

DOCKET NO.: FST-CV-22-6055288-S \_\_\_\_\_  
: SUPERIOR COURT

~~SUPERIOR COURT~~

\_\_\_\_\_  
:  
KRM REALTY, LLC and \_\_\_\_\_

~~JUDICIAL DISTRICT OF  
STAMFORD/NORWALK  
AT STAMFORD~~

\_\_\_\_\_  
:  
KD INTERNATIONAL GROUP, INC. \_\_\_\_\_  
: JUDICIAL DISTRICT OF

v.

\_\_\_\_\_  
: STAMFORD/NORWALK

\_\_\_\_\_  
: APRIL 18, 2022 10, 2024

v.  
: AT STAMFORD

\_\_\_\_\_  
:  
SELECTIVE INSURANCE COMPANY OF  
\_\_\_\_\_  
:  
SOUTH CAROLINA and TWIN CITY FIRE  
\_\_\_\_\_  
:  
INSURANCE COMPANY

REVISED

## AMENDED COMPLAINT

### NATURE OF THE ACTION

1. In this action, plaintiffs KRM REALTY, LLC ("KRM") and KD INTERNATIONAL GROUP, INC. ("KDI") and together with KRM, ("Plaintiffs") seek recovery of insurance amounts due and owing to each of them in connection with losses suffered by Plaintiffs arising out of an accident occurring on February 6, 2020. Although Defendants have made partial payment of Plaintiffs' Plaintiffs' losses, substantial amounts remain due and owing under the insurance policies at issue.

2. Plaintiffs seek further recovery of consequential and statutory damages based upon Defendants' Defendants' failure to timely pay claims and bad faith claims handling practices and tortious interference with contractual relations, as further set forth below.

### PARTIES

3. Plaintiff KRM is a domestic limited liability company with a principal place of business in Spring Valley, New York. KRM is the owner of real property located at 121 E. Putnam Avenue, Greenwich, Connecticut (the "Property").

4. Plaintiff KDI is a domestic corporation with a principal place of business in Greenwich, Connecticut. Prior to the accident, KDI operated a business at the Property and was doing business under the name Chocoylatte Gourmet.

5. Defendant Selective Insurance Company of South Carolina ("Selective") is a corporation formed under the laws of the State of Indiana, with a principal place of business in Indianapolis, Indiana. Selective is registered and authorized to do business in Connecticut.

6. Defendant Twin City Fire Insurance Company (“Twin City”) is a corporation formed under the laws of the State of Indiana, with a principal place of business in Hartford, Connecticut. Twin City is registered and authorized to do business in Connecticut.

## THE INSURANCE POLICIES

### The KRM/Selective Policy

7. Selective sold KRM a Business Owners insurance policy, policy number 2397131 (the “KRM/Selective Policy”) with a policy period of January 28, 2020, to January 28, 2021. A copy of the KRM/Selective Policy, the terms of which are incorporated herein by reference, will be filed and served as Exhibit A to the complaint in accordance with Connecticut Practice Book Section 10-29.

8. Among other things, the KRM/Selective Policy provides insurance coverage of all “direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.”

9. The Business Owners Coverage Declarations page in the KRM/Selective Policy provides that the Description of Premises covered shall be in accordance with the Schedule of Locations. The Schedule of Locations lists the Property as the Covered Property.

10. The KRM/Selective Policy further provides that Covered Property “includes Buildings... meaning the buildings and structures at the premises described in the Declarations, including: (1) Completed additions; [and] (2) Fixtures, including outdoor fixtures...” The KRM/Selective Policy covers additional property and losses at the covered premises, as further set forth by the terms and conditions of the KRM/Selective Policy.

11. The KRM/Selective Policy further provides that, “[i]n the event of damage by a Covered Cause of Loss to a building that is Covered Property, [Selective] will pay the increased costs incurred to comply with the minimum standards of an ordinance or ~~la~~law in the course of repair, rebuilding or replacement of damaged parts of that property”....

12. By Endorsement, the KRM/Selective Policy further insures KRM against "the actual loss of Business Income [KRM] sustain[s] due to the necessary suspension of [~~KRM's~~ 'operations' ... "~~KRM's~~ 'operations' ...". The Selective Policy defines Business Income to include "Net Income ... that would have been earned or incurred if no direct physical loss or physical damaged had occurred" plus "Continuing normal operating expenses incurred, including payroll."

13. The KRM/Selective Policy also provides coverage for an "Extended Period of Indemnity." That coverage states that "[i]f the necessary suspension of your '~~operations~~' 'operations' produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that: (a) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and '~~operations~~' 'operations' are resumed" and ends on the earlier of either the date on which KRM could restore its "operations" to the condition existing prior to the loss or 60 days after the date the property is "actually repaired" and "operations" are resumed.

14. The KRM/Selective Policy also provides insurance coverage for "Extra Expense [KRM] incur[s] ... that [KRM] would not have incurred if there had been no direct physical loss or physical damage to property at the described premises." Among other things, Extra Expense includes costs incurred "[t]o repair or replace any property."

15. The KRM/Selective Policy defines Covered Causes of Loss as "[d]irect physical loss unless the loss is excluded" or otherwise limited under the Selective Policy.

16. No exclusion or other limitation applies to ~~KRM's~~ KRM's claim for insurance coverage under the KRM/Selective Policy other than the Limit of Insurance contained in the KRM/Selective Policy. The Limit of Insurance is \$800,000. The Business Income and Extra Expense Coverage does not have a monetary limit of liability.

### The KDI/Twin City Policy

17. Twin City sold KDI a Spectrum Business ~~Owner's~~Owner's Policy insurance policy, policy number 31 SBA ~~AB0129~~AB0129 DW (the "KDI/Twin City Policy") with a policy period of January 31, 2020, to January 31, 2021. A copy of the KDI/Twin City Policy, the terms of which are incorporated herein by reference, will be filed and served as Exhibit B to the complaint in accordance with Connecticut Practice Book Section 10-29.

