

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

THE DRY CLEANER BY VAL, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
NORTH AMERICAN RESTORATION)	Case No.
DRY CLEANERS, LLC, VALLEY DE LUXE)	
CLEANERS &)	
INTERIORS, INC. d/b/a/ FABRIC RENEWAL,)	
)	
and)	
)	
CURRENT AND FORMER MEMBERS of)	
NARD'S MANAGEMENT, MICHAEL)	
HOELZEL, MANUEL VENDELIS, JAMES)	
FENYOHAZI, and DAVID FENYOHAZI,)	
)	
)	
)	
Defendants.)	

VERIFIED COMPLAINT

NOW COMES Plaintiff and, for its causes of action, states:

Parties

1. Plaintiff The Dry Cleaner by Val, Inc. ("Val") is a Massachusetts corporation located at 5 Crescent Avenue, Suite 11, Woburn, Massachusetts 01801.
2. Defendant North American Restoration Dry Cleaners, LLC ("NARD") is a limited liability company organized under the laws of Missouri with a principal place of business at 3838 Troost Avenue, Kansas City, Missouri 64109.
3. Upon information and belief, Defendant Valley De Luxe Cleaners & Interiors,

Inc. d/b/a Fabric Renewal (“Fabric Renewal”) is a New Jersey corporation with a principal place of business at 169 Hamburg Turnpike, Bloomingdale, New Jersey 07403.

4. Defendants Michael Hoelzel, Manuel Vendelis, James Fenyohazi, and David Fenyohazi are principals of NARD members and/or part of NARD’s management.

5. Upon information and belief, Michael Hoelzel has a principal place of residence at 36968 Margareta Street, Livonia, Michigan 48152.

6. Upon information and belief, Manuel Vendelis has a principal place of residence at 2901 Franklins Chance Drive, Fallston, Maryland 21047-1320.

7. Upon information and belief, James Fenyohazi has a principal place of residence at 520 West 110th Street, Apartment 2B, New York, New York 10025-2073.

8. Upon information and belief, David Fenyohazi has a principal place of residence at 14 Tree Top Ter, Morristown, New Jersey 07960-2667.

Jurisdiction and Venue

9. This court has jurisdiction over this controversy pursuant to 28 U.S.C. §1332 because there is complete diversity between the properly joined parties in interest.

10. Val resides in Massachusetts and none of the Defendants are residents of Massachusetts.

11. Upon information and belief, the following entities may be other members of NARD: A-One Fabric Restoration, LLC; Arrow Fire & Water Restoration, LLC; Curr, Inc.; D. Ventures, Inc.; Davis Imperial Cleaners, Inc.; Fabric Renewal; Harford Cleaners, Inc.; Hilltop Cleaners and Restoration, LLC; Restoration Cleaners, LLC; Textile Restoration Services, Inc.; Urban Valet Dry Cleaners, Inc.; Leid's Inc.; Union Cleaners Fire Restoration; Scott-Bakker's Inc.; Door to Door Cleaners, Inc.; Griffin's Cleaners, LLC; Coral Gables Dry Cleaning, Inc. a/k/a LaSalle Cleaners; Viking Cleaners, Inc.; Angel Wings Enterprises, Inc.; Five Star Cleaners, LLC; and Gunn's Restoration, Inc.

12. Upon information and belief, the members of A-One Fabric Restoration, LLC are citizens of Ohio.

13. Upon information and belief, the members of Arrow Fire & Water Restoration, LLC are citizens of Missouri.

14. Upon information and belief, Curr, Inc. is incorporated in Michigan and its principal place of business is in Michigan.

15. Upon information and belief, D. Ventures, Inc. is incorporated in Minnesota and its principal place of business is in Minnesota.

16. Upon information and belief, Davis Imperial Cleaners, Inc. is incorporated in Illinois and its principal place of business is in Illinois.

17. Upon information and belief, Fabric Renewal is incorporated in New Jersey and its principal place of business is in New Jersey.

18. Upon information and belief, Harford Cleaners, Inc. is incorporated in Maryland and its principal place of business is in Maryland.

19. Upon information and belief, the members of Hilltop Cleaners and Restoration, LLC are citizens of Alabama.

20. Upon information and belief, the members of Restoration Cleaners, LLC are citizens of Texas.

21. Upon information and belief, Textile Restoration Services, Inc. is incorporated in South Carolina and its principal place of business is in South Carolina.

22. Upon information and belief, Urban Valet Dry Cleaners, Inc. is incorporated in New York and its principal place of business is in New York.

23. Upon information and belief, Leid's Inc. is incorporated in Nevada and its principal place of business is in Nevada.

24. Upon information and belief, Union Cleaners Fire Restoration, Inc. is incorporated in Pennsylvania and its principal place of business is in Pennsylvania.

25. Upon information and belief, Scott-Bakker's Inc. is incorporated in Washington and its principal place of business is in Washington.

26. Upon information and belief, Door to Door Cleaners, Inc. is incorporated in California and its principal place of business is in California.

27. Upon information and belief, the members of Griffin's Cleaners, LLC are citizens of Florida.

28. Upon information and belief, Coral Gables Dry Cleaning, Inc. a/k/a LaSalle Cleaners is incorporated in Florida and its principal place of business is in Florida.

