

FILED

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2013 NOV 12 PM 4:18

CLERK OF COURT
KANAWHA COUNTY CIRCUIT COURT

LARRY LOVINS, D/B/A
APPALACHIAN HOME CENTER,
a Kentucky Business and TRI-STATE HOTELS, LLC
a Kentucky Limited Liability Company

Plaintiffs,

v.

Civil Action No.: 13-C-1796

Judge: Hon. Charles King

JAI SAI, LLC, a West Virginia Limited Liability Company;
NATIONAL BANK OF CHICAGO;
RIVER CITIES GLASS & CONSTRUCTION, LLC,
a Kentucky Limited Liability Company
Defendants.

ANSWER OF DEFENDANT JAI SAI, LLC, TO PLAINTIFFS' COMPLAINT

COMES NOW Defendant Jai Sai, LLC in response to the Plaintiffs' Complaint and answers as follows:

1. Paragraph 1 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

2. Paragraph 2 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

3. With regard to Paragraph 3 of the Plaintiff's' Complaint, Jai Sai, LLC admits that it is a West Virginia limited liability company. The remainder of Paragraph 3 of the Plaintiffs' Complaint sets forth legal conclusions, matters and allegations to which no response by this

MA

10

Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in those provisions of Paragraph 3 of the Plaintiffs' Complaint not expressly admitted in this answer and leaves to the Plaintiffs the burden of proving the same.

4. Defendant Jai Sai, LLC denies the allegations contained in Paragraphs 4 and 5 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

5. Defendant Jai Sai, LLC denies the allegations contained in Paragraphs 6 and 7 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

6. Defendant Jai Sai, LLC denies the allegations contained in Paragraphs 8 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

7. Paragraph 9 of the Plaintiffs' Complaint sets forth legal conclusions, matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Plaintiffs' Complaint and further denies such allegations and leaves to the Plaintiffs the burden of proving the same.

8. Paragraph 10 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

9. Paragraph 11 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

10. Paragraph 12 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to

the truth of the allegations contained in Paragraph 12 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

11. Following Paragraph 12 the Plaintiffs' Complaint contains a Paragraph which appears to have been mis-numbered as Paragraph "9" and containing two un-numbered subparagraphs. Defendant Jai Sai believes this Paragraph should have been numbered "13". Regardless of the number, Defendant Jai Sai responds by indicating that this Paragraph contains matters, allegations and conclusions to which no response by this Defendant is necessary. Further and to the To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said Paragraph of the Plaintiffs' Complaint, including its subparts, and leaves to the Plaintiffs the burden of proving the same.

12. Defendant Jai Sai denies being indebted to the Plaintiffs in any amount as alleged in the Complaint.

13. Defendant Jai Sai denies each and every allegation contained in Plaintiffs' Complaint not expressly admitted in this answer.

14. With regard to Plaintiffs' Complaint, Defendant Jai Sai asserts the statute of limitations as a defense should the same become applicable to this action through discovery.

15. The "Claim of Mechanic's Lien" filed by Plaintiff Larry Lovins was not timely filed as it was not filed within ninety days of the date on which the final labor, service, or materials were furnished. The claim states such were furnished on January 7th, 2013, but the "Claim of Mechanic's Lien" was not filed until April 12, 2013, some ninety-five (95) days later. (See, Exhibit A to Plaintiffs' Complaint);

16. The "Notice of Mechanic's Lien" filed by Plaintiff Tri-State Hotels, LLC was not timely filed as it was not filed within ninety days of the date on which the final labor, service, or materials were furnished. The notice of mechanic's lien states such were furnished on January 8th, 2013, but the "Notice of Mechanic's Lien" was not filed until April 15, 2013, some ninety-five (97) days later. (See, Exhibit B to Plaintiffs' Complaint);

17. Defendant Jai Sai LLC asserts the defenses of fraud, collusion, contributory and comparative negligence and assumption of the risk.

18. Defendant Jai Sai asserts that if, as alleged, the plaintiffs experienced losses or unpaid amounts as a proximate result of the actions alleged in the Plaintiffs' Complaint including but not limited to un-collected amounts, such losses or un-collected amounts were a proximate result of such actions of parties other than this Defendant, its officers, agents, servants and employees.

