

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT

Xian Dou, a/k/a Nick Dou,)
Plaintiff,) Case No.: 2017-CP-26- _____

vs.

SUMMONS

Dan Liu, individually and as agent)
for Jiangsu Tianru Danfo Commerce)
and Industry Co., Ltd.; Nanjing)
Shuojun Trade and Industry Co.,)
Ltd.; and Nanjing Xinyuanyuan)
Commerce and Trade Co., Ltd,)
Defendants.)

TO THE RESPONDENTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Complaint.

s/Reese R. Boyd, III, Esq. _____
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Dated: June 22, 2017
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Xian Dou, a/k/a Nick Dou,)
)
Plaintiff,)

Case No.: 2017-CP-26- _____

v.)

COMPLAINT FOR:

Dan Liu, individually and as agent)
for Jiangsu Tianru Danfo Commerce)
and Industry Co., Ltd.; Nanjing)
Shuojun Trade and Industry Co.,)
Ltd.; and Nanjing Xinyuanyuan)
Commerce and Trade Co., Ltd.,)
Defendants.)

- (1) RESTRAINT/INJUNCTIVE RELIEF;
- (2) APPOINTMENT OF RECEIVER;
- (3) BREACH OF CONTRACT;
- (4) ACCOUNTING;
- (5) FRAUD;
- (6) CONVERSION / DAMAGES;
- (7) DECLARATORY JUDGMENT
(Jury Trial Demanded)

TO: The DEFENDANTS Above Named:

COMES NOW the Plaintiff, Xian Dou a/k/a Nick Dou (“Plaintiff” or “Dou”), by and through his undersigned counsel, who would respectfully show unto the Court as follows:

Parties and Jurisdiction:

1. Plaintiff **Xian Dou a/k/a Nick Dou** is a resident of Horry County, South Carolina.
2. Defendant **Dan Liu** is, upon information and belief, a foreign national, and a citizen of the People's Republic of China (PRC), who resides in Horry County, pursuant to a temporary work visa issued by the U.S. Government.
3. Defendant **Jiangsu Tianru Danfo Commerce and Industry Co., Ltd.**, is, upon information and belief, a corporation organized and existing under the laws of the

People's Republic of China (PRC), which has not been admitted to or authorized to conduct business in the State of South Carolina.

4. Defendant **Nanjing Shuojun Trade and Industry Co.**, is, upon information and belief, a corporation organized and existing under the laws of the People's Republic of China (PRC), which has not been admitted to or authorized to conduct business in the State of South Carolina.

5. Defendant **Nanjing Xinyuanyuan Commerce and Trade Co., Ltd.**, is, upon information and belief, a corporation organized and existing under the laws of the People's Republic of China (PRC), which has not been admitted to or authorized to conduct business in the State of South Carolina.

Factual Background:

6. Plaintiff Nick Dou and Defendant Dan Liu were introduced to one another at a meeting in Nanjing, China on or about 2011. Following that meeting, Defendant Liu later contacted Nick Dou and requested that Dou assist him with locating properties to invest in, preferably located in the United States.

7. The Parties subsequently engaged in business discussions of potential investment opportunities in South Carolina, and specifically, opportunities regarding potential golf course investments in the Myrtle Beach area, as Defendant Liu was particularly interested in such properties.

8. Beginning on or about May 2014, the Parties agreed to establish certain business ventures in South Carolina for the purpose of investing in the golf course and

real estate development businesses in Myrtle Beach, South Carolina, and surrounding areas.

9. On or about June 2014, and continuing through February 2016, the Parties established approximately sixteen (16) limited liability companies, primarily in South Carolina but also in Delaware, for purposes of conducting their golf course and real estate development businesses.

10. Each of the LLC entities so created by the Parties were organized with 10% of the ownership interests held by Plaintiff Nick Dou, and 90% of the ownership interests held by one or more of the Defendant Chinese companies: Jiangsu Tianru Danfo Commerce and Industry Co., Ltd.; Nanjing Shuojun Trade and Industry Co., Ltd.; and Nanjing Xinyuanyuan Commerce and Trade Co., Ltd., who were purportedly (according to Dan Liu) represented in the United States exclusively by Defendant Dan Liu.

11. While multiple limited liability companies and related corporate entities were formed to hold legal title to the assets of the golf and real estate development businesses, the Parties primarily conducted their business under the name, "Founders Group International, LLC". (Collectively, Founders Group International, LLC ("FGI") and the approximately fifteen (15) additional related corporate LLC entities established by the Parties herein, are referred to hereinafter as the "FGI Entities.")