29. Upon information and belief, the members of Five Star Cleaners, LLC are citizens of California.

30. As described below, the amount in controversy exceeds \$75,000, exclusive of interest and costs.

31. Venue is proper in this Court because, *inter alia*, the primary defendant, NARD, resides in Missouri and because section 11.6 of the Operating Agreement (defined below) purports to require that controversies related to the Operating Agreement are adjudicated in Jackson County, Missouri.

Facts Common to All Counts

A. Val's Involvement in NARD

32. Val was founded in 1989 by its President, Val DePerrio (“Mr. DePerrio”). Through hard work, commitment, and exemplary service to his customers, Mr. DePerrio grew his company so that it now operates throughout New England and in parts of New York.

33. Val was an original member of NARD when NARD was formed as a Missouri limited liability company in 2010. In fact, Val had been involved in NARD before it was organized as an LLC.

34. NARD was formed to create a network of elite commercial textile restoration businesses to promote the industry and to market the businesses of NARD’s members (the “Members”).

35. More particularly, NARD is a national consortium of businesses who specialize in textile restoration following catastrophic events such as fires or floods. According to its website, NARD’s members “are highly experienced and skilled fabricare [sic] specialists dedicated to the restoration of garments, textiles and soft goods that have been affected by loss.”

Before NARD became a Missouri LLC, it acted as a “cost group” or trade group for businesses that eventually became the founding members of the LLC.

36. Prior to and following NARD's organization as a Missouri LLC, Val's territory included all of Connecticut and the rest of New England along with parts of New York. When NARD was formed as an LLC, Val was the only NARD Member operating in Connecticut.

37. NARD's reputation is critical to its success and the company relies upon the Members to provide exceptional service to customers.

38. Membership in NARD is purposefully exclusive with rigorous requirements to ensure that all Members maintain NARD's reputation.

39. As discussed in more detail below, NARD's management has violated its contractual and fiduciary duties by, *inter alia*: (1) unjustifiably transferring some of Val's designated territories to another member, Fabric Renewal; and (2) forcing NARD Members to pay for software that enriches NARD's management at the expense of Val and other Members.

B. The Operating Agreement and Members' Territories

40. According to NARD, in 2017, Members entered into the Second Amended and Restated Operating Agreement of North American Restoration Dry Cleaners, LLC ("Operating Agreement"), a true and accurate copy of which is attached hereto as **Exhibit "1."**¹

41. A primary benefit to becoming a NARD Member is that Members have an exclusive right to conduct business and market to customers within their respective territories. Because of this, NARD Members are prohibited from marketing in the territories that have been assigned to other Members.

42. NARD Members are awarded specific territories, which are designated by county in the Operating Agreement. *See Ex. 1, Section 3.2(A).*

¹ Val reserves the right to contest its assent to the most recent version of the Operating Agreement or the overall effectiveness of that contract as NARD has failed to provide it a complete and fully executed copy despite Val's demands.

43. A “Territory” is defined under Section 3.2 (A) of the Operating Agreement as “a protected geographic area where a Member who is not in Default Standing or in Suspension Status shall have exclusive rights to market and service the designated geographic area.”

44. The Operating Agreement describes the procedure for a NARD member to purchase an additional territory. *See Ex. 1 (Operating Agreement), Section 3.2(E).* Specifically, it states:

For an Existing Member to purchase an additional Territory (buy an adjacent or non-adjacent), Territory that is presently unclaimed so that they would have Multiple Territories) [sic] they must:

- a. Clearly outline the Territory;
- b. Apply to the Managers to purchase this Territory;
- c. Commit to buying and opening a Production Facility within that Territory within 12 months;
- d. Commit to meeting the Adjacent Territory Purchase Requirement in this market within 12 months of opening;
- e. Commit to achieving the Adjacent Territory Sales Requirement within 1 year of opening; and
- f. Commit to achieving the Exclusive Territory Sales Requirement within 3 years of opening.

45. As discussed below, Fabric Renewal failed to follow this procedure when it unlawfully obtained territories that belonged to Val.

C. Fabric Renewal Unlawfully Usurps Val’s Connecticut Territories

46. Since NARD was formed in 2010, Val has been the exclusive NARD Member operating in all of New England.

47. Early in 2018, Val discovered that Fabric Renewal was unlawfully operating in the following Connecticut counties: Fairfield, Litchfield, and New Haven (collectively, the “Contested Territories”).

48. In an email dated March 13, 2018, NARD’s National Executive Director, Shannan Leone (“Ms. Leone”) circulated a list of Members’ Territories and asked the Members to notify her of any inaccuracies in the list.

49. Mr. DePerrio was surprised to see that the Contested Territories on the list had been awarded to Fabric Renewal despite the fact that Val exclusively serviced them for years.

50. By email dated March 19, 2018, Mr. DePerrio, on behalf of Val, notified Ms. Leone that Val covered “all of [Connecticut]” and, therefore, Fabric Renewal was improperly doing business in the Contested Territories.

51. At 7:14 p.m. that same day, Mr. DePerrio asked Ms. Leone to confirm that the error had been fixed to ensure that Val was the recognized exclusive NARD Member for the Contested Territories.

52. Four minutes later, Ms. Leone replied “Yes, I will send out a final sheet to the group tomorrow...”

53. Contrary to Mrs. Leone’s email, this error was never corrected and NARD confirmed that it had, in fact, awarded the Contested Territories to Fabric Renewal. Val never consented to a transfer of the contested territories. Attached as **Exhibit “2,”** is a true and accurate copy of this email chain.

