Neither Defendant(s) **PATRICIA O’BRIEN** or **JENNIFER O’BRIEN** are Certified Public Accountants and both of them have their own tax Preparer ID numbers as internal revenue service enrolled agents.

16. When the Plaintiff(s’) Principals started asking questions, in and around 6/10/2020 Defendant **JENNIFER O’BRIEN** abruptly informed them that she was leaving the office and not ‘coming back’ from home-based work, prompting Plaintiff(s) to engage systematic on-site evaluation and inspection of the business offices and the books and records of the Practice, discovering at least in part, the scope of the illicit activities of the Defendant(s) described herein, including at least 500 thefts of client fees. The process is continuing.

17. In and around 6/9/2020 Defendant(s) **PATRICIA O’BRIEN** appeared at the Practice offices and removed various records, papers, articles and fixtures and announced “we are out of here,” hanging a sign in the storefront window announcing to the public that “Consolidated Business Service” had re-located.

18. In and around 7/6/2020 Plaintiff(s) discovered that Defendant(s) had been transacting the side business and utilizing the Practice trade name, identifying a 'new' office and contact information for "Consolidated Business Service" on LinkedIn, TaxBuzz and other professionals' social media sites unknown:



19. Defendant(s) **PATRICIA O'BRIEN** actively engaged in embezzlements and client fee theft described herein and undertook activities which included inspection(s) of commercial space and planning for new offices of "Consolidated Business Service," registering or re-registering new addresses for the Defendant(s') Federal and local tax professionals government agency portals; contacting clients to solicit them away from the Practice and for a period in excess of 40 months utilized financial accounts and payment vehicles belonging to her in a scheme to embezzle and siphon away Practice fees and receivables to Defendant(s') personal

use.

20. Defendant(s)' improper and prohibited solicitation of the Practice clients and business expectancy has, as of 8/5/2020, resulted in the loss of at least 25 recurring fee monthly 'bookkeeping clients' of the Practice purchased by the Plaintiff(s) to a professional services office created and operated by the Defendant(s), including clients Anthony Lamana, Basso Motors, Belle Interiors, Blom & Sons, Cotton Caper, Craig Johann LLC, D Whitcomb Contracting, Eastern Construction, Francisco Auto, George Goltsos, Green Solutions, Harmony Gardens & Garden Works (Nancy Mercep), J K Construction, Liberty Lock & Key, M Enterprise, Manorville Heating Service, North Fork Title, NY Metal & Glass, Panzner-Tycon LLC, Paul Bennet Construction, Shadees, Shirley Sleep Shoppe, Silvestro Custom Homes, South Haven, Total Construction by Panzner, with attendant loss of 2020 revenues to the Practice of at least \$74,995.00.

21. Upon information and belief Defendant(s) engaged in similar conduct relative to other recurrent fee clients in addition to those set forth with specificity herein, in amounts and by occurrences unknown, but subject to continuing investigation.

22. Additionally, Plaintiff(s)' consequential loss of the value of the Practice and the Benefit of the Bargain by Defendant(s)' client base diversion is at least \$185,000.00.

23. As a material term of the deal, Defendant(s) **PATRICIA O'BRIEN** covenanted and agreed in the Practice Purchase Agreement to a valuation formula on breach of the non-compete and non-solicitation provisions calculated as a 2.0 multiple of the billable fees associated with any such Practice clients, collected or not.

24. Over the period 1/21/2020 through **6/11/2020** Defendant(s) diverted and stole client fees and receipts made by the Practice after its purchase, property of the Plaintiff, secreting away these illicit gains associated with Practice preparation and filing of **2019 personal income tax returns** on at least **121 occasions** including, but not limited to, repeated illicit and larcenous conduct regarding various clients of the Practice as set forth on Schedule "D" totaling in the aggregate amount and value of at least **\$20,448.00** entitling Plaintiff to a Judgment against Defendant(s) for the amount of each such fee, with interest thereon in the individual occurrence in the amount of \$810.46 as of the date of Commencement, together with the principal amount diverted and stolen, all totaling **\$21,258.46**.