19. Defendant Jai Sai asserts the alleged losses or un-collected amounts, if any, experienced by the plaintiffs, if any, were not proximately caused by any acts or omissions of this Defendant, its directors, officers, agents, servants and employees.

20. Defendant Jai Sai Inc. asserts all applicable defenses, including but not limited to fraud, misrepresentation and estoppel.

21. Defendant Jai Sai asserts it is not fully advised of all the facts and circumstances surrounding the allegations contained in Plaintiffs' Complaint and, therefore, hereby asserts and invokes all affirmative defenses which may be or prove applicable in this action, including but not limited to the defenses set forth in Rule 8(c) of the *West Virginia Rules of Civil Procedure*.

22. The plaintiffs engaged in acts of misrepresentation and fraud. The known acts of misrepresentation and fraud are sufficient to bar and estop the plaintiffs from attempting to obtain the relief requested in their Complaint.

23. The plaintiffs failed to mitigate or minimize any claimed damages.

24. The Plaintiffs' Complaint fails to state a claim against Defendant Jai Sai LLC upon which relief may be granted.

25. Defendant Jai Sai, LLC requests a trial by jury.

WHEREFORE, having answered the Plaintiffs' Complaint, Defendant Jai Sai moves: (1) that the plaintiffs' complaint, claims, action and claims for damages be dismissed; (2) that Jai Sai, LLC. be dismissed from this action and awarded the costs incurred in answering; and (3) any and all further relief this Honorable Court deems proper to grant.

COUNTER-CLAIM OF DEFENDANT JAI-SAI, LLC AGAINST PLAINTIFFS' LARRY LOVINS, D/B/A APPALACHIAN HOME CENTER, a Kentucky Business and TRI-STATE HOTELS, LLC a Kentucky Limited Liability Company

COMES NOW, Defendant Jai Sai, LLC, (hereinafter sometimes referred to as "Jai Sai"), by and through its counsel, Jeff C. Woods of the Law Office of Jeff C. Woods, and for its Counter-claim against the Plaintiffs Larry Lovins, D/B/A Appalachian Home Center and Tri-State Hotels, LLC and hereby alleges and states as follows:

1. That based upon information as contained in its complaint in this action, Appalachian Home Center hold itself out to be a Kentucky business entity, with its principal place of business located in Ashland, Boyd County Kentucky;

2. That based upon information as contained in its complaint in this action, Tri-State Hotels, LLC, is held out to be a Kentucky business entity, with its principal place of business located in Catlettsburg, Boyd County Kentucky. Based upon information and belief one Dolatrai Patel is the primary and responsible member of said Tri-State Hotels, LLC;

3. Jai Sai, LLC admits it is a West Virginia limited liability company which is the owner of record of real estate located in Cross Lanes, Kanawha County, West Virginia, and which is the real estate which the Plaintiffs in the instant civil action claim to be the subject property in this action;

4. Tri-State Hotels, acting through its principal and agent Dolatrai Patel, who at one time was a member of Jai-Sai LLC, purported to contract for and to provide services in the construction of a hotel on the aforementioned real estate;

5. That the said Dolatrai Patel engaged in fraudulent schemes to defraud the Jai-Sai, LLC and in its members by:

- a. Exceeding the scope of his authority;
- b. Channeling work to a company he owned, i.e. Tri-State Hotels, which work was never performed;
- c. Submitting false and fraudulent invoices for work, materials and services which were never performed and/or provided;

d. Knowingly, illegally and improperly using funds allotted for the construction of the hotel on the subject property for his personal purposes and use;

e. Commingling funds allocated for the construction of the hotel on the subject property with that of Tri-State Hotels, LLC and using such funds allotted to Jai-Sai for the maintenance, use, and benefit of Tri-State Hotels;

f. Knowingly and intentionally failing to credit Jai-Sai for payments he claimed he had made to various vendors, including Tri-State Hotels, using funds drafted and/or deducted from the accounts of Jai-Sai, LLC;

g. Knowingly and intentionally misdirecting funds from the accounts of Jai-Sai, LLC to Tri-State Hotels, LLC, by using charge accounts of other business entities and using funds of Jai-Sai LLC to pay said accounts or, when the said accounts were not paid, alleging without proper invoices, that obtained materials were delivered to the hotel which was under construction on the subject property;

h. Failing to maintain control of and maintaining an accurate accounting for materials, goods, and services connected with the aforementioned construction of the hotel under construction on the property of Jai-Sai, Inc;

i. Submitting multiple duplicative and false invoices for materials, work, and services which was never performed and solely for the purpose of attempting to defraud Jai-Sai, LLC and to hide the fraudulent schemes initiated by Dolatrai Patel for the sole benefit of Tri-State Hotels, LLC; and

j. Failing to properly maintain and provide required and appropriate accountings and business transaction records;

