

AMENDED THIS MARCH 5/2025 PURSUANT TO
MODIFIÉ CE CONFORMÉMENT À

RULE/LA RÉGLE 26.02 ()

THE ORDER OF PARZENI, J.
L'ORDONNANCE DU

DATED / FAIT LE NOV. 25/2024

Court File No. CV-24-00726715-0000

W. CAMPBELL
REGISTRAR GREFFIER
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

(Court Seal)

BELIEVECO:PARTNERS INC.

Plaintiff

- and -

ARLENE DICKINSON ENTERPRISES, LTD. AND ARLENE DICKINSON

Defendants

- and -

ARLENE DICKINSON AND ARLENE DICKINSON ENTERPRISES, LTD.

Plaintiffs by Counter-Claim

- and -

BELIEVECO:PARTNERS INC., CANADIAN BUSINESS GROWTH FUND LP, CANADIAN
BUSINESS GROWTH FUND GP, CBGF INVESTMENT GP INC., AND CBGF 2022, LP

Defendants by Counter-Claim

FRESH AS AMENDED STATEMENT OF CLAIM

(Notice of Application issued on August 30, 2024)

1. The Plaintiff, believeco:partners inc. (“BCP”), claims for:

- (a) A declaration that the process set out under Section 2.6 of the Venture Agreement (as defined below) must be followed to determine the Cash Consideration (all capitalized terms, unless otherwise defined in this Statement of Claim, have the meaning given to them in the Venture Agreement and all section references, unless otherwise specified, are references to sections of the Venture Agreement);
- (b) An order directing the Defendant, Arlene Dickinson Enterprises Ltd. (“**Enterprises**”), to participate in the Section 2.6 process, including, but not limited to, taking all necessary steps to engage Grant Thornton LLP as the Third Party Accountant;
- (c) As against Enterprises, damages in an amount to be particularized before trial for breach of contract, breach of Enterprises’ duty to act in good faith, negligent misrepresentation and/or its common law duty to perform its contractual obligations honestly and in good faith;
- (d) As against the Defendant, Arlene Dickinson, damages in an amount to be particularized before trial for negligent misrepresentation, breach of duty to act in good faith and breach of fiduciary duty owed to BCP;
- (e) Prejudgment and postjudgment interest in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43;
- (f) The costs of this proceeding in an amount to be determined at trial, plus all applicable taxes; and
- (g) Such further and other relief as to this Court may seem just.

The Parties

2. The Plaintiff, BCP, is a corporation incorporated under the laws of the Province of Ontario. BCP carries on business as a full-service marketing and communications agency.

3. The Defendant, Enterprises, is a corporation incorporated under the *Canada Business Corporations Act*.

4. The Defendant, Ms. Dickinson, is the sole principal of Enterprises and a member of the Board of Directors of BCP. Ms. Dickinson was the Executive Chair of BCP from November 3, 2022 to March 25, 2024 and held a number of senior officer roles with the company, including, at various times, as acting Chief Executive Officer, Co-Managing Partner, and Head of Mergers and Acquisitions.

Overview

5. In 2022, Ms. Dickinson and other co-founders led the creation of BCP, a marketing firm comprised of five formerly independent agencies. One of those agencies was Venture Communications Marketing Ltd. (“**Venture**”). Venture was wholly owned by Ms. Dickinson’s company, Enterprises.

6. Enterprises sold Venture to BCP through a Purchase and Sale Agreement dated September 19, 2022 (the “**Venture Agreement**”). The parties agreed to an initial purchase price based on a multiplier of Venture’s financial performance (as measured by its earnings before interest, taxes, depreciation and amortization, or “**EBITDA**”). Enterprise was therefore required, among other things, to disclose its assets and liabilities prior to closing, and at the time of execution of the agreement, estimate its predicted net working capital (the difference between its assets and liabilities)

at closing. The parties further agreed to a process to adjust the purchase price for Venture on the basis of Venture's actual net working capital at closing.