12. Plaintiff Nick Dou was named as President of Founders Group International, LLC, on or about October, 2014, and continued to serve in that capacity until he was terminated by the Defendant, Dan Liu, on June 19, 2017.

13. Also on or about July 19, 2017, Defendant Dan Liu, purporting to act as authorized agent for Defendants Jiangsu Tianru Danfo Commerce and Industry Co., Ltd.; Nanjing Shuojun Trade and Industry Co., Ltd.; and Nanjing Xinyuanyuan Commerce and Trade Co., Ltd. (collectively, the "Chinese Corporate Defendants"), voted on behalf of the 90% equity interests held in the various corporate entities, to remove Nick Dou from his role as a Manager of substantially all of the FGI Entities in question.

14. Plaintiff Nick Dou is informed and believes that his termination and removal from a position of responsibility within the FGI Entities is in retaliation and is a response to questions that he has raised regarding the operation of the FGI Entities, and in particular, his questioning related to various wrongful acts and financial irregularities committed by the Defendant Dan Liu with respect to the operation and finances of the FGI Entities.

15. On or about June 16, 2017, Defendant Dan Liu summarily terminated two senior executives of FGI, General Manager Rick Taylor and Chief Financial Officer/Vice President Tommy Smothers. Defendant Liu did not discuss the terminations with Nick Dou, and Dou only learned of the terminations from other employees of the company (See, e.g.: <http://www.myrtlebeachonline.com/sports/golf/article156879699.html>).

16. Plaintiff Nick Dou is gravely concerned regarding the decisions being made by Defendant Dan Liu and the impact those decisions and actions have had, and may continue to have, on Plaintiff's interest in the FGI Entities, and on the company and

the employees of FGI and the affiliated FGI Entities, which Plaintiff has devoted three years of his life into building into a successful business venture.

17. Upon information and belief, Dan Liu has transferred substantial assets of FGI and the FGI Entities to an entity known as D&C International Holdings, LLC.

18. Upon information and belief, D&C International Holdings, LLC, is a limited liability company owned exclusively by Dan Liu and his wife, Xuan Zhuang.

19. Upon information and belief, by virtue of funds transferred to it by FGI or one or more of the affiliated FGI Entities, D&C International Holdings, LLC, through a series of real estate transactions, is presently the owner of ten (10) or more residential and commercial real estate parcels in Horry County, South Carolina.

20. Defendant Dan Liu has further caused FGI to lease office space from D&C International Holdings, LLC, for space to maintain a customer call center, even though FGI has ample office space that is empty, vacant, and not being utilized for any purpose, within its existing real estate holdings.

21. Dan Liu has caused FGI to employ multiple members of his immediate and extended family, even though Plaintiff is unaware of any substantial benefit that these employees confer upon FGI or any of the FGI Entities.

22. Dan Liu has caused FGI to purchase, and pay for the repair, maintenance and upkeep of, a luxury fishing boat, which though paid for using the corporate funds of FGI or the FGI Entities, is titled in the name of "Offshore Captain LLC", an entity wholly owned and controlled by the Defendant, Dan Liu.

23. The fishing boat referenced in Paragraph (22) above is a 2017 Grady White 336 Canyon center console fishing yacht, equipped with three Yamaha outboard motors, purchased by FGI on or about November 10, 2016, with an invoiced purchase price in the amount of \$389,651.00.

24. On or about March 24, 2017, Dan Liu caused one of the FGI Entities, Founders National Golf LLC, to transfer \$550,000.00 to an attorney in New York City, the Law Firm of Hugh H. Mo, P.C., which attorney was retained, upon information and belief, to represent Plaintiff Dan Liu on personal legal matters related to an ongoing criminal investigation in the People's Republic of China, involving alleged investment fraud and the three Chinese Corporate Defendants.

25. Plaintiff Nick Dou is informed and believes that recent events at FGI and the FGI Entities constitute a "purge" of anyone involved in the companies that would dare question the actions of Defendant Dan Liu.

26. Plaintiff Nick Dou is informed and believes that there is now a grave risk at FGI and the affiliated FGI Entities that Dan Liu will not only continue, but accelerate his pattern of mis-appropriating and converting corporate assets to his own personal use and benefit.