25. Over the period 1/28/2019 through **10/15/2019** Defendant(s) diverted and stole client fees and receipts made by the Practice after its purchase, property of the Plaintiff, secreting

away these illicit gains associated with Practice preparation and filing of **2018 personal income tax returns** on at least **75 occasions** including, but not limited to, repeated illicit and larcenous conduct regarding various clients of the Practice as set forth on Schedule "E" totaling in the aggregate amount and value of at least **\$12,834.00** entitling Plaintiff to a Judgment against Defendant(s) for the amount of each such fee, with interest thereon in the individual occurrence in the amount of \$1,596.64 as of the date of Commencement, together with the principal amount diverted and stolen, all totaling **\$14,430.64**.

26. Over the period 1/30/2018 through **11/15/2018** Defendant(s) diverted and stole client fees and receipts made by the Practice after its purchase, property of the Plaintiff, secreting away these illicit gains associated with Practice preparation and filing of **2017 personal income tax returns** on at least **59 occasions** including, but not limited to, repeated illicit and larcenous conduct regarding various clients of the Practice as set forth on Schedule "F" totaling in the aggregate amount and value of at least **\$12,954.00** entitling Plaintiff to a Judgment against Defendant(s) for the amount of each such fee, with interest thereon in the individual occurrence in the amount of \$2,636.28 as of the date of Commencement, together with the principal amount diverted and stolen, all totaling **\$15,590.28**.

27. Over the period 1/1/2017 through **12/31/2017** Defendant(s) diverted and stole client fees and receipts made by the Practice after its purchase, property of the Plaintiff, secreting away these illicit gains associated with Practice preparation and filing of **2016 personal income tax returns** on at least **203 occasions** including, but not limited to, repeated illicit and larcenous conduct regarding various clients of the Practice as set forth on Schedule "G" totaling in the aggregate amount and value of at least **\$36,785.00** entitling Plaintiff to a Judgment against Defendant(s) for the amount of each such fee, with interest thereon in the individual occurrence in the amount of \$8,770.95 as of the date of Commencement, together with the principal amount diverted and stolen, all totaling **\$45,555.95**.

28. Over the period 1/13/2020 through **3/27/2020** Defendant(s) diverted and stole client fees and receipts made by the Practice after its purchase, property of the Plaintiff, secreting away these illicit gains associated with Practice preparation and filing of **2019 Business client tax returns** on at least **18 occasions** including, but not limited to, repeated illicit and larcenous conduct regarding various clients of the Practice as set forth on Schedule "H" totaling in the aggregate amount and value of at least **\$5,345.00** entitling Plaintiff to a Judgment against Defendant(s) for the amount of each such fee with interest thereon in the individual occurrence in the amount of \$520.55 as of the date of Commencement, together with the principal amount diverted and stolen, all totaling **\$5,865.55**.

29. Over the period 1/28/19 through **10/8/2019** Defendant(s) diverted and stole client fees and receipts made by the Practice after its purchase, property of the Plaintiff, secreting away these illicit gains associated with Practice preparation and filing of **2018 Business client tax returns** on at least **19 occasions** including, but not limited to, repeated illicit and larcenous conduct regarding various clients of the Practice as set forth on Schedule "I" totaling in the aggregate amount and value of at least **\$5,881.00** entitling Plaintiff to a Judgment against Defendant(s) for the amount of each such fee, with interest thereon in the individual occurrence in the amount of \$766.22 as of the date of Commencement, together with the principal amount diverted and stolen, all totaling **\$6,647.22**.

30. Over the period 1/10/2018 through **11/13/2018** Defendant(s) diverted and stole client fees and receipts made by the Practice after its purchase, property of the Plaintiff, secreting away these illicit gains associated with Practice preparation and filing of **2017 Business client tax returns** on at least **8 occasions** including, but not limited to, repeated illicit and larcenous conduct regarding various clients of the Practice as set forth on Schedule "J" totaling in the aggregate amount and value of at least **\$3,150.000** entitling Plaintiff to a Judgment against Defendant(s) for the amount of each such fee with interest thereon in the individual occurrence in the amount of \$684.63 as of the date of Commencement, together with the principal amount diverted and stolen, all totaling **\$3,834.63**.

31. Over the period 1/1/2017 through **12/31/2017** Defendant(s) diverted and stole client fees and receipts made by the Practice after its purchase, property of the Plaintiff, secreting away these illicit gains associated with Practice preparation and filing of **2016 Business client tax returns** on at least **8 occasions** including, but not limited to, repeated illicit and larcenous conduct regarding various clients of the Practice as set forth on Schedule "K" totaling in the aggregate amount and value of at least **\$2,720.00** entitling Plaintiff to a Judgment against Defendant(s) for the amount of each such fee with interest thereon in the individual occurrence in the amount of \$648.55 as of the date of Commencement, together with the principal amount diverted and stolen, all totaling **\$3,368.55**.

