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6 *Attorneys for Defendants Fischer Family*
Holdings, LLC; Nesta Capital, Inc.; Kirk
7 *J. Fischer; Lorien L. Fischer; and Ellen*
Fischer
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9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 PETER S. DAVIS AS COURT
12 APPOINTED RECEIVER OF DENSCO
13 INVESTMENT CORPORATION,

14 Plaintiff,

15 vs.

16 FISCHER FAMILY HOLDINGS, LLC;
17 NESTA CAPITAL, INC.; KIRK J.
18 FISCHER; LORIEN L. FISCHER; ELLEN
19 FISCHER; JOHN DOES I-X; AND ABC
CORPORATIONS I-X,

20 Defendants.

No. CV2018-052830

ANSWER

(Assigned to Hon. Theodore
Campagnolo)

(Jury Trial Demanded)

21
22 Defendants, Fischer Family Holdings, LLC, Nesta Capital, Inc., Kirk J. Fischer,
23 Lorien L. Fischer, and Ellen Fischer (together “Defendants”), by and through
24 undersigned counsel, for their Answer to the Complaint filed on July 20, 2018 (the
25 “Complaint”), do hereby deny each and every allegation of the Complaint except as
26 specifically admitted or qualified herein.
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1 1. Defendants are without sufficient knowledge and information to either
2 admit or deny the allegations of paragraph 1 of the Complaint, and therefore deny the
3 same.

4 2. Defendants admit the allegations of paragraph 2 of the Complaint.

5 3. Defendants deny the allegations of paragraph 3 of the Complaint.

6 4. Answering the allegations of paragraph 4 of the Complaint, Defendants
7 admit that Fischer Family Holdings, LLC is an Arizona limited liability company.
8 Defendants are without sufficient knowledge and information to either admit or deny the
9 remaining allegations of paragraph 4 of the Complaint, and therefore deny the same.

10 5. Answering the allegations of paragraph 5 of the Complaint, Defendants
11 admit that Nesta Capital, Inc. is an Arizona corporation and that Kirk Fischer has always
12 been its president. Defendants are without sufficient knowledge and information to either
13 admit or deny the remaining allegations of paragraph 5 of the Complaint, and therefore
14 deny the same.

15 6. Defendants are without sufficient knowledge and information to either
16 admit or deny the allegations of paragraph 6 of the Complaint, and therefore deny the
17 same.

18 7. Defendants are without sufficient knowledge and information to either
19 admit or deny the allegations of paragraph 7 of the Complaint, and therefore deny the
20 same.

21 8. Defendants are without sufficient knowledge and information to either
22 admit or deny the allegations of paragraph 8 of the Complaint, and therefore deny the
23 same.

24 9. Defendants are without sufficient knowledge and information to either
25 admit or deny the allegations of paragraph 9 of the Complaint, and therefore deny the
26 same.

1 10. Defendants are without sufficient knowledge and information to either
2 admit or deny the allegations of paragraph 10 of the Complaint, and therefore deny the
3 same.

4 11. Defendants are without sufficient knowledge and information to either
5 admit or deny the allegations of paragraph 11 of the Complaint, and therefore deny the
6 same.

7 12. Defendants are without sufficient knowledge and information to either
8 admit or deny the allegations of paragraph 12 of the Complaint, and therefore deny the
9 same.

10 13. Defendants are without sufficient knowledge and information to either
11 admit or deny the allegations of paragraph 13 of the Complaint, and therefore deny the
12 same.

13 14. Defendants are without sufficient knowledge and information to either
14 admit or deny the allegations of paragraph 14 of the Complaint, and therefore deny the
15 same.

16 15. Defendants are without sufficient knowledge and information to either
17 admit or deny the allegations of paragraph 15 of the Complaint, and therefore deny the
18 same.

19 16. Defendants are without sufficient knowledge and information to either
20 admit or deny the allegations of paragraph 16 of the Complaint, and therefore deny the
21 same.

22 17. Defendants are without sufficient knowledge and information to either
23 admit or deny the allegations of paragraph 17 of the Complaint, and therefore deny the
24 same.

25 18. Defendants are without sufficient knowledge and information to either
26 admit or deny the allegations of paragraph 18 of the Complaint, and therefore deny the
27 same.

28 19. Defendants incorporate their responses to the preceding allegations.

1 3. Plaintiff's claims are barred, in whole or in part, by *in pari delicto*.

2 4. Plaintiff's claims are barred, in whole or in part, to the extent some Defendants
3 received transfers from DenSco in good faith and for a reasonably equivalent value.

4 5. Plaintiff's claims are barred, in whole or in part, to the extent some Defendants
5 were subsequent transferees.

6 6. Plaintiff's claims are barred, in whole or in part, by estoppel.

7 7. Plaintiff's claims are barred, in whole or in part, by waiver.

8 8. Plaintiff's claims are barred, in whole or in part, by the statute of limitations.

9 9. Plaintiff's claims are barred, in whole or in part, by laches.

10 10. Plaintiff's claims are barred, in whole or in part, by unclean hands.

11 11. Plaintiff's claims are barred, in whole or in part, by mistake.

12 12. Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to
13 mitigate his damages.

14 13. As discovery may prove applicable to the defense of this matter, Defendants
15 allege and incorporate each and every other defense set forth under Rule 8 of the Arizona
16 Rules of Civil Procedure. To the extent necessary, Defendants will seek leave of Court to
17 amend this Answer to state any additional defenses as they become known.

18 14. Defendants demand a jury trial on all issues so triable.

19 15. Defendants request an award of their costs and attorneys' fees incurred herein
20 pursuant to A.R.S. §§ 12-341, 12-341.01, 12-349, or any other applicable law, rule, or
21 contract provision.

22 WHEREFORE, having fully answered the Complaint, Defendants
23 respectfully demand judgment in their favor as follows:

24 A. That the Complaint be dismissed with prejudice, and that Plaintiff take nothing
25 thereby;

26 B. That Defendants be awarded their costs and attorneys' fees incurred herein
27 pursuant to A.R.S. §§ 12-341, 12-341.01, 12-349, or any other applicable law,
28 rule, or contract provision;

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- C. That Defendants be awarded post-judgment interest on the foregoing amounts at the maximum rate allowed by law; and
- D. That Defendants be awarded any such additional relief that the Court deems just and proper.

Dated this 28th day of August, 2018.

WARNER ANGLE HALLAM JACKSON
& FORMANEK PLC

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ORIGINAL e-filed and COPY mailed
and e-mailed this 28th day of August,
2018 to:

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