6. That as a result of the fraudulent acts attributable to Dolatrai Patel, as the principal and primary agent of Tri-State Hotels and the failure of Dolatrai Patel to discharge his duties, multiple mechanics liens have been filed against the subject property and Jai-Sai, LLC has been required to expend multiple funds to resolve the same;

7. That the Plaintiffs have indicated that this action against Jai Sai, LLC is for the enforcement of their respective liens, pursuant to W. Va. Code Section 38-2-34. However, neither can produce documentation regarding such alleged liens;

8. Tri-State Hotels is claiming a lien based upon invoices for materials, work, and services which were never performed and other invoices which are duplicative of invoices and statements which were submitted by other vendors, *see, i.e. 84 Lumber Company v. Naya Hira, dba Executive Inn*, Cabell County, West Virginia Civil Action No. 13-C-460;

9. The Mechanic's lien filed by Tri-State Hotels did not meet the requirements of West Virginia Code Section 38-2-32, as the same failed on its face as it did not contain a verified account which set forth the kind, amount, and price of the claimed work, labor, and services;

10. The Mechanic's lien filed by Tri-State Hotels was not filed within the required ninety (90) days of the date on which such alleged work was discontinued by Tri-State Hotels. The "Notice of Mechanics Lien" filed by Tri-State Hotels, LLC by Dolatrai Patel on April 15, 2013, averred that the "[t]he last furnishing of materials/labor in connection with the project occurred on 01/08/2013." The elapsed time between January 8, 2013 and April 15, 2013, is ninety-seven (97) days. Therefore, this lawsuit to enforce the alleged lien must be dismissed as the alleged lien was statutorily discharged as untimely filed;

11. Any work provided by Tri-State Hotels, LLC Dolatrai Patel, and their agents, contractors, and sub-contractors was substandard and caused damage to Jai Sai, LLC and its properties;

12. The "Claim of Mechanic's Lien" filed by Larry Lovins D/B/A Appalachian Home Center did not meet the requirements of West Virginia Code Section 38-2-32, as the same failed on its face as it did not contain a verified account which set forth the kind, amount, and price of the claimed work, labor, and services;

13. The "Claim of Mechanic's Lien" filed by Larry Lovins D/B/A Appalachian Home Center was not filed within the required ninety (90) days of the date on which "final labor, service, or materials were [allegedly] furnished by Larry Lovins D/B/A Appalachian Home Center. The "Claim of Mechanics Lien" filed by Larry Lovins D/B/A Appalachian Home Center

FILED

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

NOV 12 PM 4:18

CLERK OF COURT
KANAWHA COUNTY CIRCUIT COURT

LARRY LOVINS, D/B/A
APPALACHIAN HOME CENTER,
a Kentucky Business and TRI-STATE HOTELS, LLC
a Kentucky Limited Liability Company

Plaintiffs,

v.

Civil Action No.: 13-C-1796
Judge: Hon. Charles King

JAI SAI, LLC, a West Virginia Limited Liability Company;
NATIONAL BANK OF CHICAGO;
RIVER CITIES GLASS & CONSTRUCTION, LLC,
a Kentucky Limited Liability Company
Defendants.

ANSWER OF DEFENDANT JAI SAI, LLC, TO PLAINTIFFS' COMPLAINT

COMES NOW Defendant Jai Sai, LLC in response to the Plaintiffs' Complaint and answers as follows:

1. Paragraph 1 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

2. Paragraph 2 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

3. With regard to Paragraph 3 of the Plaintiffs' Complaint, Jai Sai, LLC admits that it is a West Virginia limited liability company. The remainder of Paragraph 3 of the Plaintiffs' Complaint sets forth legal conclusions, matters and allegations to which no response by this

mf

✓ 10

Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in those provisions of Paragraph 3 of the Plaintiffs' Complaint not expressly admitted in this answer and leaves to the Plaintiffs the burden of proving the same.