32. On 7/15/2020 Practice client Jolie Ruben corresponded with the Plaintiff(s), forwarding an email chain which memorialized written communication from, and Admission by, Defendant(s) **JENNIFER O'BRIEN** that she took receipt of a Practice fee in and around 4/17/2020 to a personal Venmo cash-payment account and did not remit the funds to the Plaintiff(s), but rather, she embezzled and stole the money.

33. All told, over the period 1/1/2017 through 6/11/2020 the Defendant(s), in concerted action, committed at least 500 individual instances of the embezzlement, theft and conversion of client fees paid-over to the Practice after its purchase, that is, they committed at least one theft of a client fee from the office every two and one-half days, week over week through June, 2020.

34. Upon information and belief Defendant(s) engaged in a similar scheme of larcenous conduct relative to personal and corporate tax return client receivables from the Practice commencing 9/1/2016 on other occasions other than those set forth with specificity herein, in amounts and by occurrences unknown, but subject to continuing investigation.

35. Upon information and belief Defendant(s) engaged in similar larcenous conduct relative to fees paid by recurrent fee bookkeeping clients in addition to the tax return filings as set forth with specificity herein, in amounts and by occurrences unknown, but subject to continuing investigation.

36. Defendant(s) perfected the theft, embezzlement and diversion of the client fees through receipt of cash, and checks and by utilization of incoming payment PayPal, Venmo and Square accounts owned, maintained, facilitated and utilized with the direct and continuing knowledge and participation of Defendant **PATRICIA O'BRIEN**.

37. Defendant(s') conduct was materially illicit and illegal as directed at the Plaintiff(s).

38. Pursuant to the Practice Purchase Agreement, Defendant(s) **PATRICIA O'BRIEN** is liable to the Plaintiff(s) for the stolen Practice fees measured by the Practice Purchase Agreement valuation formula of 2.0x the amount of each such fee in the individual occurrence and correlative interest thereon.

39. Pursuant to the Practice Purchase Agreement and the commissioned compensated agency agreement(s) with Plaintiff(s), Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** were obligated and duty bound to use best efforts on Plaintiff(s') behalf in the furtherance of the Practice.

40. Over the period 9/1/2016 through 6/20/2020, Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** by various trickery and artifice covered up their illicit activity in the Practice books and records and represented to the Plaintiff(s)-victims that they were dutifully performing on Plaintiff's behalf, managing the office, collecting fees and paying

over its receipts.

41. Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** by various trickery and artifice advised, represented and waged a continuous campaign to deceive and misinform the Plaintiff(s)-victims of their illicit conduct.

42. The Defendant(s) regularly intervened and manipulated the office calendar and schedule to prevent the occurrence of recurrent-fee client meetings with Practice Principals and they scheduled valuable clients in-office when the Plaintiff's Principals were expected to be absent, in a pattern resulting in substantially all valuable client meetings of the Practice being scheduled with Defendant **JENNIFER O'BRIEN** exclusively.

43. Defendant(s) repeatedly left a folder for Principal review at the Practice offices compiled with invoices, checks and other payment notes and records, representing that the folder was interval complete from week to week as a reflection of the activities of the office, providing this information to the Plaintiff's Principals who Defendant(s) expected would, and did, utilize to periodically make and record deposits and collections of the Practice with their main office.

44. On a regular basis, the folder contents were compiled by the Defendant(s) as specifically created artifice and was intentionally incomplete. Its contents were created week over week to prevent detection of Defendant(s)' activities in embezzling collected Practice fees, in the diversion of clients, in misrepresenting the receivables due, in misrepresenting the income of the Practice and to obscure the volume of work product that was being undertaken by, at, and on behalf of, the Practice for which the Plaintiff(s) were entitled to be paid.

45. Defendant **JENNIFER O'BRIEN** regularly dissuaded Plaintiff's Principals from making follow-up calls on aged receivables of record to motivate client payment, repeatedly urging that she would do so "personally" and she developed a pattern and practice to treat the office clerical assistant putatively when the staff sought to undertake those follow-ups which might have revealed the embezzlement earlier than was discovered and which was standard professional office support work actively thwarted by the Defendant(s).

