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 10 CAI Consulting Ltd., and Charles Wiley Dotzenroth

11
 12 **UNITED STATES DISTRICT COURT**
 13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 WAGNER AERONAUTICAL, INC.;
 15 MAMMOTH FREIGHTERS LLC;
 16 WILLIAM WAGNER; and WILLIAM
 17 TARPLEY,

18 Plaintiffs,

19 v.

20 DAVID DOTZENROTH; SEQUOIA
 21 AIRCRAFT CONVERSIONS, LLC;
 22 CAI CONSULTING LTD.; CHARLES
 23 WILEY DOTZENROTH; ANDREW
 MANSELL; and STEVEN WELO,

24 Defendants.

Case No.: 21CV0994 L AGS

**ANSWER OF DEFENDANTS
 DAVID DOTZENROTH, SEQUOIA
 AIRCRAFT CONVERSIONS, LLC,
 CAI CONSULTING LTD., AND
 CHARLES WILEY DOTZENROTH**

1 Defendants David Dotzenroth, Sequoia Aircraft Conversions, LLC, CAI
2 Consulting Ltd., and Charles Wiley Dotzenroth (collectively “Defendants”) by
3 and through their attorneys, Fitzgerald Knaier LLP, submit the following answer,
4 affirmative defenses, and counterclaims to the complaint (“Complaint”) filed by
5 Plaintiffs Wagner Aeronautical, Inc., Mammoth Freighters LLC, William
6 Wagner, and William Tarpley (“Plaintiffs”) as follows:

7 **NATURE OF ACTION**

- 8 1. Defendants deny the allegations in Paragraph 1.
- 9 2. Defendants lack sufficient knowledge or information to form a belief
10 as to the truth of the allegations in Paragraph 2.
- 11 3. Defendants admit that Plaintiffs Wagner and Tarpley discussed with
12 Defendant David Dotzenroth whether he was interested in exploring the
13 possibility of the project. Defendants otherwise deny the allegations in Paragraph
14 3.
- 15 4. Defendants admit that Plaintiffs Wagner and Tarpley gave Defendant
16 David Dotzenroth materials related to an aircraft conversion program.
17 Defendants otherwise deny the allegations in Paragraph 4.
- 18 5. Defendants admit that on one occasion, Defendant David Dotzenroth
19 suggested to Plaintiff Tarpley, in a text message, that he place the word
20 “confidential” on a document intended to be given to an investor, and that
21 Defendant David Dotzenroth recommended having investors sign NDAs.
22 Defendants otherwise deny the allegations in Paragraph 5.
- 23 6. Defendants deny the allegations in Paragraph 6.
- 24 7. Defendants admit that Defendant Dotzenroth and Plaintiffs Wagner
25 and Tarpley never “formaliz[ed]” any “collaboration.” Defendants otherwise
26 deny the allegations in Paragraph 7.
- 27
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1 18. Defendants lack sufficient knowledge or information to form a belief
2 as to the truth of the allegations in Paragraph 18.

3 19. Defendants admit the allegations in Paragraph 19.

4 20. Defendants admit that Defendant Sequoia is a Delaware limited
5 liability company. Defendants otherwise deny the allegations in Paragraph 20.

6 21. Defendants admit the allegations in Paragraph 21.

7 22. Defendants admit that Defendant Charles Wiley Dotzenroth is also
8 known as Wiley Dotzenroth, and that he is the son of Defendant David
9 Dotzenroth. Defendants otherwise deny the allegations in Paragraph 22.

10 23. Defendants admit the allegations in Paragraph 23.

11 24. Defendants admit the allegations in Paragraph 24.

12 **JURISDICTION AND VENUE**

13 25. Defendants admit the allegations in Paragraph 25.

14 26. Defendants admit that the Court has personal jurisdiction over them.
15 Defendants otherwise deny the allegations in Paragraph 26.

16 27. Defendants admit that venue is proper in this District. Defendants
17 otherwise deny the allegations in Paragraph 27.

18 **FACTUAL ALLEGATIONS**

19 28. Defendants admit the allegations in Paragraph 28.

20 29. Defendants admit the allegations in Paragraph 29.

21 30. Defendants admit the allegations in Paragraph 30.

22 31. Defendants admit the allegations in Paragraph 31.

23 32. Defendants admit that “P2F conversions are highly-specialized, and
24 that there are “few key players with the know-how and expertise” to accomplish
25 them. Defendants otherwise deny the allegations in Paragraph 32.