18. Among other things, the KDI/Twin City Policy provides insurance coverage of all direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

19. The KDI/Twin City Policy Declarations page lists the Property as the Covered Property insured. The KDI/Twin City Policy describes the business located at the Covered Property as "Bakery" Bakery Store with Cooking.

20. The KDI/Twin City Policy covers "Business Personal Property" that is located in or within 1,000 feet of the covered premises.

21. The KDI/Twin City Policy defines Covered Causes of Loss as "RISKS OF DIRECT PHYSICAL LOSS" unless such loss is excluded or otherwise limited under the KDI/Twin City Policy.

~~1.~~ The KDI/Twin City Policy further insures KDI against "the actual loss of Business Income [KDI] sustain[s] due to the necessary suspension of [KDI's] KDI's operations"

22. .... The KDI/Twin City Policy defines Business Income to include "Net Income ... that would have been earned or incurred if no direct physical loss or physical damaged had occurred" plus "Continuing normal operating expenses incurred, including payroll."

23. The KDI/Twin City Policy also provides "Extended Business Income" coverage. That coverage states that "[i]f the necessary suspension of your 'operations' produced a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that: (a) Begins on the date property is actually repaired, rebuilt or replaced and 'operations' are resumed" and ends on the earlier of either the date on which KDI could restore its "operations" to the condition existing prior to the loss or a specified number of days after the date the property is "actually repaired" and "operations" are resumed. An endorsement to the KDI/Twin City Policy sets sixty (60) days as the specified number of days.

24. The KDI/Twin City Policy also provides insurance coverage for "Extra Expense [KDI] incur[s] ... that [KDI] would not have incurred if there had been no direct physical loss or physical damage...." Among other things, Extra Expense includes costs incurred "[t]o repair or replace any property."

25. The KDI/Twin City Policy also provides insurance coverage for "TEMPERATURE CHANGE" for "direct physical loss of or physical damage to 'perishable stock'" at KDI's business "caused by or resulting from: . . . [a] change in temperature of humidity resulting from: . . . [c]omplete or partial failure of electrical power" on the premises due to conditions beyond KDI's control.

26. The KDI/Twin City Policy also includes insurance coverage for "Business Personal property Limit – Seasonal Increase" which provides that the limit of KDI's Business Personal Property coverage under the KDI/Twin City Policy will automatically increase by 25% for seasonal variations under certain conditions. The KDI/Twin City Policy also provides Restaurant Stretch

insurance coverage, which provides for additional coverage for certain losses, including claim expenses and temperature change.

25-27. No exclusion or other limitation applies to ~~KDI's~~KDI's claim for insurance coverage under the KDI/Twin City Policy other than the Limits ~~of Insurance~~of Insurance contained in the KDI/Twin City Policy. The Limits of Insurance for Business Personal Property is \$470,300 in Replacement Costs. The Business Income and Extra Expense Coverage does not have a monetary limit of liability. The limits of insurance for Temperature Change coverage for loss or physical damage to perishable stock is \$60,000.

26-28. Additionally, both the KRM/Selective Policy and the KDI/Twin City Policy provide coverage for claim expenses incurred in investigating the ~~Plaintiffs'~~Plaintiffs' loss, including with respect to taking inventory and auditing business records in order to provide information to Selective and Twin City.

### THE ACCIDENT AND CLAIMS

27-29. On February 6, 2020, at approximately 10:10 p.m., an automobile operated by a third-party struck and damaged the building and premises located at the Property (the "Accident"). KRM is the owner of the building at the Property. KDI had leased the building since 2017, and prior to the accident it used the premises to operate a bakery and ~~cafe~~café business under the name Chocoylatte Gourmet. In 2020, prior to the accident, KRM purchased the premises and assumed ~~KDI's~~KDI's lease from the prior owner.

28-30. Chocoylatte Gourmet had converted and renovated the building into a 1,350 square foot European Style ~~Cafe~~Café and Bakery. The building space was split approximately 50/50 between a full commercial kitchen with a restaurant capacity license and a space for a retail area. Chocoylatte Gourmet had been in operation since July 2019. The business sold various bakery products, gourmet desserts, candies, chocolates, sandwiches, teas, coffee, and merchandise. All food and beverage products were made on-site using ~~KDI's~~KDI's exclusive recipes.

29-31. The accident caused considerable and substantial structural damage to the building. The damage was so extensive that the building was condemned by the town of Greenwich, requiring extensive coordination with the town in conjunction with rebuilding efforts. According to police reports, the automobile was traveling in excess of 80 miles per hour when it crashed into the building. The crash destroyed the exterior ~~fa~~9ade~~fa~~çade of the building, including knocking down portions of the exterior walls. The interior of the building was in shambles, with the furnishings and inventory ruined and rendered unusable. The accident caused a complete and total cessation of ~~KDI's~~KDI's business.

30-32. Plaintiffs timely notified Selective and Twin City about the accident and loss and sought coverage under the KRM/Selective Policy and the KDI/Twin City Policy.

31-33. Upon information and belief, Selective and Twin City each assigned a claims professional to investigate Plaintiffs' Plaintiffs' claims. The Plaintiffs retained a public adjuster, Sabel Adjusters LLC ("Sabel";), to assist in the calculation and presentation of loss amounts to Selective and Twin City.

### **Selective'sSelective's Partial Payment of Claims and Refusal to Make Full Payment**

32-34. In May 2020, Selective wrote to KRM acknowledging that the KRM/Selective Policy provided insurance coverage for the necessary repairs to the building on a "Replacement Cost Value" basis. Selective took the position that ~~KRM's~~KRM's loss, less the amount of a deductible and depreciation, was \$126,958.18. This amount was far less than an even the initial estimate that had been provided to Selective over a month earlier of over \$225,000.

33-35. Selective based its position on a report issued by an engineer hired by Selective. That report failed to include all work necessary to repair and rebuild the property. In that report, Selective's Selective's engineer misrepresented that an engineer hired by Plaintiffs was present during the inspection and agreed with the conclusions therein.



34.36. Nevertheless, despite admitting that it owed at least \$126,958.18 and despite sending correspondence acknowledging that obligation, Selective did not send any payment to KRM at that time.