46. Naturally, the Plaintiff(s)-victims relied upon the loyalty, representations of diligence, of Defendant **JENNIFER O'BRIEN**, as Plaintiff(s)' office Manager(s), agent and fiduciary, and Plaintiff(s)-victims paid-over compensation to Defendant **JENNIFER O'BRIEN** in excess of \$223,301.62 and Plaintiff(s)-victims paid-over the purchase price installments to Defendant **PATRICIA O'BRIEN** and her designee Defendant **328 MAIN LLC** as aforementioned, in excess of \$224,256.39 over the period 9/16/2016 through 5/31/2020,

repeatedly induced by the artifice and mis-representations of the Defendant(s).

47. Plaintiff(s’)-victim(s’) reliance was commercially reasonable under the circumstances.

48. The Defendant(s’) impropriety was revealed in June, 2020 as the Plaintiff’s Principals ran client inventory tax deadline calendars from their main office which had been rendered inaccurate by the activities of the Defendant(s).

49. When Plaintiff(s’) principals called the clients to warn that such clients were on the cusp of missing filing deadlines, Plaintiff(s) were informed by clients that they had already “filed with Jen” and paid over their professional fees.

50. The Defendant(s) caused the failure to record those payment transactions in the books and records of the Practice by manipulating the weekly folder.

51. At least 12 additional Practice clients have affirmatively confirmed that they paid their Professional fees by check or cash of the Practice for multiple tax years, all of which was property of the Plaintiff(s) directly to Defendant **JENNIFER O’BRIEN**, including Joan DiNapoli, Judith C. Jones 41 Inwood Road, Center Moriches, NY 11934, Eugene Conforti Jr & Kim Conforti 53 Carlton Avenue, Mastic, NY 11950, Vera Conforti 14 Orange Tree Court, Manorville, NY 11949, Corey J. Dayton 25 Bruce Drive, Manorville, NY 11949, Gina Caputo & Eric Caputo, Laura M. Natoli 192 8th Avenue, Holtsville, NY 11742, Susan Sawyer 71 Grand Avenue, Shirley, NY 11967, John & Harriet Zaglas 12 Dogwood Lane, Manorville, NY 11949 (miscellaneous documentary confirmation(s), hereon, Schedule L).

52. Defendant(s’) conduct was gross, wanton and willful and involves high degree of moral culpability and reflects repeated indifference to civil obligations.

53. Defendant(s’) **PATRICIA O’BRIEN and JENNIFER O’BRIEN** conduct evidences criminal indifference to civil obligations.

54. Defendant(s’) representations, omissions and affirmative conduct were likely to mislead, and did mislead the Plaintiff(s)-victims in particular, acting reasonably under the circumstances.

55. The deceptive acts of Defendant(s) **PATRICIA O’BRIEN and JENNIFER O’BRIEN** were and are substantial factors in causing Plaintiff(s’) damages herein.

56. Defendant(s') conduct and the Plaintiff(s') damages resulting from that conduct is properly described as unconscionable.

57. As a consequence of Defendant(s') breach of the agreement(s) and otherwise culpable conduct, Plaintiff(s)-victims **BROMBERG & LIEBOWITZ, CPA's**, suffered and continue to suffer massive damages in the loss of professional fees receipts of the Practice due to the theft, embezzlement and conversion by Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN**; Plaintiff(s)-victims **BROMBERG & LIEBOWITZ, CPA's** have been forced to undertake forensic review and assessment of the larceny, embezzlements and illicit behavior and professional damage caused by Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN**; Plaintiff(s)-Victims have lost the Practice fees made and collected; Plaintiff(s)-victims lost the Benefit of the Bargain of the Practice Purchase Agreement, and accordingly, Plaintiff(s) are entitled to a Money Judgment against Defendant(s), joint and severally, for the entirety of the damages and losses herein.

58. Plaintiff(s) also incurred, and in the future will necessarily incur, further professional expenses in an effort to mitigate the damage leveled upon them by Defendant(s)' malfeasance and misfeasance and to assure that client services delivered by the Defendant(s) on behalf of the Practice conform with good and accepted standards; Plaintiff(s) have and in the future will necessarily suffer other additional economic losses, all due to the culpable conduct of the Defendant(s) and all to the Plaintiff(s') great damage.

59. The foregoing losses and damages of the Plaintiff(s) were caused solely by virtue of the Defendant(s'), breach of the agreement(s), carelessness, embezzlements, frauds, deceit and other culpable conduct and without any negligence or other culpable conduct on the part of the Plaintiff(s) contributing thereto.