27. Upon information and belief, on or about March 27, 2017, the Nanjing District Attorney's office for the Jiangsu Province of the PRC issued public statements that it seeks the arrest of Defendant Dan Liu for suspicion of investment fraud and "absorbing public money."

(See, e.g.: http://www.jsjc.gov.cn/fabuting/201703/t20170327_138282.shtml).

28. Plaintiff is informed and believes that, to continue to allow Defendant Dan Liu to exercise unfettered access and control over the assets of FGI and the affiliated FGI Entities would represent a grave and substantial danger of real, eminent, and irreparable harm to Plaintiff Nick Dou, to the other investors in FGI and its affiliated entities, and to the many employees, vendors, customers, and homeowners who rely upon the ongoing operation of FGI and its affiliated entities.

29. Plaintiff Nick Dou therefore seeks an order from this Court, enjoining the Defendant Dan Liu from any further action that would dispose of, divert, harm, convert, encumber, or in any way deplete or diminish the assets of FGI or any of the affiliated FGI Entities, for his own personal use, benefit or private gain.

30. Plaintiff Nick Dou further seeks an order from this Court appointing a receiver over the operations and assets of FGI and the affiliated FGI Entities, for the protection of Plaintiff Dan Liu, the protection of other investors in the FGI Entities, and the protection of FGI and the affiliated FGI Entities themselves, and for the protection of the approximately 1,000 persons employed by FGI and the FGI Entities.

FOR A FIRST CAUSE OF ACTION
(Injunction / Temporary Restraint)

31. Plaintiff realleges and reiterates each and every allegation contained in Paragraphs 1 through 30, as if the same were fully set forth here verbatim.

32. For the reasons set forth herein, and as also set forth in Plaintiff's separate Motion for a Temporary Restraining Order, the Plaintiff believes that he is entitled to certain injunctive relief from this Court, to include:

(a) That this Court issue an Order directing that Defendant Dan Liu shall not divert, remove, alienate, convert, encumber or otherwise manipulate any corporate assets of FGI or any of the other FGI Entities for his personal use or benefit, until such time as the claims raised in this action have either been resolved by this Court, settled and/or withdrawn by the Parties to this action:

(b) That this Court shall further provide in its Temporary Restraining Order such additional terms and/or conditions as may be discussed at the hearing of this matter, as necessary to protect the interests of the Plaintiff, Nick Dou, and other interested parties in FGI and the FGI Entities, during the pendency of these proceedings.

33. Plaintiff requests that the requested Order for Temporary Injunction and/or Temporary Restraining Order be issued immediately, and remain in effect until the issues raised in this litigation have been and are fully resolved.

FOR A SECOND CAUSE OF ACTION
(Appointment of Receiver)

34. Petitioner realleges and reiterates each and every allegation contained in Paragraphs 1 through 33, as if the same were fully set forth here.

35. Plaintiff Nick Dou is informed and believes that the assets and property of FGI and the affiliated FGI Entities are at grave risk and danger of loss, and of material injury and impairment, at the hands of Defendant Dan Liu, if such property and assets are left under the exclusive control of Defendant Dan Liu.

36. For the reasons as set forth herein above in this Pleading, and in the accompanying motions, Plaintiff believes that this Court should immediately appoint a receiver over the property, the assets, and operation of FGI and the FGI Entities, for the protection of Plaintiff Nick Dou's interests, for the protection of FGI and the FGI Entities, and for the protection of all interested parties in FGI and the FGI Entities.

37. Plaintiff Nick Dou respectfully requests that this Court exercise its authority pursuant to S.C. Code Section 15-65-10, *et seq.*, and immediately appoint a receiver over the property, assets, and operation of FGI and the affiliated FGI Entities.

FOR A THIRD CAUSE OF ACTION
(Breach of Contract)

38. Plaintiff realleges and reiterates each and every allegation contained in Paragraphs 1 through 37, herein above, as if the same were fully set forth verbatim here.

39. Plaintiff Nick Dou and the Defendant Dan Liu, acting with purported authority on behalf of the Chinese Corporate Defendants, voluntarily entered into a series of limited liability company operating agreements with respect to FGI and the FGI Entities, which Operating Agreements generally establish a valid and binding contractual relationship between the Plaintiff Nick Dou and the various Defendants.