54. Several provisions of the Operating Agreement and other guidelines were violated when NARD stripped these territories from Val in order to give them to Fabric Renewal.

55. For example, Fabric Renewal failed to follow any of the procedures described above, which govern when a Member seeks to obtain additional territories.

56. Perhaps more importantly, NARD and Fabric Renewal also violated the fundamental rules that prohibit a Member, such as Fabric Renewal, from marketing or doing any business in another Member's Territories.

57. Section 3.2(A) of the Operating Agreement states that “[n]o other Member shall be permitted to market and service a Territory designated as belonging to such a Member.” *See* Ex. 1 (Operating Agreement) (emphasis supplied).

58. Additional purported guidelines are included within a document labeled “NARD Viable Market” (hereinafter, “Viable Market Guidelines”), a copy of which is attached hereto as **Exhibit “3.”** As discussed below, this was one of the few documents provided to Val when it demanded to inspect certain corporate records pursuant to its statutory and contractual rights.

59. The Viable Market Guidelines, which were also incorporated, at least in part, into the Operating Agreement, state that “boarders [sic] are in stone and not to be crossed without written permission of neighbor who owns territory.” *See* Ex. 3 (emphasis supplied). It also states that “[y]ou cannot market in another members [sic] territory without their permission.” *Id.*

60. Protections continue even after a Member resigns from NARD. When a NARD Member leaves the company, it is prohibited from conducting any business in or even marketing in other Members' territories for at least two years after it is no longer a NARD Member. *See* Ex. 1, Section 7.1(K).

61. Fabric Renewal also failed to follow the additional purported rules within the Viable Market Guidelines that deal with adding a new territory.

62. Specifically, quoting paragraph 6, in relevant part, of the Viable Market Guidelines, a Member:
- a. Must announce intention to all members by listing the state, countries country populations, total additional population and its impact on their population.
 - b. Adjacent members in good standing have the opportunity (1 week) to contest the change in territory.
 - i. If not contested:
 - 1. The application goes to the board for approval consideration.
 - 2. If the board approves application, they will specify the requirements of keeping that territory and set up an appointment for a 1 year review.
 - a. If after 1 year, the member does not meet requirements, they will be unable to protect that territory.
 - 3. Member must pay a nonrefundable purchase fee of that territory (presently a minimum of \$2,500).
 - 4. Population of that territory will be immediately added to that company's population for all NARD fees.
 - ii. If contested, the following equally weighed factors should be considered for dispute.
 - 1. Which company has seniority?
 - 2. Which company did the most in net sales in the disputed territory for the last 12 months?
 - 3. Whose state is the territory in?
 - 4. Which company's plant is closest to the furthest spot of the territory from their plant?
 - 5. Whose depot is closest to the nearest edge of the territory?
 - 6. Which company requested the territory first?
 - 7. Which company has the higher saturation ratio (sales/ population) where the higher ratio suggests that this company has saturated their market more and is in need of an additional territory?
 - 8. Which company has Ethics on their side (was there any extenuating circumstances that fall outside of the other factors that contributed to the facts being as they are)?

63. Accordingly, NARD and Fabric Renewal have completely disregarded the terms of the Operating Agreement and the Viable Market Guidelines. NARD has wrongfully acquiesced and perhaps even condoned Fabric Renewal's improper takeover of the Contested Territories that belonged to Val since the formation of NARD and that Val had been operating in even before NARD was formed.

64. There has been a lack of transparency regarding NARD’s response to Val’s concerns about the Contested Territories. When Val requested communications and other documents relating to Fabric Renewal joining NARD and NARD’s representative refused and simply stated “Fabric Renewal will provide as this is over 8 years ago.”

65. Similarly, when Val requested communications and other documents regarding Fabric Renewal’s acquisition of the Contested Territories, NARD provided a single email dated March 26, 2015, with two attachments. That email and its attachments are attached hereto collectively as **Exhibit “4.”** Aside from the page numbers that have been inserted on the bottom right hand corner for the Court’s convenience, Exhibit 4 is a true and accurate copy of the March 26, 2015 email and its attachments. As the Court can see, there is nothing in Exhibit 4 that justifies or even explains Fabric Renewal’s acquisition of the Contested Territories.

66. Accordingly, NARD has refused to provide any documentation to explain, justify, or even memorialize its transfer of the Contested Territories to Fabric Renewal.

67. Without sufficient notice to Val, on March 29, 2018, a few select NARD Members met to discuss the Contested Territories, purportedly pursuant to Article X of the Operating Agreement that provides an informal dispute resolution mechanism for disputes between Members. Article X is a nonbinding and nonexclusive protocol. In fact, the Operating Agreement explicitly provides in Section 11.6 that disputes arising out of the Operating Agreement should be adjudicated in Court.

68. A NARD “review committee” was formed and consisted of Jordan Wood, Mark Folzenlogen, and Eric Pyne (the “Review Committee”). Ms. Leone and Lou Cavaris also attended the meeting but were allegedly only present “to provide facts” according to a notice of the committee’s minutes dated April 2, 2018 and attached hereto as **Exhibit “5.”** Ms. Leone

asked Mr. DePerrio to provide “a written statement” within one week of her request. Mr. DePerrio was unavailable at that time and he had no real means to participate in the process that was essentially deciding if NARD and Fabric Renewal would take away its territories that it had serviced and invested in for many years.