60. As a consequence of the foregoing, Plaintiff(s)-victims **BROMBERG & LIEBOWITZ, CPA's** are entitled to a Judgment against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN**, joint and severally, for all their damages aforementioned and for exemplary and punitive damages as assessed by a Court and Jury at Trial; the costs and disbursements of this action.

AS AND FOR A FIRST CAUSE OF ACTION: MONEY HAD AND RECEIVED: TO DISGORGE FUNDS PAID-OVER TO DEFENDANT(S) BY THE CLIENTS OF THE PRACTICE

61. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

62. Defendant(s) failed to remit to Plaintiff(s) the Practice fees paid-over to them by the Practice clients as and for professional services and have diverted those fees to their own use and ill gotten gain in a concerted action course of embezzlement and larceny.

63. Defendant(s)' conduct and the Plaintiff(s)' damages resulting from that conduct is properly described as unconscionable.

64. Defendant(s)' **PATRICIA O'BRIEN and JENNIFER O'BRIEN**, conduct was gross, involves high degree of moral culpability and was fraudulent.

65. Defendant(s)' conduct was materially illicit and illegal as directed at the Plaintiff(s) **BROMBERG & LIEBOWITZ, CPA's**.

66. To the extent that any aspect of the conduct and omissions of Defendant(s) related to the victimization of Plaintiff(s) **BROMBERG & LIEBOWITZ, CPA's**, would otherwise be lawful, said conduct and omissions were intended by said Defendant(s) to inflict harm, and did inflict harm, upon the Plaintiff(s) for Defendant(s)' naked financial gain, resulting in special damages and was without excuse or justification.

67. As a consequence of the foregoing, Plaintiff(s)-victims **BROMBERG & LIEBOWITZ, CPA's**, are entitled to a money Judgment against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN**, joint and severally, as and for all of the funds paid-over by clients of the Practice to Defendant(s) with interest through the date of Commencement the amount of **\$116,551.30** for the stolen fees; continuing interest at the Judgment rate; the costs and disbursements of this action.

AS AND FOR A SECOND CAUSE OF ACTION: FOR CONVERSION AND PRIMA FACIE TORT

68. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

69. Defendant(s)' conduct in the plan and scheme is wrongful and constituted a

conversion of money and property belonging to the Plaintiff(s)-victim(s) **BROMBERG & LIEBOWITZ, CPA's**.

70. As a consequence of the forgoing, Plaintiff(s), **BROMBERG & LIEBOWITZ, CPA's** are entitled to a money Judgment against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN**, joint and severally, for their damages aforementioned in the amount of **\$116,551.30** for the stolen client fees; continuing interest at the Judgment rate and for exemplary and punitive damages as assessed by a Court and Jury at Trial; the costs and disbursements of this action.

AS AND FOR A THIRD CAUSE OF ACTION: FOR UNJUST ENRICHMENT

71. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

72. Defendant(s) were enriched at Plaintiff(s') expense.

73. It is against equity and good conscience to permit the Defendant(s) to retain the ill gotten gains, which include, amongst other things, the Practice receivables embezzled, the compensation paid-over to the Defendant(s) over the course of the scheme by the Plaintiff(s)-victims and as well the profits made by Defendant(s) from client diversion.

74. As a consequence of the forgoing, Plaintiff(s), **BROMBERG & LIEBOWITZ, CPA's** are entitled to a money Judgment against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN**, joint and severally, for their damages aforementioned in the amount of **\$116,551.30** as and for the stolen fees; the compensations paid over by the Plaintiff(s)-Victims to Defendant **JENNIFER O'BRIEN** in the amount of \$223,301.62 with interest from the dates of payment to date of Commencement in the amount of \$38,022.96 totaling **\$261,104.34**; the compensations paid over to Defendant(s) **PATRICIA O'BRIEN** and Defendant **328 MAIN LLC** by the Plaintiff(s)-Victims in the amount of \$224,256.39 with interest from the dates of payment to date of Commencement in the amount of \$47,372.13 totaling **\$261,324.58**; the fees and profits made by Defendant(s) from diverted recurrent fee clients as prohibited by non-competition covenants in the Practice Purchase Agreement in the amount of at least **\$74,995.00**, additional amounts for unliquidated damages and losses of the Plaintiff(s) in amounts subject to continuing investigation, **all totaling at least \$724,720.59 and continuing** and against

Defendant(s) **328 MAIN LLC**. in the amount of **\$116,551.30**; continuing interest at the Judgment rate, the costs and disbursements of this action.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR RECOVERY ON
PROFESSIONAL AND COMMON LAW MALFEASANCE**

75. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

76. At all times hereinafter mentioned, Defendant(s) **JENNIFER O'BRIEN** held herself out as duly qualified and capable of rendering competent accounting and office manager services to the Plaintiff(s)-victims **BROMBERG & LIEBOWITZ, CPA's**.