4. Defendant Jai Sai, LLC denies the allegations contained in Paragraphs 4 and 5 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

5. Defendant Jai Sai, LLC denies the allegations contained in Paragraphs 6 and 7 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

6. Defendant Jai Sai, LLC denies the allegations contained in Paragraphs 8 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

7. Paragraph 9 of the Plaintiffs' Complaint sets forth legal conclusions, matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Plaintiffs' Complaint and further denies such allegations and leaves to the Plaintiffs the burden of proving the same.

8. Paragraph 10 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

9. Paragraph 11 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

10. Paragraph 12 of the Plaintiffs' Complaint sets forth matters and allegations to which no response by this Defendant is necessary. To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to

the truth of the allegations contained in Paragraph 12 of the Plaintiffs' Complaint and leaves to the Plaintiffs the burden of proving the same.

11. Following Paragraph 12 the Plaintiffs' Complaint contains a Paragraph which appears to have been mis-numbered as Paragraph "9" and containing two un-numbered subparagraphs. Defendant Jai Sai believes this Paragraph should have been numbered "13". Regardless of the number, Defendant Jai Sai responds by indicating that this Paragraph contains matters, allegations and conclusions to which no response by this Defendant is necessary. Further and to the To the extent a response may be necessary, Jai Sai, LLC, states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said Paragraph of the Plaintiffs' Complaint, including its subparts, and leaves to the Plaintiffs the burden of proving the same.

12. Defendant Jai Sai denies being indebted to the Plaintiffs in any amount as alleged in the Complaint.

13. Defendant Jai Sai denies each and every allegation contained in Plaintiffs' Complaint not expressly admitted in this answer.

14. With regard to Plaintiffs' Complaint, Defendant Jai Sai asserts the statute of limitations as a defense should the same become applicable to this action through discovery.

15. The "Claim of Mechanic's Lien" filed by Plaintiff Larry Lovins was not timely filed as it was not filed within ninety days of the date on which the final labor, service, or materials were furnished. The claim states such were furnished on January 7th, 2013, but the "Claim of Mechanic's Lien" was not filed until April 12, 2013, some ninety-five (95) days later. (See, Exhibit A to Plaintiffs' Complaint);

16. The "Notice of Mechanic's Lien" filed by Plaintiff Tri-State Hotels, LLC was not timely filed as it was not filed within ninety days of the date on which the final labor, service, or materials were furnished. The notice of mechanic's lien states such were furnished on January 8th, 2013, but the "Notice of Mechanic's Lien" was not filed until April 15, 2013, some ninety-five (97) days later. (See, Exhibit B to Plaintiffs' Complaint);

17. Defendant Jai Sai LLC asserts the defenses of fraud, collusion, contributory and comparative negligence and assumption of the risk.

18. Defendant Jai Sai asserts that if, as alleged, the plaintiffs experienced losses or unpaid amounts as a proximate result of the actions alleged in the Plaintiffs' Complaint including but not limited to un-collected amounts, such losses or un-collected amounts were a proximate result of such actions of parties other than this Defendant, its officers, agents, servants and employees.

19. Defendant Jai Sai asserts the alleged losses or un-collected amounts, if any, experienced by the plaintiffs, if any, were not proximately caused by any acts or omissions of this Defendant, its directors, officers, agents, servants and employees.

20. Defendant Jai Sai Inc. asserts all applicable defenses, including but not limited to fraud, misrepresentation and estoppel.

21. Defendant Jai Sai asserts it is not fully advised of all the facts and circumstances surrounding the allegations contained in Plaintiffs' Complaint and, therefore, hereby asserts and invokes all affirmative defenses which may be or prove applicable in this action, including but not limited to the defenses set forth in Rule 8(c) of the *West Virginia Rules of Civil Procedure*.

22. The plaintiffs engaged in acts of misrepresentation and fraud. The known acts of misrepresentation and fraud are sufficient to bar and estop the plaintiffs from attempting to obtain the relief requested in their Complaint.

23. The plaintiffs failed to mitigate or minimize any claimed damages.

24. The Plaintiffs' Complaint fails to state a claim against Defendant Jai Sai LLC upon which relief may be granted.

25. Defendant Jai Sai, LLC requests a trial by jury.

WHEREFORE, having answered the Plaintiffs' Complaint, Defendant Jai Sai moves: (1) that the plaintiffs' complaint, claims, action and claims for damages be dismissed; (2) that Jai Sai, LLC. be dismissed from this action and awarded the costs incurred in answering; and (3) any and all further relief this Honorable Court deems proper to grant.