26 33. Defendants admit that Defendant David Dotzenroth discussed a
27 conversion program with Plaintiffs Wagner and Tarpley, and that the “Jumbo Jet”
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1 referred to has been highly successful and popular with airlines. Defendants
2 otherwise deny the allegations in Paragraph 33.

3 34. Defendants deny that Plaintiff Wagner had successfully executed
4 conversion programs over the past 20 years, insofar as Wagner was found and
5 adjudged by an Arizona Superior Court judge to have misappropriated trade
6 secrets and engineering data for Boeing 727 conversions from Air Mod One, LLC
7 (“AMO”) in the early 2000’s. A judgment for over \$3.8 million was entered
8 against Wagner based on his trade secret misappropriation of engineering data,
9 after which William Wagner filed for bankruptcy. Defendants lack sufficient
10 knowledge or information to form a belief as to the truth of the remaining
11 allegations in Paragraph 34.

12 35. Defendants deny the allegations in Paragraph 35.

13 36. Defendants lack sufficient knowledge or information to form a belief
14 as to the truth of the allegations in Paragraph 36.

15 37. Defendants admit that there were multiple iterations of a business
16 plan, reflected in PowerPoint slide decks, which included business and marketing
17 strategies and discussed the financial and functional benefits of a conversion
18 program. Defendants otherwise deny the allegations in Paragraph 37.

19 38. Defendants lack sufficient knowledge or information to form a belief
20 as to the truth of the allegations in Paragraph 38.

21 39. Defendants lack sufficient knowledge or information to form a belief
22 as to the truth of the allegations in Paragraph 39.

23 40. Defendants admit that Defendant David Dotzenroth received e-mails
24 containing drafts of the business plan and related documents, and that he had
25 access to shared cloud-storage folders. Defendants also admit that Plaintiffs
26 Wagner and Tarpley discussed strategies for the conversion program with
27 Defendant David Dotzenroth. Defendants otherwise deny the allegations in
28 Paragraph 40.

1 41. Defendants admit that Defendant David Dotzenroth did not
2 substantially contribute to the conversion business plan, and that he did not
3 contribute engineering or technical expertise. Defendants otherwise deny the
4 allegations in Paragraph 41.

5 42. Defendants admit that “[b]ecause conversion programs are extremely
6 capital-intensive and time-intensive, investors, partners, and customers will only
7 commit to provide funding or to purchase aircraft if they are convinced of the
8 economic and engineering feasibility of the program”; that “the tens of millions
9 of dollars of investment needed to operate a conversion program depends directly
10 on the ability to demonstrate the viability of a program through a business plan
11 and the budgeting and scheduling information contained in the roadmap”; and
12 that “[d]eveloping the business plan and the budget and schedule roadmap thus
13 permit a particular conversion program to compete with other programs for
14 investment and business and provide a competitive advantage.” Defendants
15 otherwise deny the allegations in Paragraph 42.

16 43. Defendants lack sufficient knowledge or information to form a belief
17 as to the truth of the allegations in Paragraph 43.

18 44. Defendants deny the allegations in Paragraph 44.

19 45. Defendants lack sufficient knowledge or information to form a belief
20 as to the truth of the allegations in Paragraph 45.

21 46. Defendants admit that on one occasion, Defendant David Dotzenroth
22 suggested to Plaintiff Tarpley, in a text message, that he place the word
23 “confidential” on a document intended to be given to an investor, and that
24 Defendant David Dotzenroth recommended having investors sign NDAs.
25 Defendants otherwise deny the allegations in Paragraph 46.

26 47. Defendants deny the allegations in Paragraph 47.

27 48. Defendants admit that “Wagner, Tarpley, and Dotzenroth began
28 meeting with potential investors and customers” (although to Defendant David

1 Dotzenroth’s recollection, Wagner attended only once). Defendants admit that
2 “participants in such meetings signed NDAs,” and admit that slide decks with a
3 “Proprietary” legend were shared with participants, but lack sufficient knowledge
4 or information to form a belief as to the truth of these allegations with regard to
5 meetings that Defendant David Dotzenroth did not attend. Defendants admit that
6 Defendant David Dotzenroth recommended NDAs and “confidential” legends in
7 this context, and that he signed such NDAs.