77. In and through 6/3/2020 Defendant(s) JENNIFER O'BRIEN authored and published a curriculum vitae maintained on the Practice computer systems describing her credentials and professional position with the Plaintiff(s):

<hr/> <h2 style="margin: 0;">JENNIFER OBRIEN</h2> <hr/> <p style="text-align: center; font-size: small;">Bellport, NY 11713 ♦ (631) 805-1439 ♦ jennob89@aol.com</p> <p style="text-align: center; font-weight: bold; font-size: small;">PROFESSIONAL SUMMARY</p> <p style="text-align: center; font-size: x-small;">Driven Office Manager/ Tax Preparer offering in-depth experience in administration of vital business projects and processes. Excellent communicator and project manager with strengths in daily operations management, workflow improvements and customer service for over 20 years.</p> <p style="text-align: center; font-weight: bold; font-size: small;">SKILLS</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; font-size: x-small;"> <ul style="list-style-type: none"> • Documentation and control • Policy and Procedure Modification • Expense Reporting • Clear oral/written communication • Account Reconciliation </td> <td style="width: 50%; vertical-align: top; font-size: x-small;"> <ul style="list-style-type: none"> • Data Entry • Mail handling • Bookkeeping • Excellent multi-tasking ability • Scheduling </td> </tr> </table> <p style="text-align: center; font-weight: bold; font-size: small;">WORK HISTORY</p> <p style="text-align: center; font-size: x-small;">Office Manager, 11/1999 to Current</p> <p style="text-align: center; font-size: x-small;">Consolidated Business Services – Center Moriches, NY</p> <ul style="list-style-type: none"> • Recruited, hired, trained and supervised staff of 3 and implemented mentoring program that offered positive employee engagement. • Managed CRM database, including troubleshooting, maintenance, updates and report generation. • Prepared daily accounting and handled workers compensation audits • Managed supervisor itinerary and appointments and streamlined scheduling procedures. • Facilitated communication between clients and tax authorities. • Prepared wide array of returns such as corporate, fiduciary, gift, individual and private foundation returns. • Prepared written responses or tax return amendments to resolve state and federal notices. • Maintained complete records of client tax returns and supporting documentation in secured areas. <p style="text-align: center; font-weight: bold; font-size: small;">EDUCATION</p> <p style="text-align: center; font-size: x-small;">Associate of Arts: Accounting And Business Management, 05/1991</p> <p style="text-align: center; font-size: x-small;">Berkeley Business School - White Plains, NY</p>	<ul style="list-style-type: none"> • Documentation and control • Policy and Procedure Modification • Expense Reporting • Clear oral/written communication • Account Reconciliation 	<ul style="list-style-type: none"> • Data Entry • Mail handling • Bookkeeping • Excellent multi-tasking ability • Scheduling
<ul style="list-style-type: none"> • Documentation and control • Policy and Procedure Modification • Expense Reporting • Clear oral/written communication • Account Reconciliation 	<ul style="list-style-type: none"> • Data Entry • Mail handling • Bookkeeping • Excellent multi-tasking ability • Scheduling 	

78. The Practice management services by the Defendant(s) JENNIFER O'BRIEN were rendered in a negligent and careless manner that departed below good and accepted accounting and accounting office management standards and her conduct fell miserable below industry standards and techniques.

79. By reason of the foregoing, Plaintiff(s)-victims BROMBERG & LIEBOWITZ, CPA's suffered damages aforementioned, due to the culpable conduct of the Defendant(s) JENNIFER O'BRIEN in concerted action with Defendant PATRICIA O'BRIEN and all to the

Plaintiff(s)-victim(s') great damage.