40. While not absolutely identical, the Operating Agreements are substantially similar in form and content, and generally provide the following particulars:

- a. At Section 6.03(i) the agreements generally provide that "possessing, or assigning rights in specific Company property, for other than a Company purpose;" requires the consent of **all** Members. (Emphasis added.) Nick Dou never consented to the

actions of Defendant Dan Liu as outlined herein above, and by these and other actions Defendant Dan Liu has violated Section 6.03(i) of the relevant Operating Agreements on numerous and repeated occasion;

- b. Section 6.03(k) of the Operating Agreements require that spending or committing the company to spend in excess of \$10,000.00 requires the consent of all Members. Nick Dou never consented to the extraordinary expenditures of Dan Liu outlined in this Pleading, and these unauthorized expenditures by the Defendant Dan Liu constitute numerous and repeated violations of Section 6.03(k) of the relevant Operating Agreements; and
- c. Section 6.05 of the relevant operating agreements require that the companies' managers act in a manner that they "believe in good faith to be in the best interest of the Company... ." Mr. Liu's behavior as a manager of FGI and the affiliated FGI Entities has repeatedly failed to meet this standard, and the actions outlined herein above, among others by Defendant Dan Liu, constitute numerous, ongoing, and repeated violations of Section 6.05 of the relevant Operating Agreements.

41. As a direct and proximate result of Defendant Dan Liu's unjustified breach of the Operating Agreements, the Plaintiff Nick Dou has been injured and has suffered substantial damages.

42. As a result of the Defendants' breach of contract and the Plaintiff's resulting injury, the Plaintiff is entitled to judgment from this Court for damages under this claim for Breach of Contract as further set forth herein.

FOR A FOURTH CAUSE OF ACTION
(Accounting)

43. Plaintiff Nick Dou realleges and reiterates each and every allegation contained in Paragraphs 1 through 42, herein above, as if the same were fully set forth here verbatim.

44. For the reasons set forth herein, Plaintiff is informed and believes that he is entitled to a full and complete accounting of all actions undertaken by the Defendant Dan Liu with respect to FGI and the affiliated FGI Entities, since the inception of FGI and the FGI Entities.

45. Plaintiff respectfully requests that this Court issue an Order requiring the Defendant Dan Liu to provide a full, complete and verifiable accounting of all business activities in which he or any of his family members have been involved, or for which any friend or associates have been involved, for which any funds or assets of FGI or any of the FGI Entities may have been utilized or diverted to anything other than a legitimate corporate purpose of FGI or the FGI Entities.

46. Plaintiff requests that this Court direct the Defendant Dan Liu to provide a full and complete accounting of any and all corporate assets of FGI or the FGI Entities, which have been managed or used by him or any member of his family, for any purposes at all, whether proper or improper, beginning January 1, 2014, and continuing to the present.

47. To the extent it is determined that Defendant Dan Liu, either singly or acting in conspiracy, misappropriated the assets of FGI or any affiliated FGI Entity, Defendants should be required to return such assets, or their value, to the companies and/or to the court-appointed Receiver, as this Court may deem appropriate.

FOR A FIFTH CAUSE OF ACTION
(Fraud)

48. Plaintiff realleges and reiterates each and every allegation contained in Paragraphs 1 through 47, herein above, as if the same were fully set forth here verbatim.

49. In inducing the Plaintiff, Nick Dou, to invest his personal funds, and the personal funds of his family members, in FGI and the FGI Entities, the Defendant Dan Liu purported to have authority to act on behalf of the Corporate Chinese Defendants, which Plaintiff now questions. Further, Defendant Dan Liu further made numerous statements to the Plaintiff that were false, which Defendant Dan Liu knew to be false, which statements were material to the Plaintiff's decision to invest in FGI and the FGI Entities, and which Plaintiff Nick Dou relied upon in making his decision to invest in the companies.

50. The Defendant Dan Liu made such false statements to the Plaintiff with the knowledge of their falsity, and with the intent that Nick Dou rely on such statements in evaluating the business and investment proposal to establish FGI and the FGI Entities.

51. The Defendant Dan Liu further failed to disclose various information to Plaintiff Nick Dou, particularly in regard to the manner in which the Chinese Corporate Defendants conducted business and/or solicited investments in the People's Republic of China, which information Defendant Dan Liu knowingly withheld from the Plaintiff, and which information the Defendant Dan Liu knew, or should have known, would

have been material to the Plaintiff Nick Dou's decision to enter into the FGI venture, and to invest money into FGI and the FGI Entities.

52. The Defendant Dan Liu knowingly and intentionally failed to disclose material information to the Plaintiff, which had the Plaintiff known, he would not have invested in FGI or any of the FGI Entities.