7. Ms. Dickinson and Enterprises misrepresented the value of Venture to BCP, causing BCP to materially overpay for the business. Among other things:

- (a) contrary to Enterprises and Ms. Dickinson's representations, Venture's financial position was significantly deteriorating in the months leading up to BCP's acquisition—a process that continued following the sale, and which Ms. Dickinson sought to hide from BCP; and
- (b) Ms. Dickinson and Enterprises failed to disclose material liabilities held by Venture. Among other things, subsequent to Enterprise's disclosure of Venture's assets and liabilities prior to execution of the Venture Agreement, Ms. Dickinson directed Venture to pay her personal company \$13,750 per month to lease her personal residence on Wellington Avenue in Toronto (the "**Wellington Office**") as office space. Ms. Dickinson then sent a disclosure letter to BCP which failed to disclose the new liability. Because the purchase price under the Venture Agreement was based on a multiplier of Venture's financial performance, the Wellington Office liability alone created a nearly \$1 million overpayment.

8. When the Agreement closed, Ms. Dickinson became a member of BCP's Board of Directors, Co-Managing Partner, and Head of Mergers and Acquisitions. Among other duties, she was responsible for completing the purchase price adjustment process for the entities acquired by BCP—including Venture, the company she had herself sold to BCP. At the time, Ms. Dickinson was also BCP's largest shareholder.

9. As a director and senior officer, Ms. Dickinson was a senior fiduciary employee of BCP. She was obligated at law to scrupulously avoid conflicts of interest, be entirely forthright and truthful with BCP, and refrain from using her position to financially benefit herself and her interests. In particular, with respect to all matters respecting the Agreement, in which she had a direct financial interest and stood on both sides of the transaction, Ms. Dickinson was obligated to conduct herself with the highest level of honesty, loyalty, care and integrity.

10. Ms. Dickinson fundamentally breached her obligations to BCP and abused her authority as a senior officer. Ms. Dickinson:

- (a) failed to inform BCP after closing of her knowledge that the Agreement had overvalued Venture by millions of dollars, and that Venture's disclosures were incomplete;
- (b) represented to BCP that she was engaging in the purchase price adjustment process for Venture in good faith, representations on which BCP relied to its detriment;
- (c) enriched herself by purchasing \$1 million in convertible debentures in BCP (the terms of which she negotiated on behalf of the company) while simultaneously causing Enterprises to hold back millions of dollars owed to BCP through the purchase price adjustment process for Venture. BCP required that new financing, in part, because Enterprises was withholding material liquidity;
- (d) caused BCP to purchase her personal furniture and other items at a grossly inflated value of \$175,000, without providing any proof of value. Ms. Dickinson concurrently

directed BCP to pay her \$165,000 personal credit card debt incurred for a luxury vacation entirely unrelated to the company's business; and

- (e) failed to be forthright when questioned by BCP regarding the foregoing improper transactions, claiming that she had no recollection of selling her personal furniture and other items to the company for \$175,000.

11. As a result of Ms. Dickinson's conduct, BCP accepted her resignation (and asserted that even if she had not resigned, it had just cause to terminate her employment). Enterprises remains in breach of its obligations under the Venture Agreement, and has yet to agree to any purchase price adjustment or to participate in a process to determine the quantum of a purchase price adjustment—despite Ms. Dickinson's repeated admissions that Enterprises overstated Venture's working capital by millions of dollars. BCP now brings this action against Enterprises and Ms. Dickinson to enforce the terms of the Venture Agreement and recover the damages caused by Ms. Dickinson's breaches of her fiduciary obligations and abuses of authority.

The Venture Agreement

12. The Venture Agreement sets out the terms and conditions for BCP's purchase of Enterprises' shares in Venture. Ms. Dickinson stood on both sides of the transaction, executing the agreement on behalf of BCP and on behalf of Enterprises—giving rise to the strictest obligation to conduct herself with the utmost good faith and loyalty in relation to the agreement. Instead, Ms. Dickinson and Enterprises misrepresented Venture's value, causing BCP to overpay for the business.

i. The Purchase Price and Purchase Price Adjustment Process

13. The Venture Agreement was executed on September 19, 2022, with a closing date of November 3, 2022.

14. Pursuant to Sections 2.2 of the Venture Agreement, BCP agreed to acquire Venture for \$17,177,000, subject to various adjustments, including a purchase price adjustment process described in Sections 2.3 and 2.6. Through the purchase price adjustment process, the parties agreed that the purchase price would be adjusted upward or downward based on whether Venture's working capital at closing was greater or lesser than estimated at execution of the agreement.

a. Determination of Venture's Value and Related Disclosures

15. The \$17,177,000 valuation is formulaic, calculated as six times Venture's EBITDA. In order to accurately calculate Venture's EBITDA, Enterprises was required to disclose Venture's financial performance, including its assets and liabilities, to a third-party accountant, KPMG, which delivered a Quality of Earnings report dated July 2022 (the "**QoE Report**"). Enterprises was aware that BCP would, and did, rely on its disclosures to KPMG in order to determine the purchase price of Venture.