COUNTER-CLAIM OF DEFENDANT JAI-SAI, LLC AGAINST PLAINTIFFS' LARRY LOVINS, D/B/A APPALACHIAN HOME CENTER, a Kentucky Business and TRI-STATE HOTELS, LLC a Kentucky Limited Liability Company

COMES NOW, Defendant Jai Sai, LLC, (hereinafter sometimes referred to as "Jai Sai"), by and through its counsel, Jeff C. Woods of the Law Office of Jeff C. Woods, and for its Counter-claim against the Plaintiffs Larry Lovins, D/B/A Appalachian Home Center and Tri-State Hotels, LLC and hereby alleges and states as follows:

1. That based upon information as contained in its complaint in this action, Appalachian Home Center hold itself out to be a Kentucky business entity, with its principal place of business located in Ashland, Boyd County Kentucky;

2. That based upon information as contained in its complaint in this action, Tri-State Hotels, LLC, is held out to be a Kentucky business entity, with its principal place of business located in Catlettsburg, Boyd County Kentucky. Based upon information and belief one Dolatrai Patel is the primary and responsible member of said Tri-State Hotels, LLC;

3. Jai Sai, LLC admits it is a West Virginia limited liability company which is the owner of record of real estate located in Cross Lanes, Kanawha County, West Virginia, and which is the real estate which the Plaintiffs in the instant civil action claim to be the subject property in this action;

4. Tri-State Hotels, acting through its principal and agent Dolatrai Patel, who at one time was a member of Jai-Sai LLC, purported to contract for and to provide services in the construction of a hotel on the aforementioned real estate;

5. That the said Dolatrai Patel engaged in fraudulent schemes to defraud the Jai-Sai, LLC and in its members by:

- a. Exceeding the scope of his authority;
- b. Channeling work to a company he owned, i.e. Tri-State Hotels, which work was never performed;
- c. Submitting false and fraudulent invoices for work, materials and services which were never performed and/or provided;

d. Knowingly, illegally and improperly using funds allotted for the construction of the hotel on the subject property for his personal purposes and use;

e. Commingling funds allocated for the construction of the hotel on the subject property with that of Tri-State Hotels, LLC and using such funds allotted to Jai-Sai for the maintenance, use, and benefit of Tri-State Hotels;

f. Knowingly and intentionally failing to credit Jai-Sai for payments he claimed he had made to various vendors, including Tri-State Hotels, using funds drafted and/or deducted from the accounts of Jai-Sai, LLC;

g. Knowingly and intentionally misdirecting funds from the accounts of Jai-Sai, LLC to Tri-State Hotels, LLC, by using charge accounts of other business entities and using funds of Jai-Sai LLC to pay said accounts or, when the said accounts were not paid, alleging without proper invoices, that obtained materials were delivered to the hotel which was under construction on the subject property;

h. Failing to maintain control of and maintaining an accurate accounting for materials, goods, and services connected with the aforementioned construction of the hotel under construction on the property of Jai-Sai, Inc;

i. Submitting multiple duplicative and false invoices for materials, work, and services which was never performed and solely for the purpose of attempting to defraud Jai-Sai, LLC and to hide the fraudulent schemes initiated by Dolatrai Patel for the sole benefit of Tri-State Hotels, LLC; and

j. Failing to properly maintain and provide required and appropriate accountings and business transaction records;

6. That as a result of the fraudulent acts attributable to Dolatrai Patel, as the principal and primary agent of Tri-State Hotels and the failure of Dolatrai Patel to discharge his duties, multiple mechanics liens have been filed against the subject property and Jai-Sai, LLC has been required to expend multiple funds to resolve the same;

7. That the Plaintiffs have indicated that this action against Jai Sai, LLC is for the enforcement of their respective liens, pursuant to W. Va. Code Section 38-2-34. However, neither can produce documentation regarding such alleged liens;

8. Tri-State Hotels is claiming a lien based upon invoices for materials, work, and services which were never performed and other invoices which are duplicative of invoices and statements which were submitted by other vendors, *see, i.e. 84 Lumber Company v. Naya Hira, dba Executive Inn*, Cabell County, West Virginia Civil Action No. 13-C-460;