53. The Defendant Dan Liu knowingly and intentionally failed to disclose material information to the Plaintiff with the intent that Nick Dou not have access or knowledge of such material information during his evaluation of the business and investment proposal regarding FGI and the FGI Entities

54. As a result of such actions and/or failures to act on the part of the Defendant Dan Liu, Defendant has perpetrated a fraud on the Plaintiff.

55. As a direct and proximate result of Defendant Dan Liu's fraud, the Plaintiff has been injured and is entitled to judgment from this Court for damages as set forth herein, and as shall be proven at trial.

FOR A SIXTH CAUSE OF ACTION
(Conversion)

56. Plaintiff realleges and reiterates each and every allegation contained in Paragraphs 1 through 55, herein above, as if the same were fully set forth here verbatim.

57. Upon information and belief, the Defendant Dan Liu, either acting individually, or acting in concert and conspiracy with the other individuals, converted and/or misappropriated substantial amounts of cash directly from the bank accounts of FGI and affiliated FGI Entities, and has written checks to family members and third

parties without legitimate corporate purpose, and used the funds of FGI and the FGI Entities for his personal benefit, and for the personal benefits of his family members and personal friends, and otherwise converted funds and assets in the accounts of FGI and the FGI Entities to his own personal use and benefit.

58. As a result of the Defendant Dan Liu's multiple acts of conversion of the assets of FGI and the FGI Entities, the Plaintiff, Nick Dou, and other interested parties in FGI and the FGI Entities, have been harmed, and are entitled to judgment from this Court for their damages in connection with such acts of conversion.

FOR A SEVENTH CAUSE OF ACTION
(Declaratory Judgment)

59. Plaintiff realleges and reiterates each and every allegation contained in Paragraphs 1 through 58, herein above, as if the same were fully set forth here verbatim.

60. Based upon the facts as set forth herein, an actual dispute exists or appears to exist between the Plaintiff and the various Defendants herein above named, inasmuch as the Defendant Dan Liu has acted in various regards, and would endeavor to continue to act, on behalf of the Chinese Corporate Defendants, as their legal power of attorney, and as the exclusive agent for the Chinese Corporate Defendants in the United States and with respect to these matters.

61. Plaintiff Nick Dou disputes the validity of Dan Liu's present purported agency relationship on behalf of the Chinese Corporate Defendants, and whether Dan Liu is properly empowered and may legitimately exercise authority of FGI and the FGI

Entities in these matters, when acting in reliance upon his purported power of attorney and his purported role as exclusive agent for the three Chinese Corporate Defendants.

62. In light of the alleged ongoing criminal investigation into these matters in the People's Republic of China, referenced herein above, Nick Dou is informed and believes that it is no longer proper or legal for Defendant Dan Liu to continue to purportedly act in these matters on behalf of the Chinese Corporate Defendants.

63. Plaintiff Nick Dou seeks a declaratory judgment from this Court setting forth whether Dan Liu has the requisite legal authority, and further, whether it is legal and proper for Defendant Dan Liu to continue to exercise control over FGI and the FGI Entities, when such control is premised upon Dan Liu's purported authority to act on behalf of the three Chinese Corporate Defendants.

WHEREFORE, having set forth his claims and allegations in this matter, Plaintiff **Nick Dou** prays that this Court consider these matters and the issues raised herein, and render its Order:

- A. Granting the Plaintiff all relief sought in this Complaint, including;
- B. Restraining the Defendant Dan Liu from further converting or depleting the Assets of FGI and the FGI Entities; and
- C. Appointing a Receiver over FGI and the FGI Entities; and
- D. Requiring the Defendant Dan Liu to provide the Court with a full and complete, accurate and verifiable accounting of all assets of FGI and the FGI Entities that have been managed, used, allocated, loaned, or borrowed

by the Defendant Dan Liu or his family members, in any manner, since January 1, 2014; and

- E. Requiring Defendant Dan Liu to return, as appropriate, any misappropriated assets, or their value, to FGI or the appropriate FGI Entity, or to the receiver; and
- F. Directing that Defendant Dan Liu, as the Court may find appropriate, be held responsible for Plaintiff's costs and expenses related to this action; and
- G. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

/Reese R. Boyd, III

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Attorney for the Plaintiff,

Xian Dou a/k/a Nick Dou

Dated: June 22, 2017
Myrtle Beach, South Carolina