80. As a consequence of the foregoing, Plaintiff(s)-victims **BROMBERG & LIEBOWITZ, CPA's** are entitled to a Judgment against Defendant(s) **JENNIFER O'BRIEN and PATRICIA O'BRIEN**, joint and severally, for their damages aforementioned measured by the loss of the compensation(s) paid-over to the Defendant(s') by the Plaintiff(s), the loss of the stolen fees and receivables of the Practice aforementioned, the loss of recurring revenue clients of the Practice resulting in 2020 damage alone of at least \$74,995.00 aforementioned, and additionally, the unliquidated damages as ascertained for the loss of the Benefit of the Bargain of the Practice Purchase Agreement and Practice operations profits and revenues for the foreseeable future in a reasonable amount not less than \$185,000.00, and continuing, all totaling at least **\$909,720.59** with continuing interest at the Judgment rate; the costs and disbursements of the action.

**AS AND FOR A FIFTH CAUSE OF ACTION: FAITHLESS SERVICE;
DISGORGEMENT OF GAINS AND PROFITS AND COMPENSATIONS**

81. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

82. The forgoing conduct of Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** in their deceits and misinterpretations breached and betrayed their fiduciary obligations to the Plaintiff(s), miserably.

83. Over the period 12/2/2016 through 6/5/2020 Defendant(s) **JENNIFER O'BRIEN** profited at least \$223,000.00 commissions and other compensation aforementioned flowing from the agency relationship with Plaintiff in managing the Practice, all in addition to the Defendant(s') ill gotten gains in diversion and embezzlement of Practice client fees.

84. As a consequence of Defendant(s)' **JENNIFER O'BRIEN's** Breach and betrayal of the fiduciary obligations owed the Plaintiff(s), the commissions, profits and compensation(s) made by her lawfully belong to the Plaintiff(s) by application of the principles of Faithless Service.

85. As a consequence of the foregoing, Plaintiff-victim-Principal is entitled to a judgment against Agent-Defendant **JENNIFER O'BRIEN** and Defendant **PATRICIA O'BRIEN**, by virtue of her concerted action and wrongful participation, joint and severally, in the amount of at least \$261,324.58 disgorging the compensations paid-over by the victim-Plaintiff(s) to Defendant **JENNIFER O'BRIEN** together with the client fees stolen as aforementioned, all totaling **\$377,875.88** with continuing interest and the Judgment rate; and for exemplary and punitive damages as assessed by a Court and Jury at Trial; the costs and disbursements of this action.

AS AND FOR A SIXTH CAUSE OF ACTION: REIMBURSEMENT OF ANY COMPENSATION MADE BY DEFENDANT(S) AND FOR CONSEQUENTIAL DAMAGES ON ACCOUNT OF HARMFUL, INCOMPETENT, UNFAITHFUL AND ERRONEOUS WORK IN BREACH OF AT-WILL EMPLOYMENT CONTRACT(S).

86. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

87. Defendant(s)' concerted action wrongful and illicit conduct, taken together with Defendant(s)' conduct departing below standards of good and accepted accounting and office management practice, was such as to constitute a breach of at-will employment agreements for professional compensation between Defendant(s) as consultants, office manager and accountant(s) and the Plaintiff(s)-victim(s).

88. As a consequence of the foregoing, Plaintiff(s)-victims **BROMBERG & LIEBOWITZ, CPA's** are entitled to a money Judgment against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN**, joint and severally, as and for reimbursement of all of the compensation(s) paid-over to Defendant(s) aforementioned; the loss of the stolen client fees and receivables aforementioned; the unliquidated loss of the Benefit of the Bargain of the Practice Purchase Agreement in the amount not less than \$185,000,00 all totaling **\$834,725.59** with continuing interest at the Judgment rate; the costs and disbursements of this action.

AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANT(S) FOR

FRAUD.

89. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

90. Plaintiff(s)-victims have been damaged, distinctly and discernibly, by virtue of the Defendant(s') deceits and misrepresentations and other wrongs.

91. As a consequence of the forgoing, Plaintiff(s) **BROMBERG & LIEBOWITZ, CPA's**, are entitled to a money Judgment against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN**, joint and severally, for all their damages aforementioned for common law concerted action fraud in the amount of **\$909,720.59** with continuing interest thereon; exemplary and punitive damages as assessed by a Court and Jury at Trial; the costs and disbursements of this action.

AS AND FOR A EIGHTH CAUSE OF ACTION FOR BREACH OF CONTRACT

92. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

93. All of the wrongful conduct of Defendant(s) described herein was in derogation of, and breached, the Practice Purchase Agreement.