8 49. Defendants admit that by the middle of 2019, no funding had been
9 found for the “Jumbo Jet conversion program,” but deny the implication that
10 Defendant David Dotzenroth was responsible for finding such funding.
11 Defendants admit that by May 2019, the parties were in talks with an entity to
12 assist with potential funding.

13 50. Defendants deny that “Wagner, Tarpley, and Dotzenroth considered
14 ways to formalize their relationship,” because those parties had never agreed to
15 the terms of such a relationship. Defendants otherwise admit the allegations of
16 Paragraph 50.

17 51. Defendants lack sufficient knowledge or information to form a belief
18 as to the truth of the allegation that “Tarpley struggled to find a role for
19 Dotzenroth,” and deny the remaining allegations in Paragraph 51.

20 52. Defendants admit the allegations of Paragraph 52.

21 53. Defendants admit that “Dotzenroth hosted dinner at his home for
22 Tarpley, Mansell, and Welo,” and that “[a]fter Welo left, Tarpley remained to
23 visit with Dotzenroth and Dotzenroth’s wife.” Defendants admit that on that
24 occasion, Defendant David Dotzenroth, his wife, and Plaintiff Tarpley had a
25 disagreement. Defendant David Dotzenroth, however, does not recall the details
26 of that conversation, and on that basis, Defendants lack sufficient knowledge or
27 information to form a belief as to the truth of the remaining allegations in
28 Paragraph 53. Defendants admit, however, that Defendant David Dotzenroth and

1 Plaintiffs Tarpley and Wagner never came to an agreement regarding any
2 “ownership stake” in a potential conversion program.

3 54. Defendants admit that “Welo emailed Tarpley and Wagner,” and that
4 in that e-mail the quoted language appears, along with further limiting language
5 not quoted. Defendants otherwise deny the allegations in Paragraph 54.

6 55. Defendants lack sufficient knowledge or information to form a belief
7 as to the truth of the allegations in Paragraph 55.

8 56. Defendants deny the allegations in Paragraph 56.

9 57. Defendants admit that “Dotzenroth organized a meeting with NIAR
10 in Kansas to give a presentation about a ‘new project.’” Defendants admit that
11 “Wiley Dotzenroth, at that time, was a 24-year-old recent college graduate.”
12 Defendants admit that “Dotzenroth invited Wagner to the meeting”; that “[t]he
13 meeting attendees included executives from NIAR and several Kansas state
14 officials”; and that “David Jones, the Director of NIAR’s Engineering Design and
15 Modification Team, was one of the meeting attendees.” Defendants otherwise
16 deny the allegations in Paragraph 57.

17 58. Defendants lack sufficient knowledge or information to form a belief
18 as to the truth of the allegations that “Jones approached Wagner” and that “Jones
19 suggested to Wagner that Dotzenroth lacked the know-how and expertise to
20 create a Jumbo Jet conversion program.” Defendants otherwise deny the
21 allegations in Paragraph 58.

22 59. Defendants admit the allegations in Paragraph 59.

23 60. Defendants deny the allegations in Paragraph 60.

24 61. Defendants lack sufficient knowledge or information to form a belief
25 as to the truth of the allegation that “Tarpley did not believe that Dotzenroth
26 would actually enter the P2F market.” Defendants otherwise deny the allegations
27 in Paragraph 61.

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1 62. Defendants lack sufficient knowledge or information to form a belief
2 as to the truth of the allegation that “NIAR required Wagner to execute an NDA.”
3 Defendants otherwise deny the allegations in Paragraph 62.

4 63. Regarding Paragraph 63, Defendants admit that “NIAR’s Jones on
5 March 3, 2020 sent a proposed agenda and PowerPoint presentation to Wagner,”
6 that it had the title indicated, and that “Dotzenroth was copied on Jones’s email.”
7 Defendants admit that the presentation included references to Wagner
8 Aeronautical, but deny that the presentation stated whether Wagner Aeronautical
9 would be a “contractor” or “co-owner.” Defendants admit that on one slide of the
10 presentation, more than one entity was identified as the “Program Lead,”
11 including “NIAR-EDM” and an “IP Company.” Defendants deny that “Sequoia
12 Aircraft Conversions” was that “IP Company.”

13 64. Defendants admit that “[t]he agenda . . . contained a slide that read:
14 ‘[Jumbo Jet] Freighter Information/Data from Recent Wagner Work.’”
15 Defendants otherwise deny the allegations in Paragraph 64.