9. The Mechanic's lien filed by Tri-State Hotels did not meet the requirements of West Virginia Code Section 38-2-32, as the same failed on its face as it did not contain a verified account which set forth the kind, amount, and price of the claimed work, labor, and services;

10. The Mechanic's lien filed by Tri-State Hotels was not filed within the required ninety (90) days of the date on which such alleged work was discontinued by Tri-State Hotels. The "Notice of Mechanics Lien" filed by Tri-State Hotels, LLC by Dolatrai Patel on April 15, 2013, averred that the "[t]he last furnishing of materials/labor in connection with the project occurred on 01/08/2013." The elapsed time between January 8, 2013 and April 15, 2013, is ninety-seven (97) days. Therefore, this lawsuit to enforce the alleged lien must be dismissed as the alleged lien was statutorily discharged as untimely filed;

11. Any work provided by Tri-State Hotels, LLC Dolatrai Patel, and their agents, contractors, and sub-contractors was substandard and caused damage to Jai Sai, LLC and its properties;

12. The "Claim of Mechanic's Lien" filed by Larry Lovins D/B/A Appalachian Home Center did not meet the requirements of West Virginia Code Section 38-2-32, as the same failed on its face as it did not contain a verified account which set forth the kind, amount, and price of the claimed work, labor, and services;

13. The "Claim of Mechanic's Lien" filed by Larry Lovins D/B/A Appalachian Home Center was not filed within the required ninety (90) days of the date on which "final labor, service, or materials were [allegedly] furnished by Larry Lovins D/B/A Appalachian Home Center. The "Claim of Mechanics Lien" filed by Larry Lovins D/B/A Appalachian Home Center

on April 12, 2013, averred that the "final labor, service, or materials" were furnished on January 7, 2013." The elapsed time between January 7, 2013 and April 15, 2013, is ninety-seven (95) days. Therefore, this lawsuit to enforce the alleged lien must be dismissed as the alleged lien was statutorily discharged as untimely filed;

14. Larry Lovins, D/B/A as Appalachian Home Center failed to give Jai Sai, LLC credit for all amounts paid toward any indebtedness it may have to Larry Lovins, D/B/A as Appalachian Home Center;

15. Jai Sai, LLC is not indebted to Tri-State Hotels, Dolatrai Patel in any amount;

16. That Dolatrai Patel as the principal and primary agent of Tri-State Hotels, LLC breached the contractual and fiduciary duties he and Tri-State Hotels, LLC owed to Jai Sai LLC, its members, successors, and assigns;

17. Jai Sai, LLC has been damaged by the intentional, felonious, and fraudulent acts of Dolatrai acting as the principal and primary agent of Tri-State Hotels in an amount in excess of Six Hundred Thirty Thousand Dollars (\$630,000.00) as his acts and failures to act resulted in delays of the opening of the hotel, multiple mechanic's liens, substandard construction, and diminution of the value of the property and otherwise damaged the business reputation, credit and value of Jai Sai, LLC;

18. That the fraudulent actions of Dolatrai Patel as the primary and principal agent of Tri-State Hotels, LLC were intentional and designed and implemented to harm Jai Sai, LLC its property, business, and reputation and to unjustly enrich the said Dolatrai Patel and Tri State Hotels, LLC;

19. That the intentional and designed fraudulent actions and schemes of Dolatrai Patel in fact damaged Jai Sai LLC its property, business, credit, value and reputation and unjustly enriched Dolatrai Patel and Tri State Hotels, LLC; and

20. The acts of Dolatrai Patel as the principal and primary agent of Tri-State Hotels, LLC were intentionally fraudulent and rise to the level of entitling Jai Sai, LLC to punitive damages in an amount of at least \$850,000.00.