16. Enterprises was further required to provide a disclosure letter as part of the September 2022 execution of the Venture Agreement, through which Enterprises was required to disclose any related party transactions and any exception, modification, or qualification or other information called for under the representations, warranties, and covenant provisions of the Venture Agreement. These obligations included Enterprise's covenants, pursuant to Article 6 of the Venture Agreement, that it would:

- (a) use its commercially reasonable efforts to preserve intact Venture's goodwill;
- (b) not transfer, lease, license, sell or otherwise dispose of Venture's assets, other than in the ordinary course;

- (c) not create, incur, assume or guarantee any Indebtedness or guarantee or otherwise become liable for the Liabilities of any other Person or make any loans or advances to any Person; and
- (d) not make any commitment for any capital expenditure to be made on or following the date of execution of the Venture Agreement in excess of \$10,000 in the aggregate.

b. The Purchase Price Adjustment Process

17. Section 2.2 of the Agreement defines the “**Cash Consideration**” for the acquisition as \$17,177,000 subject to various adjustments, including a two-stage process described in Sections 2.3 and 2.6 of the Agreement. Section 2.3 states, among other things, that “[e]ach of the Parties acknowledges that it is not possible to determine the Cash Consideration until the same is finally determined” pursuant to the steps set out in Sections 2.3 and 2.6.

18. Section 2.3 requires Enterprises to deliver an “**Estimated Statement**” prior to the “**Closing Date**” setting out, among other things, an estimate of the “**Closing Date Working Capital**”. The parties understood that “net working capital” was the difference between Venture’s assets and liabilities.

19. Section 2.6 describes the process for adjustments to the estimated working capital set out in the Estimated Statement after closing and after BCP and its accountants are able to analyze Venture’s books and records.

20. Section 2.6(a) states that BCP is to deliver a “**Draft Closing Statement**” “[n]ot later than ninety (90) days after the Closing Date”, which is to set out BCP’s good faith calculation of Closing Date Working Capital, among other things.

21. The Agreement is silent on the consequences of BCP's failure to meet the 90-day timeline described in Section 2.6(a).
22. There is no provision of the Agreement that deems BCP to have accepted the figures set out in the Estimated Statement if a Draft Closing Statement is not delivered within 90 days of the Closing Date. There is no "time of the essence" clause in the Agreement.
23. Section 2.6(b) requires Enterprises to reasonably cooperate with BCP in the preparation of the Draft Closing Statement.
24. Section 2.6(c) requires Enterprises to deliver a "**Notice of Objection**" in writing within 30 days following the delivery of the Draft Closing Statement.
25. Section 2.6(c) further states that "[Enterprises] shall be deemed to have accepted the Draft Closing Statement to be the Closing Statement if [Enterprises] do[es] not notify [BCP] of an objection within such period of thirty (30) days".
26. If the parties to the Agreement are not able to resolve the issues set out in the Notice of Objection, the Agreement provides for a binding dispute resolution process set out under Section 2.6(d).
27. Section 2.6(d) states, among other things, that "the Parties agree that the procedures set forth in this Section 2.6 for resolving disputes with respect to the Closing Statement shall be the sole and exclusive method for resolving any such disputes".
28. Section 2.6(d) requires any disputes to be submitted for final determination by the "**Third Party Accountant**". The Third Party Accountant is defined in the Agreement as PwC.

29. The Agreement states that “if PwC is unwilling or unable to act, a nationally recognized accounting firm agreed to by [BCP] and [Enterprises], acting reasonably” will be appointed.

30. Section 2.6(d) further states that the provision shall not prohibit BCP from “instituting litigation, in any court or other tribunal of competent jurisdiction, to enforce any final determination of the Purchase Price by the Third Party Accountants or to compel any Party to submit any dispute with respect to the Closing Statement to the Third Party Accountants pursuant to and in accordance with the terms and conditions of this Section 2.6.”