35.37. Upon information and belief, at some point in time thereafter, Selective sent a check directly to Sabel in the amount of \$126,958.18. Despite previous correspondence with KRM, Selective did not give KRM any notice that it was paying any portion ~~of KRM's~~ of KRM's claim or that it was sending any amounts to Sabel instead of to KRM.

36.38. Selective made certain monthly payments to KRM for lost business income to cover ~~KRM's~~ KRM's mortgage following the accident, and, one year later, also made partial payments towards ~~KRM's~~ KRM's tax liability. But, Selective refused to continue making those payments after twelve months, wrongfully contending that ~~KRM's~~ KRM's business income coverage had run out despite the fact that the premises ~~were~~ was not rebuilt. The delay in rebuilding the premises was caused by ~~Selective's~~ Selective's wrongful withholding of insurance proceeds, underpayment of claimed loss, alteration or amendment of property damage estimates in an effort to reduce Selective's liability without any notice or explanation to KRM and delays in payment of covered claims. Selective refused to honor its Extended Period of Indemnity coverage.

#### **Twin City's City's Partial Payment of Claims and Refusal to Make Full Payment**

37.39. Twin City made certain partial payments to KDI for insurance coverage under the Twin City Policy as follows:

<b>Date</b>	<b>Check No.</b>	<b>Amount</b>
2/24/2020	114143152	\$75,000.00
4/2/2020	114215519	\$70,833.18
7/10/2020	114360510	\$25,000.00
9/24/2020	114482897	\$100,000.00
3/16/21	114743446	\$138,640.55
5/7/2021	114823613	\$123,910.99
5/7/2021	114823610	\$13,500.00
5/7/2021	114823609	\$9,000.00
8/19/2021	114975848	\$297,243.10

8/19/2021	114975849	\$20,000.00
8/19/2021	114975850	\$10,000.00
8/19/2021	114975852	\$13,767.88
8/19/2021	114975851	\$1,500.00
8/19/2021	114975853	<u>\$1,000.00</u>
		\$899,395.70

38.40. In addition, upon information and belief, Twin City claims to have made payments to Sabel Adjusters LLC in the amount of \$15,515.61 on 6/22/2021 and payments to Crystal Restoration Services, Inc. in the total amount of \$32,631.79 on 6/19/2020, 12/3/2020, and 4/30/2021.

39.41. The payments to KDI from Twin City were made largely over one year after the Incident, with only 4 payments made in 2020. On February 24, 2020, Twin City advanced \$75,000 to KDI against ~~KDI's~~KDI's claim for insurance coverage of Finished Goods. On April 2, 2020, Twin City made another payment of \$70,833.18 as an advance of amounts owed for both Finished Goods and Raw Materials/Stock. Later, in July and September of 2020, Twin City made small advances to KDI for its business interruption losses. However, Twin City refused to cover ~~KDI's~~KDI's full loss of business property, including equipment, furnishings, and inventory, and it failed to cover the full amount ~~of KDI's~~of KDI's business income and extra expense losses. Twin City also altered or amended damage estimates in an effort to reduce Twin City's liability under the KDI/Twin City Policy without any notice or explanation to KDI. Twin City refused to honor its Extended Business Income ~~coverage,~~ Temperature Change and Seasonal Change coverages.

42. However, Twin City refused to cover KDI's full loss of business property, including equipment, furnishings, and inventory, and it failed to cover the full amount of KDI's business income and extra expense losses. Twin City refused to honor its Extended Business Income coverage.

~~40.~~43. Upon information and belief, at some point during the summer of 2020, Twin City sent a payment due to KDI to Sabel. Despite previous correspondence with KDI, Twin City did not give KDI any notice that it was paying any portion ~~of KDI's~~of KDI's claim or that it was sending any amounts to Sabel instead ~~of~~to KDI.

## COUNT ONE

### (Breach of Contract by KRM against Selective)

~~1-~~41.~~43.~~ Plaintiff KRM repeats and realleges introductory paragraphs 1 through ~~41~~43 as if fully set forth herein.

~~41.~~44. Pursuant to the terms of the KRM/Selective Policy, Selective agreed that KRM would be reimbursed for all "direct physical loss of or damage to Covered Property ... resulting from any Covered Cause of Loss" as provided for therein.

~~42.~~45. Pursuant to the terms of the Endorsement to the KRM/Selective Policy, Selective agreed that KRM would be paid all "actual loss of Business Income sustain[ed] due to the necessary suspension of [KRM's KRM's] Operations" as provided for therein.

~~43.~~46. The Accident was a Covered Cause of Loss under the KRM/Selective Policy and Endorsement which caused considerable damage to the Covered Property and ~~KRM's~~KRM's business operations.

~~44.~~47. Selective has failed to pay KRM the full value of its covered losses as a result of the Accident under the terms of the KRM/Selective Policy.

~~45.~~48. As of the date of filing, KRM has suffered loss arising out of the accident that is covered under the terms of the KRM/Selective Policy and has been demanded from Selective. Despite demand of all amounts due and owing, Selective has failed to meet its contractual obligations and has refused to pay all amounts due and owing. Upon information and belief, Selective and Twin

City improperly reached agreements as to partial payments to Plaintiffs resulting in Twin City improperly paying portions of loss covered by Selective.

46.49. There is presently due and owing to KRM unpaid amounts that are owed pursuant to the terms of the KRM/Selective Policy for structural damage, building repair and replacement, and business interruption loss in an amount to be proven at trial, but not less than \$600,000. Among other things, Selective has failed to pay all costs associated with the repair and rebuilding of the premises, plumbing and electrical expenses, claims expenses incurred in the adjustment of the claim, and improvements and betterments associated with the premises.

47.50. Selective has further refused to pay ~~KRM's~~KRM's ongoing business interruption loss and damages suffered as a consequence of ~~Selective's~~Selective's failure to make timely payments. KRM has lost the profitable use of the premises and lost business advantage because of ~~Selective's~~Selective's underpayments and delays.