69. In an email dated March 27, 2018, Mr. DePerrio explained that he was operating in Connecticut since NARD was a “cost group” and he had serviced New England for 29 years. As he explained in his email, it would make no sense for him to join a group and just give up his territories. He also noted that everyone was aware that Connecticut was Val’s territory and even Manny Vendelis, the President of NARD, had acknowledged that Connecticut belonged to Val. Attached as **Exhibit “6”** is a copy of that email.

70. This information was apparently ignored because, in the April 2nd notice, the Review Committee stated “[a]s it is understood by the review committee, both Fabric Renewal and [Val] ‘own’ the same three counties in Connecticut.” *See Ex. 5.*

71. The Review Committee “suggest[ed]” a compromise splitting up the territories.

72. Val has rejected this suggestion as an arbitrary and fundamentally unfair result, particularly because the Contested Territories had always been Val’s own territories and, unlike Fabric Renewal, Val had invested significant resources to build up a presence in Connecticut.

73. Mr. DePerrio estimates that Val has invested nearly \$3 million to establish its presence in Connecticut. These investments include paying approximately \$115,000 in rent and overhead for its warehouse just in the last three years, spending over \$17,000 for equipment and improvements at Val’s Connecticut warehouse, paying \$60,000 for vehicles operating in Connecticut, compensating drivers in Connecticut approximately \$130,000 per year, and spending over \$50,000 in marketing each year. In addition, Mr. DePerrio has devoted a

significant amount of his time to establish and maintain a presence in Connecticut and Val has been forced to divert the time of its core employees towards this goal, all of which are additional costs incurred. These investments were made in reasonable reliance upon Val's understanding that it would be the exclusive NARD Member in all of Connecticut.

74. On the other hand, Val understands that Fabric Renewal has no such physical presence in Connecticut.

75. Val also contested the applicability of the dispute resolution mechanism, as it was a dispute between it, NARD and Fabric Renewal, which is outside the scope of Article X because that provision only applies to disputes between Members. Val's objection was memorialized in a letter from its counsel dated April 19, 2018, which reminded NARD, *inter alia*, that Val had relied upon NARD's representations to its detriment that it was the exclusive NARD Member allowed to operate in the Contested Territories. *See* Letter dated April 19, 2018, attached hereto as **Exhibit “7.”**

76. In addition to the lack of transparency and the disregard for the company's procedures, other evidence demonstrates that NARD and Fabric Renewal have acted in bad faith with respect to the Contested Territories. For example, NARD falsely claimed that both Fabric Renewal and Val are permitted to operate in the Contested Territories simultaneously. This position is nonsensical and contradicts the terms of the Operating Agreement. *See* Ex. 1, Section 3.2(A) of Operating Agreement; *see also* Ex. 3 (Viable Market Guidelines).

77. NARD's claim that both Fabric Renewal and Val are both the official NARD Members in the Contested Territories is also contradicted by NARD's own website. NARD's website includes a feature that allows potential customers to locate the official NARD Member near them by zip code. However, when zip codes located within the Contested Territories are

typed into NARD’s website, Fabric Renewal is the only NARD Member that appears. *See Exhibit “8”* (a true and accurate copy of printouts from NARD’s website showing that zip codes within the Contested Territories were assigned exclusively to Fabric Renewal rather than Val). Thus, when a potential customer seeks out a NARD Member for these areas, he or she will only see Fabric Renewal.

78. There are over two million people residing in the Contested Territories. Thus, holding Fabric Renewal out as NARD’s sole official member for these counties is highly prejudicial and harmful to Val’s business because it deprives Val of the critical benefit of its membership in NARD—the exclusive right to operate in its territories. At the same time, Fabric Renewal receives an undeserved windfall.

D. Breaches of Fiduciary Duties

79. NARD, Fabric Renewal, and NARD’s Board all owe fiduciary duties to Val and they have breached those fiduciary duties by, *inter alia*: (1) transferring territories that were assigned to Val to Fabric Renewal without Val’s consent in violation of the terms of the Operating Agreement and other rules; and (2) forcing NARD Members to use inadequate software, presumably because the software is owned by NARD board members.

80. As described above, NARD and its management have been complicit in Fabric Renewal’s takeover of the Contested Territories, which has caused Val significant harm in the form of lost business opportunities while diminishing the value of its investments in the Contested Territories. NARD and Fabric Renewal’s coordinated actions regarding the Contested Territories constitute a breach of their fiduciary duties of loyalty and care.

81. Further, beginning in 2017, NARD began requiring Members to use specific software produced owned and created by TROMIS Enterprises NA LLC, (hereinafter, the “TROMIS Software”), while operating their businesses.

82. The TROMIS Software is inadequate and unnecessary as it performs poorly and frequently malfunctions.

83. NARD’s requirement that NARD Members pay for the TROMIS Software is a blatant conflict of interest because four NARD Members, who are or were also part of NARD’s management, stand to gain financially from the TROMIS Software at NARD’s Members’ expense. Specifically, Michael Hoelzel, Manuel Vendelis, James Fenyohazi, and David Fenyohazi all have an equity stake in TROMIS (“TROMIS Owners Group”) and therefore stand to personally profit through a self-dealing transaction.