31. Finally, concurrently with the Venture Agreement, BCP executed purchase agreements with four additional entities: ACI Argyle Communications Inc. (“**Argyle**”), Brightworks Interactive Marketing Inc. (“**Brightworks**”), Revolve Branding Incorporated (“**Revolve**”), and Zync Communications Inc. (“**Zync**”) (the “**Other Entities**”). The purchase agreements for the Other Entities included substantively identical purchase price adjustment processes as the Venture Agreement, with the same November 3, 2022 closing date.

ii. Ms. Dickinson and Enterprises Misrepresent the Value of the Business

32. Ms. Dickinson and Enterprises represented that Venture’s net working capital was \$1.139 million as of July 31, 2022, and estimated that Venture’s net working capital at close would be \$3.107 million. In truth, Venture’s business and profitability were materially deteriorating, to the point that the company’s operating margin was negative in the three months leading up to closing. As BCP would discover, Venture’s net working capital at closing was in fact negative \$658,726.

33. These trends were not temporary: as BCP would later discover, Venture’s business continued to deteriorate after the acquisition.

34. Ms. Dickinson and Enterprises also failed to disclose significant liabilities held by Venture. In August 2022, only weeks before the Venture Agreement was executed, Ms. Dickinson directed Venture to lease the Wellington Office from her personal corporation for \$13,750 per month. This \$165,000 annual liability to Ms. Dickinson's benefit had not been disclosed through the July 2022 QoE Report. Neither did Ms. Dickinson disclose the new liability in her September 2022 disclosure letter on behalf of Enterprises, in violation of the express language in that letter which required Ms. Dickinson to disclose any related party transaction as well as any new liabilities.

35. Because the base purchase price for Venture was calculated as six times the business' EBITDA, Enterprises' and Ms. Dickinson's failure to disclose the Wellington Office lease liability (which would have decreased Venture's EBTIDA by the amount of the lease) created a \$990,000 overpayment, or roughly 6% of the agreed value of the business.

36. In addition, Enterprises and Ms. Dickinson represented that Ventures would replace a full-time social media manager position, at an annual salary was \$100,000, with a part-time employee position for \$30,000. Instead, Ventures retained the full-time position and increased the compensation for that position to \$110,250. The resulting \$80,250 liability, adjusted on a basis of six times Venture's EBITDA, inflated the purchase price for the business by an additional \$481,500.

37. Enterprises and Ms. Dickinson knew or should have known that BCP relied on their disclosures to KPMG and through the Venture Agreement to value Venture and to enter into the Venture Agreement.

Ms. Dickinson's Role with BCP

38. On the Closing Date of November 3, 2022, Ms. Dickinson became the largest shareholder of BCP (having converted nearly all of the Venture purchase price into shares) and assumed the position

of Executive Chair of the BCP Board of Directors. Additionally, she was the Co-Managing Partner, with two other co-founders; Head of Mergers and Acquisitions; and was part of BCP's Executive Leadership Team.

39. As a senior fiduciary employee of BCP, Ms. Dickinson was required to disclose her knowledge that Venture's business was materially deteriorating in the months leading up to the acquisition, and that she and Enterprises had failed to disclose material liabilities. Ms. Dickinson not only failed to do so, but repeatedly resisted requests by BCP's Board to report the performance of BCP business units on a segmented basis, which would have revealed Venture's poor financial performance.

40. By May 2023, Ms. Dickinson's two Co-Managing Partners had left the company, and Ms. Dickinson appointed herself Acting Chief Executive Officer. This appointment was understood by all of the parties to be temporary.

41. During her time as Executive Chair and CEO of BCP, Ms. Dickinson was the main decision maker at BCP. Among other things, she was responsible for completing the purchase price adjustment process for the entities acquired by BCP—including Venture.

Ms. Dickinson Withholds Her Knowledge That Venture Was Significantly Overvalued

42. In or around February 2023, BCP engaged KPMG to prepare a Draft Closing Statement as required by Section 2.6 of the Venture Agreement.

43. Separately from the KPMG process, Enterprises and Ms. Dickinson knew by April 2023—at the latest and in addition to Enterprises and Ms. Dickinson's knowledge of Venture's poor financial performance at closing—that BCP had overpaid for Venture by millions of dollars, and that an

adjustment to the Purchase Price for Venture was warranted and necessary. At the time, Ms. Dickinson was BCP's Executive Chair, Co-Managing Partner, Head of Mergers and Acquisitions, and part of BCP's Executive Leadership Team.

44. On April 19, 2023, Ms. Dickinson received an email to her BCP email address from her subordinate, Allan Lawrence, a BCP finance employee and Ms. Dickinson's former employee of Venture, who stated that there was a "massive swing in working capital from the estimate to the close" and that he was "nervous" about "how deep KPMG will dig into post-close transactions". As described at paragraph 93 below, Ms. Dickinson intentionally deleted this April 19, 2023 email as part of a mass-deletion of emails she conducted by her prior to her departure from BCP.