48.51. ~~Selective's~~Selective's delay in paying claims and failure to remit payments directly to KRM caused substantial delay in the repair and rebuilding efforts. ~~Selective's~~ Selective's wrongful withholding of funds that were due and owing prevented KRM from being able to retain architects, engineers, and other construction professionals and caused KRM considerable hardship in securing materials and equipment necessary for repairs. ~~Selective's~~Selective's delay caused further damage as the cost of construction and construction materials increased considerably during the COVID-19 pandemic, and by creating a window during which copycat competitors took advantage of Chocoylatte ~~Gourmet's~~Gourmet's closure.

49.52. KRM fully performed its obligations under the KRM/Selective Policy.

50.53. As a result of ~~Selective's~~Selective's failure to pay and other breaches of contract, including failure to timely pay claims, KRM has suffered additional, foreseeable, consequential damages.

## COUNT TWO

### (Breach of Contract by KDI against Twin City)

~~1-41. Plaintiff KDI~~43. Plaintiff KDI repeats and realleges introductory paragraphs 1 through ~~41~~43 as if fully set forth herein.

~~51.~~54. Pursuant to the terms of the KDI/Twin City Policy, Twin City agreed that KDI would be reimbursed for all "direct physical loss of or damage to Covered Property ... caused by or resulting from any Covered Cause of Loss" as provided for therein.

~~52.~~55. Further, pursuant to the terms ~~of KDI~~of KDI/Twin City Policy, Twin City agreed that KDI would be paid all "actual loss of Business Income sustain[ed] due to the necessary suspension of [~~KDI's~~KDI's] operations" as provided for therein.

~~53.~~56. The Accident was a Covered Cause of Loss under the KDI/Twin City Policy which caused considerable damage to the Covered Property and ~~KDI's~~KDI's business operations.

~~54.~~57. Twin City has failed to pay KDI the full value of its covered losses as a result of the Accident under the terms of the KDI/Twin City Policy.

~~55.~~58. As of the date of filing, KDI has suffered loss arising out of the Accident that is covered under the terms of the KDI/Twin City Policy and has been demanded from Twin City. Despite demand of all amounts due and owing, Twin City has failed to meet its contractual obligations and has refused to pay all amounts due and owing.

~~56.~~59. Twin ~~City's~~City's delay in paying claims and failure to remit payments directly to KDI caused substantial delay to KDI reestablishing its business. Twin ~~City~~City's wrongful withholding of funds that were due and owing prevented KDI from being able to reopen its business in a timely way. Upon information and belief, Selective and Twin City improperly reached agreements as to partial payments to Plaintiffs resulting in Twin City improperly paying portions of loss covered by Selective. Twin ~~City's~~City's delay caused further damage as the cost of replacement equipment,

inventory, and furnishings, among other things, increased considerably during the COVID-19 pandemic, and by creating a window during which copycat competitors took advantage of Chocoylatte ~~Gourmet's~~Gourmet's closure.

~~57-60.~~ There is presently due and owing to KDI unpaid amounts that are owed pursuant to the terms of the KDI/Twin City Policy in an amount to be proven at trial, but not less than \$500,000. Among other things, Twin City has failed to pay amounts owed for the equipment and KDI property destroyed or otherwise rendered unusable in the premises. Twin City also has failed to pay for ~~KDI's~~KDI's full loss of business income and extra expenses incurred following the accident.

~~58-61.~~ KDI fully performed its obligations under the KDI/Twin City Policy.

~~59-62.~~ As a result of Twin ~~City's~~City's failure to pay and other breaches of contract, including failure to timely pay claims, KDI has suffered additional, foreseeable, consequential damages.

### COUNT THREE

#### (Bad Faith by KRM against Selective)

~~1-51.~~ ~~Plaintiff~~KRM~~53.~~ Plaintiff KRM repeats and realleges paragraphs 1 through ~~51~~53 of Count One as if fully set forth herein.

~~60-63.~~ The KRM/Selective Policy is a valid, binding and enforceable contract for insurance between KRM on the one hand and Selective on the other hand.

~~61-64.~~ Selective sold the KRM/Selective Policy to KRM as a risk management solution to provide an all-in-one solution for a small business owner to protect against loss from casualty. Upon information and belief, Selective markets its Business Owners insurance product by telling its prospective customers that "your business is your life, passion and livelihood, and you need to take steps to protect it from loss. If the worst case scenario becomes reality, your business owners policy with Selective can help keep your business going." [See, e.g,

<https://www.selective.com/for-businesses/businesses-insurance-coverage/business-owners-policy>.]

Upon information and belief, Selective promotes and markets its Business Owners insurance product as providing peace of mind to small business owners.

~~62-65.~~ Implied in every contract is a duty of good faith and fair dealing.

~~63-66.~~ Selective failed to conduct a fair and reasonable investigation into ~~KRM's~~KRM's claims.

~~64-67.~~ Selective deliberately and wrongfully breached its contractual and statutory duties to KRM by, among other things: (i) refusing to make timely payment of covered claim amounts, (ii) failing to pay amounts admittedly due and owing directly to its policyholder, (iii) delaying payment of covered claim amounts for pretextual reasons, (iv) altering or amending property damage estimates in an effort to reduce its liability without any notice or explanation to KRM; (v) denying insurance coverage for physical damage and ~~(iv)~~loss to Covered Property contrary to the clear terms of the policy in an effort to reduce its liability to KRM; and (vi) attempting to coerce compromise on covered claim amounts by withholding payment.

~~65-68.~~ ~~Selective's~~Selective's refusal to honor their contractual obligations under the insurance policies and at law was frivolous, unfounded, and contrary to law.

66-69. Selective's Selective's refusal to honor their statutory and contractual obligations is a breach of the covenant of good faith and fair dealing. In refusing to pay KRM's KRM's full losses, and in delaying payment of portions of those loss, Selective failed to use good faith and honest judgment and failed to use a level of care and diligence that a person of ordinary prudence would exercise in the management of his or her own business.

67-70. KRM made Selective aware of the factual and legal reasons why Selective erred in denying coverage from the outstanding amounts due and owing.