84. Specifically, NARD has forced Members to pay, as part of their monthly dues, fees in connection with the TROMIS Software regardless of whether they use the software. For example, as part of his monthly dues to NARD, Val is forced to pay \$425 per month for a software product that he does not use and that is benefitting the TROMIS Owners Group as part of their self-dealing transaction.

85. Upon information and belief, most, if not all twenty plus Members of NARD are also required to pay programming fees every month. Accordingly, it appears that the TROMIS Owners Group is improperly receiving over \$100,000 per year from NARD Members. This revenue has not been accounted for and, as described below, the TROMIS Owners Group failed to follow the Operating Agreement procedures addressing self-dealing transactions.

86. As set forth in earlier communications between Val’s counsel and NARD, the forced implementation of the TROMIS Software was executed unlawfully.

87. NARD’s management first attempted to mandate the use of the TROMIS Software in 2017 by passing an amendment to the Operating Agreement. It did so without receiving the required consent under the Operating Agreement. Section 11.4 of the Operating Agreement dictates that any amendment proposed by a Manager or a Member must be submitted to all Members “in writing at least twenty-one (21) days prior to a general meeting of the Company” and must be approved by a Super-Majority in Interest.

88. The Managers and/or Members of NARD never submitted written notification of the amendment in said time period and Val, as a Member of NARD, never received the required notices. By failing to adhere to Section 11.4 of the Operating Agreement, the Managers and Members caused any voting results on such amendments to become void.

89. In or about August 2017, Val’s counsel demanded, in writing, that NARD provide any notices or other evidence that NARD’s Board followed the procedure required in the Operating Agreement. *See Exhibit “9”* (a true and accurate copy of the August 8, 2017 letter). NARD refused.

90. Also, because it is a self-dealing transaction, under Section 7.7 of the Operating Agreement, the TROMIS policy should have been: “(i) fully disclosed in writing to all Members, (ii) on terms no less favorable than what would be provided on an arms-length basis, and (iii) approved by a Majority in Interest.” *See Ex. 1.*

91. To date, Val has not received such written disclosures detailing what the TROMIS Owner’s Group stands to profit from the transaction, has not received documentation detailing the required comparison of the terms of the transaction with the TROMIS Owner’s Group for the use of the TROMIS Software versus any other comparable software product, and has not received documentation showing the transaction was approved by a Majority in Interest.

92. Accordingly, none of the conditions of Section 7.7 have been met and the TROMIS Owners Group has been and will likely continue to profit from fees paid by NARD Members.

93. The Board Members' ownership of the TROMIS software is clearly a conflict of interest, which has harmed Val, other NARD Members, and NARD itself.

E. NARD Refuses to Provide Corporate Records to Val

94. Based on the events described above, Val has been understandably concerned with the management of NARD and has recently sought information that it is entitled to as a Member of NARD.

95. By letter dated May 25, 2018, Val's counsel, Berluti McLaughlin & Kutchin, LLP ("BMK"), requested documents pursuant to V.A.M.S. 347.091(1)(4) and (2)(1), and its rights under the Operating Agreement. A true and accurate copy of this letter is attached hereto as **Exhibit "10."**

96. Under Missouri law, an LLC member may demand the right to inspect corporate records, including "any effective written operating agreements...and copies of any written operating agreements no longer in effect. *See* V.A.M.S. 347.091(1)(4) and (2)(1). These documents must be provided within a reasonable time. *See id.*

97. The Operating Agreement provides broader rights to allow Members to access records. Section 7.11 of the Operating Agreement provides, in relevant part that: "[e]ach member shall have the right (i) to inspect and copy during ordinary business hours, at the reasonable request and at the expense of such Member, any of the Company's records..." *See* Operating Agreement (Ex. 1), Section 7.11 (emphasis supplied).

98. In the May 25th letter, BMK, on behalf of Val, requested that NARD provide the following documents:

- a. All versions of [NARD's] Operating Agreement with executed signature pages.
- b. Drafts of the different versions of NARD's Operating Agreement that were circulated among the parties to those agreements.
- c. Any attachments or exhibits to NARD's Operating Agreement (current and prior versions). This request includes but is not limited to the "Rules and Regulations" referenced in the Operating Agreement as well as any additional dispute resolution provisions.
- d. Notices, emails, letters, memoranda, or other correspondence regarding Fabric Renewal joining NARD and Fabric Renewal's assigned territories.
- e. Documents related to membership dues or other payments paid to NARD by members related to the following Connecticut counties: Fairfield, New Haven, and Litchfield.

99. Considering that all of these documents should be readily accessible and in electronic form, Val's counsel requested that these documents be provided within three business days. *See Ex. 10.*

100. Ms. Leone responded to the document request on behalf of NARD but provided only a small fraction of the requested documents as reflected in her email dated May 30, 2018. Attached as **Exhibit “11,”** is a true and accurate copy of Ms. Leone's email with the attachments omitted.

101. NARD did not comply with its obligations under the Operating Agreement or pursuant to V.A.M.S. 347.091(1)(4) and (2)(1).

102. Regarding Val's request for “[a]ll versions of the [NARD] Operating Agreement with executed signature pages,” NARD only provided the latest version of the Operating Agreement with signatures on a separate document. None of the earlier versions of the Operating Agreement were provided.

103. In response to Val's request for “[d]rafts of the different versions of NARD's

Operating Agreement that were circulated among the parties to those agreements,” Ms. Leone simply stated that Mr. DePerrio/Val “can provide this document.” Thus, NARD refused to provide even the most fundamental corporate documents that should be readily accessible in its files.