16 65. Defendants admit that Defendant Wiley Dotzenroth sent Plaintiff
17 Wagner the described PowerPoint presentation. Defendants admit that Sequoia
18 did not own the intellectual property to be developed under the program, and
19 deny the implication that Plaintiffs Wagner, Tarpley, and Wagner Aeronautical
20 developed or owned what was contained in the presentation. Defendants
21 otherwise deny the allegations in Paragraph 65.

22 66. Defendants admit that NIAR issued a press release containing the
23 quoted language. Defendants otherwise deny the allegations in Paragraph 66.

24 67. Defendants admit that “Split Rock Aviation’s press release
25 announced that Sequoia's Jumbo Jet conversion program ‘will focus on weight
26 reductions and design efficiency to meet the most stringent environmental and
27 regulatory requirements’ and that the ‘engineering package will be completed by
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1 Wichita State University - National Institute of Aviation Research.” Defendants
2 otherwise deny the allegations in Paragraph 67.

3 68. Defendants deny the allegations in Paragraph 68.

4 69. Defendants deny the allegations in Paragraph 69.

5 70. Defendants deny the allegations in Paragraph 70.

6 71. Defendants lack sufficient knowledge or information to form a belief
7 as to the truth of the allegations in Paragraph 71.

8 72. Defendants lack sufficient knowledge or information to form a belief
9 as to the truth of the allegations in Paragraph 72.

10 73. Defendants deny the allegations in Paragraph 73.

11 74. Defendants deny the allegations in Paragraph 74.

12 75. Defendants deny the allegations in Paragraph 75.

13 76. Defendants deny the allegations in Paragraph 76.

14 77. Defendants deny the allegations in Paragraph 77.

15 78. Defendants deny the allegations in Paragraph 78.

16 79. Defendants admit that they “have approached potential customers -
17 some of the largest air freight companies - offering their own conversion service
18 and competing directly with Plaintiffs.” Defendants otherwise deny the
19 allegations in Paragraph 79.

20 80. Defendants lack sufficient knowledge or information to form a belief
21 as to the truth of the allegations in Paragraph 80.

22 81. Defendants deny the allegations in Paragraph 81.

23 **COUNT ONE**

24 **MISAPPROPRIATION OF TRADE SECRETS (18 U.S.C. § 1836(b))**

25 **(AGAINST ALL DEFENDANTS)**

26 82. Defendants incorporate by reference each and every answer set forth
27 above, as though fully set forth herein.

28 83. Defendants deny the allegations in Paragraph 83.

- 1 84. Defendants deny the allegations in Paragraph 84.
- 2 85. Defendants deny the allegations in Paragraph 85.
- 3 86. Defendants deny the allegations in Paragraph 86.
- 4 87. Defendants deny the allegations in Paragraph 87.
- 5 88. Defendants deny the allegations in Paragraph 88.

6 **COUNT TWO**

7 **MISAPPROPRIATION OF TRADE SECRETS (CAL. CIV. CODE**

8 **§3426 ET SEQ.)**

9 **(AGAINST ALL DEFENDANTS)**

10 89. Defendants incorporate by reference each and every answer set forth
11 above, as though fully set forth herein.

- 12 90. Defendants deny the allegations in Paragraph 90.
- 13 91. Defendants deny the allegations in Paragraph 91.
- 14 92. Defendants deny the allegations in Paragraph 92.
- 15 93. Defendants deny the allegations in Paragraph 93.
- 16 94. Defendants deny the allegations in Paragraph 94.
- 17 95. Defendants deny the allegations in Paragraph 95.

18 **COUNT THREE**

19 **FALSE ADVERTISING UNDER SETION 43(a) OF THE LANHAM ACT**

20 **(15 U.S.C. § 1125)**

21 **(AGAINST DAVID DOTZENROTH, WILEY DOTZENROTH, AND**

22 **SEQUOIA)**

23 96. Defendants incorporate by reference each and every answer set forth
24 above, as though fully set forth herein.

- 25 97. Defendants deny the allegations in Paragraph 97.
- 26 98. Defendants deny the allegations in Paragraph 98.
- 27 99. Defendants deny the allegations in Paragraph 99.
- 28 100. Defendants deny the allegations in Paragraph 100

1 101. Defendants deny the allegations in Paragraph 101.