68-71. Selective has no reasonable basis for denying insurance coverage to KRM, and by repeatedly doing so in the face of contrary evidence, Selective knowingly and wrongfully disregarded this lack of reasonable basis and KRM's KRM's rights.

69-72. Selective's Selective's deliberate and repeated refusals to provide coverage has been oppressive and undertaken in complete disregard of and in reckless indifference to the rights and interests of KRM for the dishonest purpose of preventing KRM from receiving the full benefits of their insurance policies. In denying coverage, Selective failed to give KRM's KRM's interests equal consideration with their own interests. As such, Selective has acted in bad faith and breached the covenant of good faith and fair dealing inherent in the insurance policies.

70-73. As a result of Selective's Selective's bad faith denial of coverage, KRM has been unable to rebuild or repair the premises or resume business operations. Additionally, KRM have been forced to incur undue expenses and pay for the services of attorneys.

71-74. KRM is entitled to receive compensation for the substantial damages, including litigation costs and attorney's attorney's fees that it incurred as a result of Selective's Selective's bad faith denials of coverage. KRM is further entitled to compensatory and punitive damages in an amount to be established at trial, as well as such other and further relief as the Court deems just and proper.



**I. — COUNTFOUR**

**COUNT FOUR**

**(Bad Faith by KDI against Twin City)**

~~1-50.~~62. Plaintiff KDI repeats and realleges paragraphs 1 through ~~50~~62 of Count Two as if fully set forth herein.

~~72.~~75. The KDI/Twin City Policy is a valid, binding and enforceable contract for insurance between KDI on the one hand and Twin City on the other hand.

~~73.~~76. Twin City sold the KDI/Twin City Policy to KDI to protect KDI from all loss of business property and business income resulting from a covered casualty.

~~74.~~77. Implied in every contract is a duty of good faith and fair dealing.

~~75.~~78. Twin City failed to conduct a fair and reasonable investigation into ~~KDI's~~KDI's claims. For example, Twin City sent a restaurant equipment specialist to the premises in March of 2020, purportedly to quantify ~~KDI's~~KDI's damages with respect to business personal property, including equipment and contents. Nevertheless, Twin City did not make any payment for these losses during 2020.

~~76.~~79. Twin City deliberately and wrongfully breached its contractual and statutory duties to KDI by, among other things: (i) refusing to make timely payment of covered claim amounts, (ii) failing to pay amounts admittedly due and owing directly to its policyholder, (iii) delaying payment of covered claim amounts for pretextual reasons, (iv) altering or amending property damage estimates in an effort to reduce its liability without any notice or explanation to KDI, (v) agreeing to pay amounts known to be due under the KRM/Selective Policy without any factual or legal basis and ~~(iv)~~leaving KDI underinsured for business personal property coverage, (vi), overlooking and not considering additional coverages and limits available to its insured, and (vii) attempting to coerce compromise on covered claim amounts by withholding payment.

77-80. Twin ~~City's~~City's refusal to honor its contractual obligations under the insurance policies and at law was frivolous, unfounded, and contrary to law.

78-81. Twin ~~City's~~City's refusal to honor their statutory and contractual obligations is a breach of the covenant of good faith and fair dealing. In refusing to pay ~~KDI's~~KDI's full losses, and in delaying payment of portions of those loss, Twin City failed to use good faith and honest judgment and failed to use a level of care and diligence that a person of ordinary prudence would exercise in the management of his or her own business.

79-82. KDI repeatedly made Twin City aware of the factual and legal reasons why Twin City erred in denying coverage from the outstanding amounts due and owing.

80-83. Twin City has no reasonable basis for denying insurance coverage to KDI, and by repeatedly doing so in the face of contrary evidence, Twin City knowingly and wrongfully disregarded this lack of reasonable basis and ~~KDI's~~KDI's rights.

81-84. Twin ~~City's~~City's deliberate and repeated refusals to provide coverage has been oppressive and undertaken in complete disregard of and in reckless indifference to the rights and interests of KDI for the dishonest purpose of preventing KDI from receiving the full benefits of its insurance policies. In denying coverage, Twin City failed to give ~~KDI's~~KDI's interests equal consideration with their own interests. As such, Twin City has acted in bad faith and breached the covenant of good faith and fair dealing inherent in the insurance policies.

82-85. As a result of Twin ~~City's~~City's bad faith denial of coverage, KDI has been unable to rebuild or repair the premises or resume business operations. Additionally, KDI has been forced to incur undue expenses and pay for the services of attorneys.

83-86. KDI is entitled to receive compensation for the substantial damages, including litigation costs and ~~attorney's~~attorney's fees that it incurred as a result of Twin ~~City's~~City's bad faith

denials of coverage. KDI is further entitled to compensatory and punitive damages in an amount to be established at trial, as well as such other and further relief as the Court deems just and proper.

## COUNT FIVE

### (Unfair Trade Practices by KRM against Selective)

~~1-63. Plaintiff KRM repeats~~74. Plaintiffs repeat and ~~realleges~~re allege paragraphs 1 through ~~63~~74 of Count Three as if fully set forth herein.

~~84.87.~~ Upon information and belief, Selective is an insurance company licensed to do business in the State of Connecticut, and Selective sells insurance regularly throughout the State of Connecticut.

~~85.88.~~ Selective sold the KRM/Selective Policy to KRM as an all-in-one protection for KRM from loss, including loss of business income, caused by unforeseen casualty.

~~86.89.~~ Selective regularly markets its Business Owners insurance product to businesses in the State of Connecticut as all-in-one protection against loss, including loss of business income, caused by unforeseen casualty.

~~87.90. Selective's~~Selective's advertising of its Business Owners insurance coverage is untrue, immoral, oppressive, unethical, unscrupulous, deceptive and/or misleading. Upon information and belief, Selective routinely misrepresents the benefits, advantages, conditions and terms of its Business Owners insurance policies.

~~88.91.~~ Upon information and belief, Selective has a general business practice and pattern of misrepresenting the provisions of insurance policies that it sells that relate to coverages at issue in claims presented to them.