104. As to the requested “rules and regulations” that are incorporated by reference into the Operating Agreement, Ms. Leone stated that they were “attached” to her email even though there was no such attachment. Later, in a separate email, dated June 14, 2018, Ms. Leone stated that the “rules and regulations” that were supposed to be attached simply refers to “Robert’s Rules of Order,” a manual of standard rules of parliamentary procedure.

105. NARD refused to provide the requested “[n]otices, emails, letters, memoranda, or other correspondence regarding Fabric Renewal joining NARD and Fabric Renewal’s assigned territories.” Instead, Ms. Leone responded by stating “Fabric Renewal will provide as this is over 8 years old.” *See Ex. 11.*

106. NARD also declined to provide “[d]ocuments related to membership dues or other payments paid to NARD by members related to the following Connecticut counties: Fairfield, New Haven, and Litchfield.” Ms. Leone claimed that the Contested Territories did not affect the Members’ monthly billing.

107. By email dated June 5, 2018, BMK notified Ms. Leone that NARD’s response did not comply with either the Operating Agreement or V.A.M.S. 347.091(1)(4) and (2)(1). Specifically, BMK noted that “[a] blanket response that our client has been provided the remaining documents” did not fulfill NARD’s obligations.

108. BMK followed up with its demand for documents multiple times in writing but to no avail. Val’s counsel also requested any notes or recordings for NARD’s board meetings,

which are clearly also “corporate records” under the Operating Agreement. NARD has refused to provide these records as well.

109. NARD has clearly violated Missouri statutory law and breached the Operating Agreement and Val has been damaged in the form of, *inter alia*, attorneys’ fees incurred solely because of NARD’s refusal to cooperate.

COUNT I
Declaratory and Injunctive Relief
(vs. NARD and Fabric Renewal)

110. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

111. There is a controversy between Val, NARD, and Fabric Renewal regarding the parties’ rights to market and to generally conduct business in the Contested Territories.

112. Val has an immediate pecuniary interest at issue. For example, estimates that it has invested \$3,000,000 in marketing, infrastructure, and other costs in Connecticut in reliance upon NARD’s representations that it was the exclusive Member for those counties.

113. Val seeks a declaration from this Court that NARD improperly awarded the Contested Territories to Fabric Renewal and that Val is the exclusive NARD Member authorized to conduct business in those counties.

114. A declaratory judgement is proper pursuant to 28 U.S.C. §2201 and Fed. R. Civ. P. 57.

115. It also seeks an injunction enjoining Fabric Renewal from conducting any business within the Contested Territories or marketing within the Contested Territories for as long as Fabric Renewal is a NARD member and for the designated non-competition period thereafter.

116. This controversy is ripe for adjudication as NARD is illegally and improperly holding Fabric Renewal out as the designated NARD Member for the Contested Territories and therefore Fabric Renewal is unlawfully profiting from the Contested Territories to Val's detriment.

117. Val is entitled to a declaration that it has exclusive rights to market in the Contested Territories.

118. Val is entitled to and the Court is authorized to grant further relief in the form of an injunction pursuant to Fed. R. Civ. P. 57 and 65.

119. Val is suffering an irreparable injury by being deprived of its Membership rights, which are unique rights. An irreparable injury is also being suffered because it will be difficult to ascertain the full extent of Val's damages given the nature of its claims and its damages.

120. Further, it is unlikely that NARD or the other Defendants will have sufficient assets to pay any damages suffered by Val, rendering a money judgment inadequate.

121. Val does not have an adequate remedy at law.

122. Accordingly, Val is entitled to a preliminary and permanent injunction, pursuant to Fed. R. Civ. P. 65 enjoining Fabric Renewal from conducting any business within the Contested Territories or marketing within the Contested Territories for as long as Fabric Renewal is a NARD member and for the designated non-competition period thereafter.

123. It is also entitled to an injunction requiring NARD to recognize Val as the exclusive NARD member in the Contested Territories to support and promote Val's presence in good faith within the Contested Territories and the remainder of Val's territories and to provide Val access to documents requested by him.

124. No bond is required for the issuance of an injunction because neither Fabric Renewal nor NARD will be harmed by the injunction. NARD will not be harmed because the injunction will simply enforce the terms of its Operating Agreement and Fabric Renewal will not be harmed because it was never entitled to operate in the Contested Territories in the first place.

COUNT II
Breach of Contract
(Val vs. NARD and Fabric Renewal)

125. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.
126. Val, NARD, and Fabric Renewal are parties to the Operating Agreement.
127. NARD and Fabric Renewal have committed material breaches of several terms of the Operating Agreement including, *inter alia*, various terms in Articles III and VII as described above.
128. These material breaches have caused harm to Val.
129. Accordingly, Val is entitled to recover all damages sustained, plus costs, interests, attorneys' fees.

COUNT III
Breach of the Implied Covenant of Good Faith and Fair Dealing
(Val vs. NARD and Fabric Renewal)

130. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.
131. Val, NARD, and Fabric Renewal are parties to the Operating Agreement.
132. Within every Missouri contract, there is an implied covenant of good faith and fair dealing.
133. As set forth above, NARD and Fabric Renewal have deprived Val of the fruits of the Operating Agreement.

134. For example, under the Operating Agreement and the parties' course of conduct, Val was the sole designated NARD Member allowed to market in the Contested Territories.