94. As a consequence of the forgoing, Plaintiff(s), **BROMBERG & LIEBOWITZ, CPA's**, are entitled to a money Judgment against Defendant(s) **PATRICIA O'BRIEN**, for their damages aforementioned including the embezzled client fees with interest thereon as aforementioned measured at a contract multiple of 2.0 times the principal amount; the looted value of the practice in diversion of the recurrent fee clients by conduct in breach of the non-compete covenants aforementioned, measured at a contract multiple of 2.0 times the loss; consequential damages in the lost compensations paid over to the Defendant(s) aforementioned; consequential damages in the loss of the Benefit of the Bargain and the value of the Practice aforementioned; unliquidated damages as determined by a Court and Jury; all in the minimum amount of **\$1,101,266.88** along with interest thereon; the costs and disbursements of this action.

**AS AND FOR AN NINTH CAUSE OF ACTION: FOR INTENTIONAL
INTERFERENCE WITH CONTRACTUAL RELATIONS AND INDUCEMENT OF
BREACH**

95. Plaintiff(s) repeat and reallege each and every allegation contained in the forgoing paragraphs above as if same were fully set forth at length herein.

96. By virtue of the foregoing, at all times relevant the Practice Purchase Agreement existing between the Plaintiff(s) and, Defendant(s) **PATRICIA O'BRIEN** precluded solicitation and diversion of Practice clients, precluded competition with the Practice and prohibited the theft of the Practice fees and receivables.

97. Defendant(s) **JENNIFER O'BRIEN** had knowledge of that contract, was substantially aware of the legal particulars of the contract and intentionally procured Defendant(s)' **PATRICIA O'BRIEN** breach of the Practice Purchase Agreement with Plaintiff without justification.

98. Defendant(s) **JENNIFER O'BRIEN's** conduct constituted intentional and unjustifiable inducement of the Defendant(s) **PATRICIA O'BRIEN** to breach the Terms of the Practice Purchase Agreement or otherwise render performance impossible.

99. Plaintiff has been damaged thereby.

100. As a result of the foregoing, Defendant(s) **JENNIFER O'BRIEN** is liable for Plaintiff's losses and damages herein all in the minimum amount of **\$1,101,266.88** along with interest thereon; the costs and disbursements of this action.

WHEREFORE, Plaintiff(s) **BROMBERG & LIEBOWITZ, CPA's**, demand judgment as follows:

(A) **Upon the First Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$116,551.30**;

(B) **Upon the Second Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and**

JENNIFER O'BRIEN joint and severally, in the amount of **\$116,551.30** along with exemplary and punitive damages as assessed by a Court and Jury at Trial;

(Cc) **Upon the Third Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$724,720.59** against Defendant **328 MAIN LLC** in the amount of **\$116,551.30**;

(D) **Upon the Fourth Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$909,720.59**;

(E) **Upon the Fifth Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$377,875.88** and continuing, and exemplary and punitive damages as assessed by a Court and Jury at Trial;

(F) **Upon the Sixth Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$834,725.59** and continuing;

(G) **Upon the Seventh Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN and JENNIFER O'BRIEN** joint and severally, in the amount of **\$909,720.59** and continuing, exemplary and punitive damages as assessed by a Court and Jury at Trial;

(I) **Upon the Eighth Cause of Action**, against Defendant(s) **PATRICIA O'BRIEN** in the amount of **\$1,101,266.88** and continuing;

(J) **Upon the Ninth Cause of Action**, against Defendant(s) **JENNIFER O'BRIEN'** in the amount of **\$1,101,266.88** and continuing;

(K) Continuing interest at the Judgment rate;

(L) Costs and disbursements of this action;

(M) Such other and further relief as the Court deems just and proper.

Dated: Bethpage, New York
August 24, 2020



YOURS ETC.,
JOSEPH C. ANDRUZZI, ESQS.
Attorneys for Plaintiff
326 Broadway, Suite 200
Bethpage, New York 11714
(516) 433-8600

VERIFICATION

STATE OF NEW YORK)

) ss.:

COUNTY OF SUFFOLK)

ROBERT BROMBERG, CPA, being sworn says:

I am a Principal and Officer of Plaintiff in the action herein; I have read the annexed Verified Complaint and know the contents thereof and same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.

Dated: Bethpage, New York
August 24, 2020


ROBERT BROMBERG, CPA

Sworn to before me this August 24, 2020

Notary Public



JOSEPH G. ANDRUZZI
Notary Public, State of New York
No. 02AN5033475
Qualified in Nassau County
Commission Expires 9/19/2022