~~89.92.~~ Upon information and belief, Selective and Selective-affiliated companies have faced multiple lawsuits alleging bad faith practices in connection with its claims handling, including claims that Selective adopted an unreasonable position as to the meaning of insurance policy terms.

90.93. Upon information and belief, Selective has a general business practice of:

- misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- failing to acknowledge and act with reasonable promptness upon communications with respect to claims arising under insurance policies;
- failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- refusing to pay claims without conducting a reasonable investigation based upon all available information;
- failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
- attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;
- ~~+~~ making claims payments to insureds or beneficiaries not accompanied by statements setting forth the coverage under which the payments are being made;

- ~~J.~~—failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;

- ~~k.~~—failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

~~91-94.~~ Selective committed unfair trade practices that are prohibited by the Connecticut Unfair Insurance Practices Act.

~~92-95.~~ Selective's Selective's general business practices, including those set forth herein that have caused damage to Plaintiffs, violate Connecticut General Statutes § 38a-815 *et seq.*

~~93-96.~~ Selective's Selective's general business practices, including those set forth herein that caused damage to Plaintiffs, violate Connecticut General Statutes § 42-110a *et seq.*

~~94-97.~~ As a result of Selective's Selective's violation of Connecticut statute and reckless indifference to the rights of its policyholders, including Plaintiffs, Plaintiffs have suffered damages and have been forced to incur undue expenses and pay for the services of attorneys.

~~95-98.~~ Plaintiffs are entitled to receive compensation for the substantial damages, including litigation costs and attorneys' attorneys' fees that they incurred as a result of Selective's Selective's bad faith denial of coverage and unlawful claims handling practices. Plaintiffs are further entitled to compensatory and punitive damages in an amount to be established at trial, as well as such other and further relief as the Court deems just and proper, including compensatory and punitive damages awarded pursuant to Connecticut General Statutes § 42-110g.

~~96-99.~~ A copy of this Complaint will be provided to the Office of the Attorney General of Connecticut and Commissioner of Consumer Protection pursuant to Conn. Gen. Stat. § 42-~~110g~~110g.

## COUNT SIX

### (Unfair Trade Practices by KDI against Twin City)

~~1-62.~~ Plaintiff KDI~~86.~~ Plaintiff KDI repeats and realleges paragraphs 1 through ~~62~~86 of Count Four as if fully set forth herein.

97-100. Upon information and belief, Twin City is an insurance company licensed to do business in the State of Connecticut, and Twin City sells insurance regularly throughout the State of Connecticut.

98-101. Twin City sold the KDI/Twin City Policy to KDI as protection against the loss of business property and business income from unforeseen casualty.

99-102. Twin City advertises its Spectrum Business insurance products as "industry-leading protection" (https://www.thehartford.com/commercial-insurance-agents/next-generation-bop) and asserts that its product will allow its policyholder "to continue paying bills, payroll, and other expenses that come due during this time, until your business is back up and running" (https://thehartford.my.salesforce.com/sfc/p/#300000007NS7/a/a00000001dSF/.0oCZLcoBBB2LMMyW3OrmhQpwls9KtNdBlxeeZG2\_zU).

Twin City advertises its Small Business Insurance "Having it can help protect the livelihood you've worked so hard to build. The right small business coverage can help cover expensive damage . . . from accidents". https://www.thehartford.com/small-business-insurance(https://thehartford.my.salesforce.com/sfc/p/#300000007NS7/a/a00000001dSF/.0oCZLcoBBB2

LMMyW3OrmhOpwls9KtNdBlxeeZG2\_zU).

103. Twin City's,

104. Twin City further advertises that its "small business insurance is designed to safeguard the company you've worked so hard to build. It helps protect your business against bodily injury or property damage."

https://www.thehartford.com/small-business-insurance/what-is-small-business-insurance

100-105. Twin City's advertising of its Spectrum Business insurance coverage is untrue, immoral, oppressive, unethical, unscrupulous, deceptive and/or misleading. Upon information and

belief, Twin City routinely misrepresents the benefits, advantages, conditions and terms of its Spectrum Business insurance policies.

~~101-106.~~ Upon information and belief, Twin City has a general business practice and pattern of misrepresenting the provisions of insurance policies that it sells that relate to coverages at issue in claims presented to them.

~~102-107.~~ As set forth herein, both before and after the execution of the KDI/Twin City Policy, Twin City engaged in a series of unethical, oppressive and unscrupulous actions and practices offensive to public policy and established concepts of fairness reflected in statutes and the common law.

~~103-108.~~ In particular such actions and practices included:

- a. misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- b. failing to acknowledge and act with reasonable promptness upon communications with respect to claims;
- c. failing to adopt and implement reasonable standards for the prompt investigation of claims;
- d. refusing to pay claims without conducting a reasonable investigation based upon all available information;
- e. failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- f. not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear;



- g. compelling to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insured;
- h. attempting to settle a claim for less than the amount to which a reasonable person would have believed he/she was entitled by reference to written or printed advertising material accompanying or made part of an application;
- i. ~~+~~making claims payments to insureds or beneficiaries not accompanied by statements setting forth the coverage under which the payments are being made;

- j. ~~J.~~—failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- k. ~~k.~~—failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

~~104.109.~~ These actions constitute willful and repeated violations of the Connecticut Unfair Insurance Practices Act, Conn. Gen. Stat. §§ 38a-815 *et seq.*

~~105.110.~~ Twin ~~City's~~City's actions and practices constitute unfair and deceptive practices in violation of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. ~~§§. §§~~ 42-~~1~~  
~~10a~~110a *et seq.*

~~106.111.~~ KDI has suffered an ascertainable loss as a result of such actions and practices and is entitled to compensatory damages, punitive damages and ~~attorneys'~~attorneys' fees.

~~107.112.~~ A copy of this Complaint will be provided to the Office of the Attorney General of Connecticut and Commissioner of Consumer Protection pursuant to Conn. Gen. Stat. § 42-110g.