45. On April 20, 2023, Ms. Dickinson responded to Mr. Lawrence, stating, "This is a bigger problem. That means that the peg was wrong for the multiple and makes it a 4 million dollar accounting error." Enterprises had materially misstated Venture's value.

46. Ms. Dickinson had a fiduciary duty to immediately disclose her knowledge of Venture's finances and any "accounting error" to BCP. Likewise, Enterprises was obligated to act in good faith and disclose to BCP as part of the purchase price adjustment process that it had materially misstated its net working capital. Instead:

- (a) even though Ms. Dickinson and Enterprises were aware that KPMG was in the process of preparing a Draft Closing Statement since at least February 2023, neither Ms. Dickinson nor Enterprises took any steps to inform KPMG that the working capital figures included in the Estimated Statement were materially wrong; and

- (b) despite Ms. Dickinson's knowledge that the working capital figures included in the Estimated Statement were materially wrong, she did nothing to disclose the misrepresentation and false information to BCP's Board of Directors or to take action to adjust the Purchase Price paid by BCP.

47. Finally, Ms. Dickinson failed to disclose her knowledge that Venture's business performance had materially declined prior to its acquisition by BCP, and that Venture continued to underperform following the acquisition. Among other things, Ms. Dickinson represented to BCP's Board of Directors that information regarding Venture's performance after the acquisition was not available, including representing that agency-by-agency and customer-by-customer analysis (which would have disclosed Venture's poor performance) was not available, which was not true.

48. Ms. Dickinson preferred her own interests and the interests of Enterprises over the interest of BCP in breach of her fiduciary duties and other duties owed to BCP and its shareholders.

BCP Advises Enterprises of Working Capital Adjustment in June 2023

49. On June 14, 2023, BCP received a preliminary closing balance sheet from KPMG.

50. As a result of KPMG's analysis, BCP discovered that Venture owed BCP \$2,728,656 as an adjustment to the Purchase Price in respect of a working capital deficiency as compared to the Estimated Closing Statement. The adjustment owed was \$2,689,004.00 after accounting for amounts held in escrow (the "**Venture Adjustment**").

51. On or about June 15, 2023, Ms. Dickinson acknowledged receipt, on behalf of herself and Enterprises, of the preliminary closing balance sheet from KPMG and the Venture Adjustment which had been sent to Ms. Dickinson by email from Darren Keats, the Chief Financial Officer of BCP. Ms.

Dickinson and Enterprises responded by return email to Darren Keats that “It’s likely a million at least high” and added, “we’re working on it”.

52. Over the following months, BCP sought to engage with Enterprises on a good faith basis to consider the working capital adjustment identified by KPMG. During this process, Ms. Dickinson and Enterprises attempted to negotiate the amount that Venture owed BCP, including by making several demands entirely unsupported by the Venture Agreement. At no time during that process did Ms. Dickinson or Enterprises disclose that they knew that Venture’s figures in the Estimated Statement were grossly overestimated and wrong.

53. Further, at no time did Ms. Dickinson or Enterprises raise any concerns that BCP had not delivered a Draft Closing Statement within 90 days of the Closing Date. In fact, Ms. Dickinson repeatedly represented to BCP that resolving the Venture PPA was a “priority”, including in a June 20, 2023 discussion with BCP’s Chief Financial Officer.

54. BCP was entitled to, and did, rely on Ms. Dickinson’s representations that she was complying with her duties as a senior officer of BCP, and that Enterprises would comply with its obligations under the Venture Agreement, including that Enterprises was engaging in the Purchase Price Adjustment process in good faith.

Dickinson Expands Her Interest in BCP While Withholding Critical Funds

55. In August 2023, while BCP attempted to reach a resolution with Enterprises regarding the Venture Adjustment, the company determined that it required additional capital. The Board formed a Special Committee, which included Ms. Dickinson, which recommended that the company obtain financing by issuing convertible debentures. These debentures would be offered at a conversion range that was preferable to shareholders’ initial investments in the company.

56. As a member of the Special Committee, Ms. Dickinson advocated for and supported the new financing, and personally invested \$1 million through an initial round in September 2023 and a second round in April 2024. In doing so, Ms. Dickinson obtained further interest or equity in BCP on significantly better terms than her original investment. At the same time, Ms. Dickinson, who was a senior officer of BCP and the sole principal of Enterprises, was stalling and delaying resolution of the Venture Adjustment.