2 **COUNT FOUR**

3 **UNFAIR COMPETITION (CAL. BUS. & PROF. CODE §17200 ET SEQ.)**

4 **(AGAINST ALL DEFENDANTS)**

5 102. Defendants incorporate by reference each and every answer set forth
6 above, as though fully set forth herein.

7 103. Defendants admit that “The California Unfair Competition Law
8 defines unfair competition to include any ‘unlawful,’ ‘unfair,’ or ‘fraudulent’
9 business practice or act.” Defendants otherwise deny the allegations in Paragraph
10 103.

11 104. Defendants admit that they “sought deals” with customers and
12 partners also being pursued by Plaintiffs. Defendants otherwise deny the
13 allegations in Paragraph 104.

14 105. Defendants deny the allegations in Paragraph 105.

15 106. Defendants deny the allegations in Paragraph 106.

16 **COUNT FIVE**

17 **BREACH OF FIDUCIARY DUTY**

18 **(Against David Dotzenroth and CAI Consulting)**

19 107. Defendants incorporate by reference each and every answer set forth
20 above, as though fully set forth herein.

21 108. Defendants deny the allegations in Paragraph 108.

22 109. Defendants deny the allegations in Paragraph 109.

23 110. Defendants deny the allegations in Paragraph 110.

24 **COUNT SIX**

25 **CIVIL CONSPIRACY**

26 **(AGAINST DAVID DOTZENROTH AND WILEY DOTZENROTH)**

27 111. Defendants incorporate by reference each and every answer set forth
28 above, as though fully set forth herein.

1 112. Defendants deny the allegations in Paragraph 112.

2 113. Defendants deny the allegations in Paragraph 113.

3 **DEFENDANTS' AFFIRMATIVE DEFENSES**

4 **First Affirmative Defense – Failure to State Claim**

5 114. The Complaint, and each and every claim for relief therein, fails to
6 state facts sufficient to constitute a claim for relief against Defendants.

7 **Second Affirmative Defense – Waiver**

8 115. The Complaint, and each and every claim for relief therein, are
9 barred in whole or in part by the doctrine of waiver.

10 **Third Affirmative Defense – Laches**

11 116. The Complaint, and each and every claim for relief therein, are
12 barred in whole or in part by the doctrine of laches.

13 **Fourth Affirmative Defense – Unclean Hands**

14 117. The Complaint, and each and every claim for relief therein, are
15 barred in whole or in part because Plaintiffs have not behaved equitably, come to
16 this Court with unclean hands, and should therefore be denied all relief.

17 **Fifth Affirmative Defense – Estoppel**

18 118. The Complaint, and each and every claim for relief therein, are
19 barred in whole or in part under the doctrine of estoppel.

20 **Sixth Affirmative Defense – Statute of Frauds**

21 119. The Complaint, and each and every claim for relief therein, are
22 barred in whole or in part under the statute of frauds, to the extent that such
23 claims rely on alleged oral agreements.

24 **Seventh Affirmative Defense –**

25 **Bad Faith Prosecution of Trade Secret Misappropriation Claims**

26 120. Plaintiffs' trade secret misappropriation claims were filed and are
27 being prosecuted in bad faith, which entitles Defendants to recover their attorney
28 fees and costs.

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PRAYER FOR RELIEF

WHEREFORE, defendants respectfully pray the Court for judgment as follows:

- 1. That Plaintiffs take nothing by their Complaint;
- 2. That judgment be entered in favor of Defendants, and against Plaintiffs on the Complaint;
- 3. That Defendants recover their attorney fees and costs;
- 4. That Defendants be granted such other and further relief as the Court may deem just and proper.

Dated: June 21, 2021

FITZGERALD KNAIER LLP

By: 

Kenneth M. Fitzgerald, Esq.
Robert G. Knaier, Esq.
Keith M. Cochran, Esq.
Attorneys for Defendants David
Dotzenroth, Sequoia Aircraft
Conversions, LLC, CAI
Consulting Ltd., and Charles
Wiley Dotzenroth

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CERTIFICATE OF SERVICE

I certify that today I am causing to be served the foregoing document by CM/ECF notice of electronic filing upon the parties and counsel registered as CM/ECF Users. I further certify that, to the extent they are not registered CM/ECF Users, I am causing the foregoing document to be served by other means.

Dated: June 21, 2021



Kenneth M. Fitzgerald, Esq.