## COUNT SEVEN

### (Tortious Interference Against Selective)

113. Plaintiffs repeat and reallege paragraphs 1 through 12 as paragraphs 1 through 12 as if fully set forth herein.

114. The KRM/Selective Policy defines Covered Causes of Loss as "[d]irect physical loss unless the loss is excluded" or otherwise limited under the Selective Policy.

115. On February 6, 2020, at approximately 10:10 p.m., the Accident occurred and caused substantial damage and destruction of the building owned by KRM and leased by KDI

pursuant to a lease agreement and amendments to lease. KDI leased the building since October 2017.

116. KDI converted and renovated the building into a 1,350 square foot European Style Cafe and Bakery that operated under the name Chocoylatte Gourmet. The building space was split approximately 50/50 between a full commercial kitchen with a restaurant capacity license and a retail area. Chocoylatte Gourmet had been in operation since July 2019. The business sold various bakery products, gourmet desserts, candies, chocolates, sandwiches, teas, coffee, and merchandise. All food and beverage products were made on-site using KDI's exclusive recipes.

117. The Accident caused considerable and substantial structural damage to the building. The damage was so extensive that the building was condemned by the town of Greenwich, requiring extensive coordination with the town in conjunction with rebuilding efforts. According to police reports, the automobile was traveling in excess of 80 miles per hour when it crashed into the building. The crash destroyed the exterior facade of the building, including knocking down portions of the exterior walls. The interior of the building was in shambles, with the furnishings and inventory ruined and rendered unusable. The Accident caused a complete and total cessation of KDI's business.

118. Plaintiffs timely notified Selective and Twin City about the Accident and loss and sought coverage under the KRM/Selective Policy and the KDI/Twin City Policy.

119. Upon information and belief, Selective and Twin City each assigned a claims professional to investigate Plaintiffs' claims. The Plaintiffs retained a public adjuster, Sabel Adjusters LLC ("Sabel"), to assist in the calculation and presentation of loss amounts to Selective and Twin City.

120. In May 2020, Selective wrote to KRM acknowledging that the KRM/Selective Policy provided insurance coverage for the necessary repairs to the building on a "Replacement Cost Value" basis. Selective took the position that KRM's loss, less the amount of a deductible

and depreciation, was \$126,958.18. This amount was far less than an initial estimate that had been provided to Selective over a month earlier of over \$225,000.

121. Selective also wrongfully and in bad faith took the position that it was not responsible under the KRM/Selective Policy to provide replacement cost coverage for damage to certain areas of the building.

122. Pursuant to the terms of the KRM/Selective Policy, Selective agreed that KRM would be reimbursed for all "direct physical loss of or damage to Covered Property ... resulting from any Covered Cause of Loss" as provided for therein.

123. The terms of the KRM/Selective Policy define Covered Property as:

**1. Covered Property**

Covered Property includes Buildings as described under Paragraph a. below, Business Personal Property as described under Paragraph b. below, or both, depending on whether a Limit of Insurance is shown in the Declarations for that type of property. . .

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures
- (3) Permanently installed:
  - (a) Machinery; and
  - (b) Equipment

.....

124. On or about October 26, 2017, KDI entered into a lease agreement for the building and grounds on the property located at 121 East Putnam Avenue, Greenwich, Connecticut ("Demised

Premises”), pursuant to which KDI leased the Demised Premises from a third party from November 1, 2017 through October 31, 2022 (“the Lease”).

125. Under the Lease, KDI acquired an option to purchase the Demised Premises from the third party owner landlord.

126. On or about November 4, 2019, KDI and the third party entered into a Purchase and Sale Agreement for the Demised Premises, pursuant to which KDI agreed to purchase and the third party agreed to sell the Demised Premises for \$1.1 million with a closing to take place at a future date (“PSA”).

127. The Demised Premises subject to the PSA included the building, fixtures and other improvements situated on or affixed to the land at 121 East Putnam Avenue, Greenwich, Connecticut, the land, and the Lease.

128. On or about January 31, 2020, KDI and KRM entered into an Assignment and Assumption of Purchase and Sale Agreement (“PSA Assignment”), pursuant to which KDI assigned all of its rights, title and interest in the PSA to KRM, and KRM accepted the assignment of all rights, title and interest in the PSA.

129. On or about February 3, 2020, KRM purchased the Demised Premises subject to the PSA from the third party. In connection with its purchase of the Demised Premises, KRM purchased the KRM/Selective Policy on or about January 30, 2020.

130. By its purchase of the Demised Premises, KRM acquired all interest in the land, building, fixtures and other improvements situated on or affixed to the land at 121 East Putnam Avenue, Greenwich, Connecticut, as well as the Lease pursuant to the terms of the PSA and PSA Assignment.

131. Following KRM’s purchase of the Demised Premises, KRM acquired all rights and obligations of the landlord under the Lease, and KDI remained the tenant under the Lease. KDI

continued to operate its gourmet bakery business up until the Accident.

132. Under the Lease, KRM was obligated to maintain certain liability and casualty insurance to cover its obligations under the Lease, including property insurance with limits sufficient to provide replacement costs coverage for the building at 121 East Putnam Avenue, Greenwich, Connecticut.

133. Under the Lease, KRM was obligated to repair or rebuild the Demised Premises, or all or any part of the Demised Premises, damaged or destroyed by fire or other casualty insured under a property insurance policy such as the KRM/Selective Policy. KRM's obligation to repair or rebuild the damaged building under the Lease, and KDI's right to have the Demised Premises repaired or rebuilt under the Lease, was contingent on the release of insurance proceeds to KRM.

134. Shortly after being informed of the February 6, 2020 Accident and KRM's property damage claim for all damage to the Demised Premises from the Accident, Defendant Selective was informed and knew that KRM had acquired the Demised Premises and all rights and obligations under the Lease and PSA when it purchased the Demised Premises. Selective was also informed and knew of the contractual relationship between KRM and KDI under the Lease and was provided with a copy of the Lease and other documents concerning KRM and KDI's interest in the Demised Premises.