135. NARD and Fabric Renewal deprived Val of this right, which Val reasonably expected to maintain as a benefit of the parties' Operating Agreement. NARD did this by awarding the Contested Territories to Fabric Renewal while Fabric Renewal deprived Val of the fruits of the agreement by taking over those territories.

136. Val has been damaged by NARD and Fabric Renewal's breaches of the implied covenant of good faith and fair dealing.

137. Accordingly, Val is entitled to recover all damages sustained, plus costs, interests, attorneys' fees.

COUNT IV
Access to Documents
(Val vs. NARD)

138. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

139. Val is a member of NARD.

140. Pursuant to V.A.M.S. 347.091(1)(4) and (2)(1), every member of a Missouri LLC has the right to inspect the records of the company.

141. Val also has broad access rights under Section 7.11 of the Operating Agreement.

142. As set forth above, Val has made repeated demands to inspect records under V.A.M.S. 347.091(1)(4) and (2)(1) and under the Operating Agreement.

143. NARD has refused to provide many requested documents in violation of its duties under V.A.M.S. 347.091(1)(4) and (2)(1) and under the Operating Agreement.

144. The records requested were all within the scope of the Operating Agreement and/or V.A.M.S. 347.091(1)(4) and (2)(1).

COUNT V
Breach of Fiduciary Duties
(Val vs. the TROMIS Owners Group (Derivative))

145. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

146. The TROMIS Owners Group, as members of NARD's management, owes fiduciary duties of loyalty and care to the company.

147. As set forth above, the TROMIS Owners Group has breached its fiduciary duties of loyalty and care by:

- a. Improperly enriching themselves at the expense of the company and the Members by, *inter alia*, requiring Members to pay for software as part of a self-dealing transaction;
- b. Refusing to provide access to documents; and,
- c. Improperly granting the Contested Territories to Fabric Renewal;
- d. Showing improper bias and favoritism to other Members such as Fabric Renewal to Val's detriment.

148. These material breaches have caused harm to Val.

149. Further, as set forth above, Val has, directly and through counsel, repeatedly made demands upon NARD and its management to address these issues for several months without any remedial action being taken.

150. For example, when Val repeatedly alerted NARD's management—in writing directly and through counsel—that Fabric Renewal had been improperly competing with it, NARD took no remedial action. Instead of fixing the situation, a NARD committee arbitrarily proposed that all parties accept a solution that stripped Val of his territories without any basis

and in violation of the Operating Agreement and fiduciary duties. This proposal was rejected by Val.

151. Accordingly, although demands have been made, they have been and will continue to be futile because the fiduciaries committing the offenses cannot be expected to investigate and create an appropriate remedy.

152. Val is entitled to recover all damages sustained, plus costs, interests, attorneys' fees.

COUNT VI
Breach of Fiduciary Duties
(Val vs. Fabric Renewal (Direct))

153. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

154. Fabric Renewal owes Val fiduciary duties because they are both members of a closely held limited liability company.

155. Fabric Renewal has breached its fiduciary duties by, *inter alia*, usurping Val's territories in Connecticut and conspiring with NARD to take over the Contested Territories.

156. These material breaches have caused harm to Val.

157. Accordingly, Val is entitled to recover all damages sustained, plus costs, interests, attorneys' fees.

COUNT VII
Breach of Fiduciary Duties
(Val vs. NARD's Board of Directors (Direct))

158. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

159. NARD's Board of Directors owes fiduciary duties of loyalty and care to all Members, including Val.

160. As set forth above, the board has breached its fiduciary duty of loyalty and care by:

- a. Improperly enriching themselves at the expense of the company and the Members by, *inter alia*, requiring Members to pay for software as part of a self-dealing transaction;
- b. Refusing to provide access to documents; and,
- c. Improperly granting the Contested Territories to Fabric Renewal;
- d. Showing improper bias and favoritism to other Members such as Fabric Renewal to Val's detriment.

161. These material breaches have harmed Val.

162. Accordingly, Val is entitled to recover all damages sustained, plus costs, interests, attorneys' fees.

COUNT VIII
Unjust Enrichment
(Val vs. NARD and Fabric Renewal)

163. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

164. As set forth above, both NARD and Fabric Renewal have been unjustly enriched.

165. NARD has been unjustly enriched by receiving membership fees without performing its obligations to protect Val's territories while Fabric Renewal has been unjustly enriched by unlawfully receiving the Contested Territories from NARD and/or otherwise usurping those counties from Val.

166. Val reasonably expected to be compensated and/or receive benefits from doing business in the Contested Territories.

167. It would be fundamentally unfair if NARD and/or Fabric Renewal were permitted to retain the benefits they have received.

168. Val has been harmed and will continue to be harmed by this unjust enrichment.

169. Accordingly, Val is entitled to recover all damages sustained, plus costs, interests, attorneys' fees.

COUNT IX
Civil Conspiracy
(vs. NARD and Fabric Renewal)

170. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

171. NARD and Fabric Renewal, acting in concert and through an express or implied agreement, committed various unlawful overt acts as described above.

172. Such acts include coordinating the transfer of the Contested Territories from Val to Fabric Renewal. They also include falsely claiming that the Contested Territories were shared by Val and Fabric Renewal despite the fact that such a result would contradict the rules of the company and the company's website.

