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8 UNITED STATES BANKRUPTCY COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 LOS ANGELES DIVISION

11 In re: Michael Bonert and Vivien
Bonert, Debtors

Case No.: 2:19-bk-20836 ER
Adv. Nos.: 2:19-ap-01377-ER (lead case);
_____ (consolidated
case)¹

13 **Lead Case (Adv. No. 2:19-ap-01377-ER)**

COMPLAINT FOR DAMAGES

14 Packaging Corporation of America,
15 Plaintiff,

16 v.

17 Michael Bonert and Vivien Bonert, et al.,
18 Defendants.
19

20 **Consolidated Case (Adv. No. _____)**

21 Cargill, Incorporated,
22 Plaintiff,

23 v.

24 Michael Bonert and Vivien Bonert,
25 Defendants.
26

27 _____
28 ¹ Consolidated pursuant to the Court's Order in Case No. 2:19-bk-20836 ER (Dkt. No. 318).

1 Plaintiff Cargill, Incorporated (“Cargill”, or the “Plaintiff”) for its complaint (“Complaint”)
2 against defendants Michael Bonert (“Michael”) and Vivien Bonert (“Vivien”) (together, the
3 “Defendants”), alleges upon personal knowledge with respect to itself and its own acts, and upon
4 information and belief with respect to all other matters, as follows:

5 NATURE OF THE ACTION

6 1. This action arises out of Michael and Vivien’s operation of interrelated companies
7 that were used to defeat the rights of creditors of Bonert’s Inc. – the now defunct pie-processing
8 company.

9 2. The Plaintiff was one of these creditors. It provided Bonert’s with \$376,310.88 in
10 goods for which it was not paid.

11 3. The Plaintiff submitted a claim in the bankruptcy proceeding, *In re Michael Bonert*
12 *and Vivien Bonert*, Case No. 2:19-bk-20836 ER, which is pending in the United States Bankruptcy
13 Court for the Central District of California. The Bankruptcy Court consolidated that claim and
14 others and ordered the Plaintiff to file this adversary proceeding, which is consolidated with other
15 adversary proceedings. *See* Dkt. No. 318, Case No. 2:19-bk-20836 ER.

16 THE PARTIES

17 4. The Plaintiff is a Delaware corporation headquartered in Wayzata, Minnesota.

18 5. Non-party Bonert’s Inc. d/b/a Bonert’s Slice of Pie (“Bonert’s”) is a California
19 corporation headquartered in Los Angeles County, California.

20 6. Non-party Bonert Management Company, Inc. (“BMC”) is a defunct California
21 corporation formerly headquartered in Los Angeles County, California. Its only shareholders are
22 Michael and Vivien.

23 7. Non-party Bonert’s Jadasaha, LLC (“Jadasaha”) is a California limited liability
24 company based in Los Angeles County, California. Its members, including Michael and Vivien, are
25 only residents of California.

26 8. Non-party Bonert’s MV, LLC (“MV”) is a California limited liability company based
27 in Los Angeles County, California. Its members, including Michael and Vivien, are only residents
28 of California.

1 9. Non-party Bonert’s Mibon, LLC (“Mibon”) is a California limited liability company
2 based in Los Angeles County, California. Its members, including Michael and Vivien, are only
3 residents of California.

4 10. Non-party Beefam, LLC (“Beefam”) is a California limited liability company based
5 in Los Angeles County, California. Its members, including Michael and Vivien, are only residents
6 of California.

7 11. Non-party 3144 Bonert’s LLC (“3144”) is a California limited liability company
8 based in Los Angeles County, California. Its members, including Michael and Vivien, are only
9 residents of California.

10 12. Michael and Vivien are residents of Los Angeles County, California.

11 13. The Plaintiff is unaware of the true names or capacities, whether individual,
12 corporate, associate or otherwise of the defendants sued herein as DOES 1 through 10, and
13 therefore, sues these defendants by such fictitious names, and alleges that each of said defendants
14 claim an interest in the property herein described and which is subject to this action. The Plaintiff
15 will amend this Complaint to allege their true names and capacities when they are ascertained.

16 JURISDICTION AND VENUE

17 14. The Bankruptcy Court has jurisdiction of this action under 28 U.S.C. § 157(b)(1) and
18 § 1334(a).

19 15. This action is a core proceeding under 28 U.S.C. § 157(b)(2)(B), (H), (I), and (O).