WHEREFORE, Defendant Jai-Sai requests that this Court grant the following relief upon its Counter-Claim:

a. Dismiss the action filed by Plaintiff Larry Lovins, D/B/A Appalachian Home Products on the grounds that it is based on a non-perfected mechanic's lien which was filed improperly and beyond the statutory time period and without required documentation; or as an alternative determine the amount, if any, which may be due and owing to Plaintiff Larry Lovins, D/B/A Appalachian Home Products;

b. Dismiss the action filed by Tri-State Hotels, LLC on the grounds that it is based on a non-perfected mechanic's lien which was filed improperly and beyond the statutory time period and without required documentation;

c. Deny all requests for relief filed by Tri-State Hotels, LLC the relief prayed for herein, including but not limited to its request for "[j]udgment in the amount of Six Hundred Thirty Thousand Dollars (\$630,000.00), plus pre-judgment and post-judgment interest";

d. Proceed on the basis of the Counter-claim of Jai Sai, LLC and grant judgment in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00), plus pre-judgment and post-judgment interest against Tri-State Hotels, LLC and in favor of Jai Sai, LLC;

e. Declare that the actions of Dolatrai Patel as the principal and primary agent of Tri-State Hotels, LLC were intentionally fraudulent and resulted in damages to Jai Sai, LLC, its property, business, and reputation and, therefore, entitles Jai Sai to a judgment in its favor for punitive damages in an additional amount of \$850,000.00 plus pre-judgment and post-judgment interest against Tri-State Hotels, LLC;

f. Grant an award of damages against Tri-State Hotels, LLC its members, successors, and assigns for the breach of contractual and fiduciaries duties owed by Tri-State Hotels, its agents and assigns to Jai Sai, LLC;

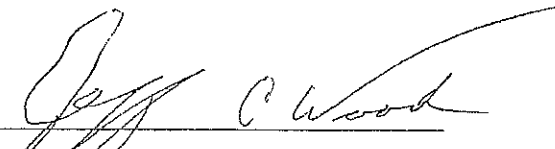
g. Grant Jai Sai, LLC an award of damages for aggravation, annoyance, and inconvenience;

FILED

h. Award Jai Sai, LLC its costs and reasonable attorney's fees incurred as a result of defending against the Plaintiffs' complaint and prosecuting this Counter-claim; and

NOV 12 PM 4:18

i. Any and all other relief this Court deems proper to grant. KANAWHA COUNTY CIRCUIT COURT



Jai Sai, LLC
By Counsel

JEFF C. WOODS (WVSB #4124)
The Law Office of Jeff C. Woods
Post Office Box 347
Scott Depot, West Virginia 25550
Counsel for Defendant Jai Sai LLC

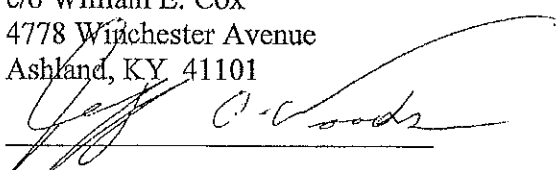
CERTIFICATE OF SERVICE

I, Jeff C. Woods, do hereby certify that I have this 12th day of November, 2013, served the foregoing *ANSWER AND COUNTER-CLAIM OF DEFENDANT JAI SAI TO PLAINTIFFS' COMPLAINT* upon counsel of record by causing true and exact copies thereof to be deposited in the United States Mail, postage prepaid, and addressed as follows:

J. Philip Fraley, Esquire
Orndorff, Hatfield, & Fraley
Village Professionals Building
99 Cracker Barrel Drive, Suite 100
Barboursville, WV 25504
Counsel for Plaintiffs

National Republic Bank of Chicago
c/o NRBC Holding Corporation
The Corporation Trust Company
1209 Orange Street
Wilmington, DE 19801

River Cities Glass & Construction, LLC
c/o William E. Cox
4778 Winchester Avenue
Ashland, KY 41101



Jeff C. Woods (WVSB #4124)
The Law Office of Jeff C. Woods
P.O. Box 347
Scott Depot, West Virginia 25560
(304) 760-0170 Fax: (304) 760-0172
Counsel for Jai Sai LLC



Next Steps

MBTI®Complete is the first step in a lifelong learning process. Individuals all over the world rely on the self-knowledge they gain by taking the MBTI assessment to help them make career and life decisions and interact more effectively with others.

Your User ID is: 188776104275. Be sure to write down and keep this number.

For more tools and guidance for your professional development, please connect with the person who referred you to MBTI®Complete.



Click on "ISFP Type Description" to download your printable PDF.

[ISFP Type Description](#)

[Log Off](#)



[Trademarks](#) | [Privacy Statement](#) | [Browser Requirements](#) | [FAQs](#)

© 2007 by Peter B. Myers and Katharine D. Myers. All rights reserved.