57. The \$2.6 million owed by Enterprises was a material amount to BCP. The company would not have had the same need for additional capital if Enterprises had timely settled the Venture Adjustment, or would have issued the convertible debentures on more favourable terms to the Company. Ms. Dickinson kept the Venture Adjustment in her pocket, while expanding her stake in BCP—at a discount. This was a breach of her fiduciary obligations to BCP.

BCP Discovers Dickinson's Self-Dealing and Abuse of Authority

58. In September 2023, BCP began a CEO search process, and hired a CEO, Mario Simon, in January 2024. Ms. Dickinson continued her roles as Executive Chair and Head of Mergers & Acquisitions.

59. Following Mr. Simon's hiring, BCP sought to consolidate and streamline its operations. In May 2024, the Company decided to terminate the lease for the Wellington Office. Unbeknownst to BCP, the Wellington Office was Ms. Dickinson's former home, and she had leased it to Venture through a personal company. As set out above, Enterprises and Ms. Dickinson had entirely failed to disclose the lease in the Agreement.

60. When assessing the lease and the Wellington Office assets, BCP also discovered that after execution of the Venture Agreement and before the agreement closed, Ms. Dickinson directed a subordinate to sell personal furniture, art, and antiques located at the Wellington Office (the “**Personal Items**”) to BCP for \$175,000. The Personal Items included a pool table, an antique horse, an antique camera, custom light fixtures and an antique cash register. BCP had no use for the Personal Items, and there was no legitimate business purpose for BCP to buy them. The Personal Items had not been disclosed as part of Venture’s assets as part of the Venture Agreement, or reflected in the purchase price for Venture, yet Ms. Dickinson effectively caused BCP to purchase those undisclosed, self-valued items as part of the deal. It was another transaction in which Ms. Dickinson acted as buyer, on behalf of BCP without Board disclosure, and as seller.

61. Mr. Simon immediately approached Ms. Dickinson to inquire about the sale. Ms. Dickinson was obligated to respond to Mr. Simon in a truthful and forthcoming manner. Incredibly, and in violation of her duty of honesty, Ms. Dickinson denied any recollection of selling the Personal Items to BCP for \$175,000.

62. BCP subsequently determined that:

- (a) in Fall 2022, Ms. Dickinson went on a luxury vacation to Southern California, where she incurred \$165,000 in credit card charges on her personal Amex, including to purchase expensive Chanel bags and watches. There was no business purpose for the trip;
- (b) in late October 2022, weeks before the Venture deal closed, Ms. Dickinson instructed a subordinate, Allan Lawrence, to sell the Personal Items to BCP for \$175,000;

- (c) Ms. Dickinson represented to Mr. Lawrence that \$175,000 was “fair value” for the Personal Items. She self-appraised the items without consulting any records or receipts. A subsequent independent appraisal obtained by BCP valued the Furniture at \$20,000 to \$30,000;
- (d) Ms. Dickinson instructed Mr. Lawrence to cause BCP to directly pay her personal Amex bill from the proceeds of the sale. BCP paid Ms. Dickinson’s personal charges of \$165,000 in early 2023; and
- (e) Mr. Lawrence informed Ms. Dickinson in writing that BCP, not Venture, was the entity that was paying her for and would own the Personal Items and pay her personal credit card statement.

63. At no time did Ms. Dickinson disclose to BCP that she had caused the Company to pay her \$165,000 personal credit card debt, for no legitimate business purpose. Both the sale, and her failure to disclose the sale, were serious breaches of Ms. Dickinson’s fiduciary obligations to BCP.

64. To the extent that Ms. Dickinson claims that she intended to sell the Personal Items to Venture (rather than BCP), Ms. Dickinson knew or should have known that the transaction was in fact processed on behalf of BCP. She was expressly advised in writing that BCP, not Venture, would acquire the Personal Items, and BCP paid her \$165,000 credit card bill in January 2023—months after the sale had closed and Venture had ceased to exist as a separate legal entity. Even if Ms. Dickinson had a reasonable basis to believe that the Personal Items sale was to Venture, which BCP denies, then Enterprises was in violation of its covenant under the Venture Agreement not to make any commitment for any capital expenditure in excess of \$10,000 in the aggregate.