20 16. Jurisdiction over Michael and Vivien is proper because both are residents of Beverly
21 Hills, California, and they filed a bankruptcy petition, which this action arises from or relates to.
22 Regardless of whether this proceeding is core, non-core, or otherwise, the Plaintiff consents to the
23 entry of a final order and judgment by the Bankruptcy Court.

24 17. Venue is proper under 28 U.S.C. § 1409(a) because this proceeding arises from or
25 relates to a bankruptcy proceeding.

26 FACTUAL ALLEGATIONS

27 **1. The Defendants’ relationships and their businesses.**

28 18. At all relevant times, Michael and Vivien have been married.

1 19. Michael established Bonert's.

2 20. At all relevant times, Michael owned 60% of Bonert's personally, with 20%
3 ownership in the Darren Bonert 2010 Irrevocable Trust, 10% ownership in the Sara Casen 2010
4 Irrevocable Trust, and 10% ownership in the Hanna Bonert 2010 Irrevocable Trust. Each of these
5 trusts was established to benefit one of Michael's children.

6 21. At all relevant times, Michael was the CEO and president of Bonert's.

7 22. At all relevant times, Vivien was a full-time physician at a hospital in Los Angeles
8 who was not an employee of Bonert's.

9 23. At all relevant times, BMC was a shell corporation that did nothing other than serve
10 as a conduit for Michael to transfer funds from Bonert's to himself.

11 24. At all relevant times, MV, Mibon, Beefam, 3144, and Jadasaha each served as
12 holding companies for real estate.

13 25. At all relevant times, Michael and Vivien owned, controlled, or both, MV, Mibon,
14 Beefam, 3144, and Jadasaha

15 26. At all relevant times, Mibon, and Beefam provided short-term, interest-free loans to
16 Bonert's.

17 **2. Bonert's underlying indebtedness.**

18 27. Between 2015 and March 2016, the Plaintiff provided \$376,310.88 of goods to
19 Bonert's (the "Goods").

20 28. The Plaintiff and Bonert's agreed to a price before any of the Goods were provided.

21 29. Bonert's agreed to pay the Plaintiff \$376,310.88 for the Goods.

22 30. The Goods were delivered as requested by Bonert's.

23 31. Bonert's owes the Plaintiff \$376,310.88 for the Goods.

24 32. During July 2016, a receiver was appointed to manage Bonert's. It is now a defunct
25 company.

26 **3. Michael and Vivien operated Bonert's, BMC, MV, Mibon, Beefam, 3144, and**
27 **Jadasaha as a single business enterprise.**

28

1 33. At all relevant times, Michael and Vivien were the controlling owners of Bonert's,
2 BMC, MV, Mibon, Beefam, 3144, and Jadasaha.

3 34. As it's only CEO and president or managing member, Michael had complete control
4 over Bonert's, BMC, MV, Mibon, Beefam, 3144, and Jadasaha.

5 **A. Michael and Vivien commingled assets and treated Bonert's assets as if**
6 **they were their own.**

7 35. At all relevant times, check signing authority was restricted at Bonert's, as checks
8 over \$2,500 generally required a second signature, which effectively required a signature by
9 Michael.

10 36. As such, Michael personally controlled all of Bonert's outgoing expenditures.

11 37. From at least the beginning of 2014 onwards, at fair valuations, the sum of Bonert's
12 debts was greater than all of its assets.

13 38. From at least the beginning of 2014 onwards, Bonert's was generally not paying all
14 of its creditors as their debts became due.

15 39. In 2015, Bonert's had operating losses of about \$2,232,769.

16 40. From January 2014 onwards, despite Bonert's financial distress, Michael continued
17 to take an annual compensation package from Bonert's in excess of \$200,000.

18 41. Michael's salary from Bonert's does not include the additional funds in excess of
19 \$466,012.04, which were annually funneled through BMC from Bonert's and paid to Michael.

20 42. For instance, in 2014, Michael transferred at least \$445,212.04 from Bonert's to
21 BMC to himself, disguised as wages from BMC.

22 43. In 2015, Michael transferred at least \$445,212.04 from Bonert's to BMC to himself,
23 disguised as wages from BMC.

24 44. And in the first half of 2016, Michael transferred in excess of \$171,235.40 from
25 Bonert's to BMC to himself, disguised as wages from BMC.

26 45. Michael was provided by Bonert's with an American Express credit card.

27 46. Company funds were used to pay the bills for Michael's American Express credit
28 card, which he used for many personal expenses.

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