135. Defendant Selective was also aware that any improvements that KDI made to the Demised Premises before KRM purchased the Demised Premises became the property of KRM as a result of KRM's purchase of the Demised Premises.

136. Defendant Selective knew of KRM's obligations to repair and rebuild the Demised Premises under the Lease and knew that KRM's obligations were dependent on KRM's receipt of insurance proceeds under the Selective Policy.

137. Defendant Selective was obligated to pay replacement cost damage to the Demised Premises as Covered Property under the KRM/Selective Policy, including but not limited to the

building and fixtures affixed to the building.

138. Despite its obligations under the KRM/Selective Policy and the property rights, interests and obligations of KRM and KDI under the Lease and purchase documents, including but not limited to KRM's obligation to repair the damage to the building from the Accident and KDI's right to have the damage to the building from the Accident repaired by KRM conditioned upon receipt of insurance proceeds paid under the KRM/Selective Policy, Selective without factual or legal authority refused to pay for certain damage to KRM's property and attempted to shift such property damage responsibility to KDI and its insurance carrier.

139. Defendant Selective refused to pay for certain damage to the Demised Premises no later than February 20, 2020 and continues to this date in an effort to reduce its liability under the Selective/KRM Policy and contrary to the terms of the Policy, the Lease and KRM's ownership of the entire Demised Premises.

140. Defendant Selective took such position notwithstanding that representatives of Selective knew and were aware of KRM's ownership of the entire Demised Premises and understood that the Lease documents may be construed against Selective.

141. Defendant Selective continued to refuse to pay for damage to the Demised Premises and its efforts to shift such damage to KDI and Defendant Twin City, which resulted in the denial and delay of insurance payments due KRM under the Policy that were necessary to repair and rebuild the Demised Premises in order for KDI to resume business operations in the Demised Premises.

142. By its actions, Defendant Selective tortiously interfered with KRM and KDI's contractual relationship and tortiously interfered with KDI's right to have the damage to the Demised Premises repaired in order for KDI to resume business operations in the Demised Premises, as well as KRM's right to receive rental income from KDI.

143. Defendant Selective's conduct was in reckless disregard of KRM and KDI's

contractual rights and was done for the purpose of wrongfully attempting to limit or shift Selective's liability under its insurance policy.

144. As a consequence of Defendant Selective's interference with KRM and KDI's contractual relations, the plaintiffs KRM and KDI suffered actual financial losses and damages, including but not limited to loss of business income and other consequential damages.

WHEREFORE Plaintiffs ~~claim as follows~~ KRM Realty, LLC and KD International Group, Inc. claim:

A. As to Count One:

1. Compensatory damages in favor of KRM against Selective in an amount to be proven at trial, but in excess of \$1,000,000;
2. Foreseeable and consequential damages in favor of KRM against Selective caused by Selective's failure to pay claims and failure to pay claims in a timely manner;
3. Interest and costs.

B. As to Count Two:

1. Compensatory damages in favor of KDI against Twin City in an amount to be proven at trial, but in excess of \$1,000,000;
2. Foreseeable and consequential damages in favor of KDI against Twin City caused by Twin City's failure to pay claims and failure to pay claims in a timely manner;
3. Interest and costs.

C. As to Count Three:



1. Compensatory, exemplary and punitive damages in favor of KDM against Selective due to Selective's breach of the duty of good faith and fair dealing;
2. Compensatory, exemplary and punitive damages due to Defendants' bad faith denial of coverage;
3. Interest, costs and attorneys' fees.

D. As to Count Four:

1. Compensatory, exemplary and punitive damages in favor of KDI against Selective due to Selective's breach of the duty of good faith and fair dealing;
2. Compensatory, exemplary and punitive damages due to Defendants' bad faith denial of coverage;
3. Interest, costs and attorneys' fees.

E. As to Count Five:

1. Punitive damages and additional damages in favor of KRM against Selective pursuant to Conn. Gen. Stat. § 42-110g due to Selective's violation of Connecticut statute, unfair insurance claim practices, and unfair trade practices;
2. Reasonable attorneys' fees and expenses in favor of KRM against Selective pursuant to Conn. Gen. Stat. § 42-~~110g~~110g(d);
3. Interest and Costs.

F. As to Count Six:

1. Punitive damages and additional damages in favor of KDI against Twin City pursuant to Conn. Gen. Stat. § 42-~~110g~~110g due to Twin City's violation of Connecticut statute, unfair insurance claim practices, and unfair trade practices;

2. Reasonable attorneys' fees and expenses in favor of KDI against Twin City pursuant to Conn. Gen. Stat. § 42-110g(d);
3. Interest and Costs.


G. As to Count Seven:

1. Compensatory and consequential Damages in favor of KDI against Selective caused by Selective's tortious interference with contractual relations;
2. Punitive damages.

G.H. And such other and further relief as the Court may deem just and proper.

~~KRM REALTY, LLC and~~

PLAINTIFFS,  
~~II. KD INTERNATIONAL GROUP, INC.~~

  
By \_\_\_\_\_

Robert Laplace

Kristen Rossetti

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**KRM REALTY, LLC and  
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Their Attorneys



~~SUPERIOR COURT~~


~~JUDICIAL DISTRICT OF STAMFORD/NORWALK AT STAMFORD~~

~~\_\_\_\_\_~~ : ~~APRIL 18, 2022~~10, 2024

**STATEMENT OF AMOUNT IN DEMAND**

The amount in demand is greater than \$15,000, exclusive of interest and costs.

~~\_\_\_\_\_~~  
**PLAINTIFFS,**  
**KRM REALTY, LLC and**  
**KD INTERNATIONAL GROUP, INC.**

~~By~~  ~~\_\_\_\_\_~~

~~Robert L'aplaca~~  
~~Kristen Rossetti~~

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Their Attorneys

**CERTIFICATION**

I            hereby certify that a copy of the above was or will immediately be mailed or delivered electronically or non-electronically on April ~~18, 2022~~10, 2024 to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were or will immediately be electronically served.

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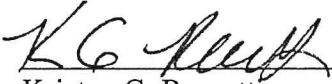
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