65. On May 27, 2024, Ms. Dickinson was placed on administrative leave. On the same day, she tendered notice of “Good Cause” under the terms of her employment agreement to terminate her employment. BCP denies that Ms. Dickinson had Good Cause under the terms of her contract.

66. Ms. Dickinson subsequently participated in a confidential and privileged investigation conducted through BCP’s external legal counsel, which was only one part of a broader evaluation of her conduct. BCP is not waiving privilege over the investigation through this pleading.

67. On June 18, 2024, the investigator interviewed Ms. Dickinson, who was accompanied by her legal counsel. As a senior officer and director of BCP, Ms. Dickinson had a strict duty to be honest and forthcoming with BCP’s investigator. Ms. Dickinson again claimed that until she was confronted with evidence of her \$175,000 sale of the Personal Items to BCP, she had no recollection that it had ever occurred. Likewise, she claimed that she was not aware that BCP, rather than Venture, had purchased the Personal Items and paid her personal credit card.

68. Ms. Dickinson was subsequently informed that the investigator did not substantiate that Ms. Dickinson had “defrauded” BCP through the sale of the Personal Items. BCP asserts that Ms. Dickinson was not forthcoming with the investigator. Regardless, Ms. Dickinson failed in her strict duties as a senior fiduciary officer of the company. She is obligated to pay BCP’s damages for her misappropriation of its resources.

BCP Delivers Draft Closing Statement and Enterprises Delivers Notice of Objection

69. With new leadership, BCP also took steps to move forward the purchase price adjustment process that Ms. Dickinson had obstructed and delayed.

70. On May 23, 2024, BCP delivered a Draft Closing Statement pursuant to Section 2.6(a) of the Agreement.

71. On June 21, 2024, Enterprises delivered a Notice of Objection pursuant to Section 2.6(c) of the Agreement.

72. In its Notice of Objection, Enterprises states its position that “BCP is not entitled to make any adjustments to the purchase price owing to [Enterprises] because it failed to comply with the requirements under the Agreement to do so”.

73. Enterprises’ Notice of Objection further states that “the Estimated Statement stands as the uncontested basis upon which the purchase price under the Agreement must be calculated”.

74. Ms. Dickinson held ultimate decision-making authority at BCP during the pendency of the purchase price adjustment process. She repeatedly represented to BCP, after the 90-day deadline for delivery of a Draft Closing Statement, that Enterprises was regardless engaging in the process. Ms. Dickinson, and Enterprises, are estopped from relying on Ms. Dickinson’s own delay.

75. In addition, Ms. Dickinson, in her capacity as a director, approved the purchase price adjustments for three of the other legal entities involved in the BCP amalgamation—all after the same 90-day deadline set out in the Agreement for Venture and the agreements for those entities.

BCP Seeks to Appoint a Third Party Accountant, Enterprises Refuses

76. On or about August 19, 2024, BCP was informed by PwC that it would be unable to act as the Third Party Accountant.

77. On or about August 19, 2024, BCP proposed BDO and Grant Thornton as prospective Third Party Accountants to Enterprises. BCP requested that Enterprises advise which firm they preferred

by August 21, 2024, failing which BCP would select one of the two firms and proceed with the Section 2.6 Process under the Agreement.

78. On or about August 20, 2024, Enterprises took the position through its counsel that, because of BCP's failure to deliver a Draft Closing Statement within 90 days of closing, "there is no basis for BCP to retain an accountant to address this issue".

79. As a result, BCP has been unable to complete the Venture Adjustment pursuant to the Agreement due to the lack of cooperation from Enterprises and Ms. Dickinson.

80. Enterprises and Ms. Dickinson have refused to work reasonably with BCP to appoint a Third Party Accountant and to participate in the Section 2.6 Process set out in the Agreement, in clear breach of the terms of the Agreement.

81. In contrast, Ms. Dickinson approved purchase price adjustments for Argyle, Brightworks, Revolve, and Zync in July and August 2024, all after the 90-day period set out in Section 2.6(a) of the Agreement had closed. Venture is the only entity that has not completed a purchase price adjustment to date, and the Venture Adjustment is significantly larger than the purchase price adjustments for the Other Entities.

82. On August 21, 2024, BCP accepted Ms. Dickinson's resignation, without accepting her assertion of "Good Reason", and asserted that it regardless had cause to terminate her employment.

Misrepresentations

83. The value of Venture was misrepresented by Ms. Dickinson and Enterprises to BCP prior to entering into the Venture Agreement.

84. Ms. Dickinson and Enterprises were aware that the value of Venture had been misrepresented at the time of entering into the Venture Agreement. Ms. Dickinson and Enterprises also expressly represented to BCP that they had accurately disclosed Venture's assets and liabilities, which was false.

85. Ms. Dickinson and Enterprises knew that an adjustment to the Venture purchase price was necessary and appropriate and that the value of Venture had been misrepresented in the Estimated Statement and other disclosures at the time of BCP entering into the Agreement. Despite this knowledge, the Defendants took no steps to correct their misrepresentation or bring it to the attention of BCP despite having a duty to do so pursuant to section 2.3 of the Agreement, which stated that the Estimated Statement would detail Enterprises' "good faith estimate" of, among other things, the Closing Date Working Capital.

86. But for the misrepresentation as to the value of Venture by Ms. Dickinson and/or Enterprises, and the contractual right to adjust the Purchase Price, BCP would not have entered into the Agreement.

87. As a result of the foregoing misrepresentations made by Ms. Dickinson and Enterprises, BCP has and will continue to suffer damages in an amount to be particularized prior to trial.

Breach of Contract / Good Faith

88. Enterprises breached the Venture Agreement by misrepresenting and failing to disclose its assets and liabilities.

89. Further, the parties are contractually obligated pursuant to the Venture Agreement to engage in the Section 2.6 Process.

90. Enterprises breached the terms of the Venture Agreement, including the duties of good faith, honest contractual performance, and the exercise of reasonable contractual discretion, by failing to engage or cooperate with BCP in the Section 2.6 Process, and by refusing to appoint a Third Party Accountant to resolve the dispute.

91. As a result of Enterprises' breaches, BCP has suffered damages, the particulars of which shall be provided before trial.

Breach of Good Faith/Fiduciary Duty

92. By failing to correct misrepresentations as to the value of Venture, including misrepresentations regarding Venture's performance and liabilities, including the Wellington Office lease, Enterprises and Ms. Dickinson breached their duties to act in good faith and Ms. Dickinson breached her fiduciary duties owed to BCP and its shareholders.

93. In the lead up to her departure from BCP in the summer of 2024, Ms. Dickinson undertook a mass-deletions of emails in her BCP email account. Included in that purge, were Ms. Dickinson's April 2023 emails reflecting her acknowledgment of the overvaluation of Venture and her discussions with former Enterprises employees regarding the misrepresentation. These emails have been recovered by BCP.

94. As a fiduciary, Ms. Dickinson owed BCP the highest of duties to ensure that it guaranteed and preserved BCP's obligations and rights under the Venture Agreement and took all commercially reasonable steps that are in the interests of BCP.

95. Upon becoming aware of the fact that the value of Venture had been over-estimated and misrepresented to BCP at the time of entering into the Venture Agreement, Ms. Dickinson had an obligation to bring this information to BCP's attention and correct the misrepresentation.

96. Ms. Dickinson has instead frustrated all attempts by BCP to engage in the contractually obligated Section 2.6 Process to correct the misrepresentation of Venture's value.

97. Ms. Dickinson further breached her fiduciary duty and duty to act in good faith to BCP by:

- (a) failing to disclose Venture's poor financial performance, including after closing of the Venture Agreement;
- (b) benefiting from BCP's negative cash position, which was caused in part by her misrepresentations respecting Venture's value and efforts to obstruct the purchase price adjustment process, to make further investments in BCP at a discount;
- (c) causing BCP to purchase the Personal Items, for no reasonable commercial purpose, and using those funds for her own personal benefit and, relatedly, misrepresenting the value of the Personal Items to BCP; and
- (d) directing BCP employees to use Company time to work on her personal website, for no reasonable commercial purpose.

98. Damages are an appropriate remedy to cure the breach of fiduciary duty and breach of good faith by Ms. Dickinson, in an amount to be particularized prior to trial.

99. BCP proposed that this Action be tried at Toronto, Ontario.

March 5, 2025

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RCP-E 14D (July 1, 2007)

BELIEVECO:PARTNERS INC.
Plaintiff
ARLENE DICKINSON et al.
Plaintiffs by Counter-Claim

-and- ARLENE DICKINSON ENTERPRISES, LTD. et al.
Defendants
-and- BELIEVECO:PARTNERS INC. et al.
Defendants by Counter-Claim

Court File No. CV-24-00726715-0000

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FRESH AS AMENDED STATEMENT OF CLAIM

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