173. They committed these unlawful acts for the purpose of achieving windfall benefits.

174. This conduct has caused significant harm to Val.

175. Accordingly, Val is entitled to recover all damages sustained, plus costs, interests, attorneys' fees.

COUNT X
Accounting
(vs. NARD and Fabric Renewal)

176. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

177. Fabric Renewal has been unjustly enriched and has profited unlawfully by usurping the Contested Territories from Val.

178. NARD has been unjustly enriched by receiving fees from Val and Fabric Renewal while violating the terms of the Operating Agreement.

179. The parties are in a fiduciary relationship.

180. An accounting is necessary to determine the extent NARD has been overpaid membership fees. It is also necessary to determine the extent of NARD's corporate waste and the extent of the windfall Fabric Renewal received from improperly doing business in the Contested Territories.

181. Val is entitled to an accounting in equity as well as according to the Operating Agreement pursuant to Section 7.11 of the Operating Agreement.

182. To the extent Val is not entitled to a full accounting pursuant to the Operating Agreement, it lacks an adequate remedy at law.

183. Accordingly, Val requests that the Court order an accounting.

COUNT XI
Unfair and Deceptive Business Practices
(vs. NARD and Fabric Renewal)

184. Val incorporates the above paragraphs of its Complaint as if fully set forth herein.

185. Val had a reasonable expectancy that it would benefit from being the exclusive NARD Member in the Contested Territories.

186. NARD and Fabric Renewal materially and improperly interfered with Val's reasonable expectancy by taking away Val's exclusive rights thereby causing it significant damage.

187. Accordingly, Val has set forth a claim for unfair competition and/or intentional interference with reasonable business expectancies and Val is entitled to recover damages.

188. Val is a Massachusetts corporation headquartered in Woburn, Massachusetts.

189. At all relevant times, NARD and Fabric Renewal had actual knowledge that Val was based in Massachusetts.

190. Both Massachusetts General Laws Chapter 93A (“Chapter 93A”) and Connecticut General Statutes Section 42-110g (the “CUTPA”) prohibit unfair and deceptive business practices including unfair competition.

191. Fabric Renewal has acted as a competitor of Val and has unlawfully conducted business in the Contested Territories.

192. Both NARD and Fabric Renewal knew or had reason to know that Val would be damaged both in Connecticut and in Massachusetts and, accordingly, all parties have engaged in commerce within Massachusetts and Connecticut.

193. Val became a Member and executed the Operating Agreement with the expectation that it would maintain its exclusive territories. Neither NARD nor Fabric Renewal disclosed that Fabric Renewal was operating in the Connecticut Territories until after the Operating Agreement went into effect.

194. As described above, NARD and Fabric Renewal have engaged in unfair and deceptive conduct. Despite knowing that Val was the exclusive Member for New England, Fabric Renewal has unfairly competed with Val in the Contested Territories. NARD has disregarded its contractual and equitable duties by allowing Fabric Renewal to unfairly compete and has even condoned this conduct.

195. As described above, Val has suffered substantial monetary damages and other harm due to the defendants’ unfair and deceptive conduct.

196. Under Chapter 93A and the CUTPA, NARD and Fabric Renewal are liable for all of Val’s damages and attorneys’ fees. Because their conduct was willful, they are liable for double or treble Val’s actual damages.

WHEREFORE, Plaintiff prays for:

- 1) An Order and Judgment for damages as requested on all damages counts; and,
- 2) Injunctive, declarative, and equitable relief as requested above; and
- 3) Such other further relief as is just and proper.

JURY DEMAND

Plaintiff hereby requests a trial by jury on all counts of its Complaint triable to a jury.

DATED: August 15, 2018

Respectfully Submitted,

DYSART TAYLOR COTTER
McMONIGLE & MONTEMORE, P.C.

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(Pro Hac Vice Petition Forthcoming)**

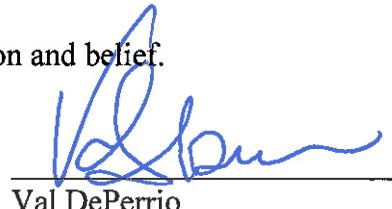
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VERIFICATION

COMMONWEALTH)
OF MASSACHUSETTS)
COUNTY OF SUFFOLK)

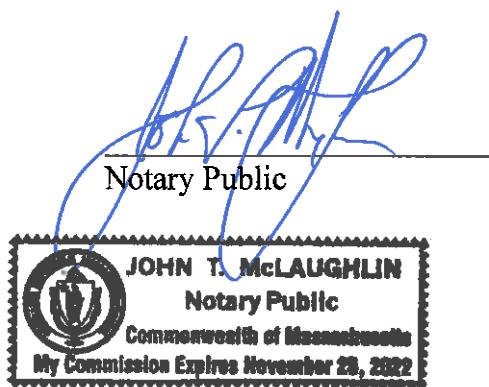
I, Val DePerrio, upon my oath, state:

1. I am the President of Plaintiff The Dry Cleaner by Val, Inc. I am now over 18 years of age and am competent this verification.
2. The facts alleged in the foregoing Verified Complaint are based upon matters personally known to me and/or based on records upon which I am competent to testify about and/or on information provided to me by my employees and/or other representatives, and are true and correct to the best of my knowledge, information and belief.



Val DePerrio

Sworn and subscribed before me, a Notary Public, for and in the State and County above-mentioned on this 11th day of August, 2018.



My Commission Expires: