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as Trustees of the Noorda Family Trust

IN THE FOURTH JUDICIAL DISTRICT COURT

UTAH COUNTY, STATE OF UTAH

THE CANOPY GROUP, INC., a Utah corporation, and RAYMOND J. NOORDA and LEWENA NOORDA, as Trustees of the NOORDA FAMILY TRUST, **Plaintiffs,** **vs.** **RALPH J. YARRO III, an individual, DARCY G. MOTT, an individual, and BRENT D. CHRISTENSEN, an individual,** **Defendants.**	**COMPLAINT** **Civil No.:** 050400245 **Honorable** Schofield **JURY TRIAL DEMANDED**

Plaintiffs, The Canopy Group, Inc., and Raymond J. Noorda and Lewena Noorda, in their capacity as trustees of The Noorda Family Trust, by and through their undersigned counsel, hereby complain of Defendants, Ralph J. Yarro III, Darcy G. Mott and Brent D. Christensen, as follows:

INTRODUCTION

By this action, The Canopy Group, Inc., ("Canopy") seeks damages arising from a series of self-dealing and wasteful transactions pursuant to which Defendants, in breach of their fiduciary duty of loyalty to Canopy and its shareholders, paid themselves and other employees excessive and unfair equity and incentive compensation and ceded undue control of Canopy to its employees. Although the precise amount of damages suffered by virtue of Defendants' conduct is not yet known, Defendants' improper gains alone exceeded at least $20 million. Canopy also seeks the return, termination or rescission of unexercised stock options purportedly acquired by Defendants, including an option held by defendant Ralph J. Yarro III, the company's former President and Chief Executive Officer, pursuant to which he may allegedly acquire forty percent of the company's non-voting shares.

In addition, Canopy and Mr. and Mrs. Raymond J. Noorda, in their capacity as trustees of The Noorda Family Trust, the company's majority shareholder, seek Yarro's removal as a Canopy director pursuant to Utah Code Ann. § 16-10a-809 for fraudulent and dishonest conduct and gross abuse of authority and discretion.

THE PARTIES

1. Canopy (formerly known as NFT Ventures, Inc.) is a closely-held corporation organized under the laws of the State of Utah and has its principal place of business in Lindon, Utah.

2. Plaintiffs Raymond J. Noorda and Lewena Noorda (collectively, the "Noordas"), in their capacity as trustees of The Noorda Family Trust (the "Trust"), are residents of Utah County, Utah. The Noordas, who are husband and wife, settled the Trust pursuant to a

Declaration of Trust dated October 8, 1980, as subsequently amended, and hold a majority of Canopy's shares. The Noordas serve as two of the three members of Canopy's Board of Directors.

3. The Trust's principal beneficiaries are Angel Partners, Inc., and The Worth of a Soul, both of which are Utah non-profit corporations. Angel Partners, Inc., is a supporting organization for the Church of Jesus Christ of Latter-day Saints. Since December 2000, the Trust has specified that upon the death of both of the Noordas, all of the Trust's stock in Canopy shall be distributed to Angel Partners, Inc. The Worth of a Soul, which is to receive the vast remainder of the Trust's assets, is a private non-operating foundation whose purpose is to provide grants to charitable organizations.

4. Defendant Ralph J. Yarro III ("Yarro") is an individual residing in Utah County, Utah. Yarro is the third member of Canopy's Board of Directors. Yarro served as Canopy's President and Chief Executive Officer from 1998 until his termination for cause on December 17, 2004.

5. Defendant Darcy G. Mott ("Mott") is an individual residing in Utah County, Utah. Hired by Canopy on May 3, 1999, Mott served as Canopy's Vice President-Finance, Chief Financial Officer and Treasurer until his termination for cause on December 17, 2004.

6. Defendant Brent D. Christensen ("Christensen") is an individual residing in Salt Lake County, Utah. Hired by Canopy on January 16, 2001, Christensen served most recently as Canopy's Vice President-Legal, Corporate Counsel and Assistant Secretary until his

termination for cause on December 17, 2004. Prior to his employment with Canopy, Christensen served as Canopy's outside legal counsel.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this matter pursuant to Utah Code Ann. § 78-3-4(1).

8. Venue of this action properly lies in this Court pursuant to Utah Code Ann. §§ 78-13-4, -7.

GENERAL ALLEGATIONS

9. On behalf of the Trust, Mr. Noorda founded Canopy in 1992 to foster and promote a strong local economy, support emerging technology companies located predominantly in Utah, and establish a source of funding for the Noordas' charitable endeavors.

10. Over time, the Trust has invested approximately $160 million in Canopy, and with that investment, Canopy has acquired interests in several emerging technology companies (the "Portfolio Companies").

11. Canopy's profitability since 1999 is a result of Canopy's liquidation of investments in certain Portfolio Companies (discussed more fully below) and a settled antitrust lawsuit brought by the Portfolio Company Caldera, Inc. ("Caldera") against Microsoft Corporation. Canopy's investments in these companies and its prosecution of the Caldera lawsuit were driven by the investment decisions of Mr. Noorda, and absent these investment decisions, Canopy would have incurred net losses in each year as far back as 1999. In addition, a significant portion of Canopy's current value resides in its investment in Helius, Inc., another investment decision behind which Mr. Noorda was the driving force.

12. Mr. Noorda, formerly the president of Novell, Inc., has long been regarded as one of Utah's preeminent businessmen. Mr. Noorda was born on June 19, 1924, and is currently 80 years old. As a consequence of age and associated health issues, Mr. Noorda has not participated in the day-to-day management of Canopy's affairs since at least 1998.

13. Mrs. Noorda was born on December 26, 1923 and is currently 81 years old. Although Mrs. Noorda has been a member of Canopy's Board of Directors since Canopy's formation, prior to 1998, Mrs. Noorda relied in great part on Mr. Noorda's business experience and judgment in most matters relating to Canopy's management.

14. Canopy hired Yarro on or about April 14, 1995. After being trained by Mr. Noorda, Yarro became Canopy's President, Chief Executive Officer, and a member of its Board of Directors in 1998.

15. As the Noordas aged, Yarro assumed primary responsibility for managing Canopy's affairs, both in his capacity as an officer and a director, and the Noordas increasingly relied on and deferred to Yarro's counsel and advice in all matters relating to Canopy.

16. By 1998, if not earlier, Yarro dominated and controlled the Noordas in their capacity as officers and directors of Canopy, through the force of his own will and the close personal relationships he had established with them. The Noordas considered Yarro to be a close, personal friend, believed his business judgment to be reliable and trustworthy, and relied on his counsel and advice – often presented to them at their own home – with respect to the management of Canopy's affairs.

17. Based on their trust and confidence in Yarro and their belief that Yarro would act in Canopy's best interests, the Noorda's delegated to Yarro full responsibility for the management of Canopy's affairs.

18. As set forth more fully below, Yarro, aided and abetted by Christensen and Mott, took advantage of the Noordas' trust and confidence by implementing excessive and unfair incentive and equity compensation packages for themselves and Canopy's other employees and by ceding undue control of Canopy to its employees. Through these actions Defendants breached their duties to Canopy and its shareholders.

A. The Incentive Compensation Plan.

19. On September 30, 1998, without Board review or approval, Yarro implemented an Incentive Bonus Plan Agreement for Canopy "to reward certain key employees of [Canopy]," including Yarro (the "Incentive Plan"). On information and belief, Christensen drafted or participated in drafting the Incentive Plan, and Yarro executed it in his individual capacity and purportedly on behalf of Canopy.

20. The Incentive Plan contains the following significant provisions:

(a) "The Plan shall be administered by the Board." (Incentive Plan, ¶ 3.)

(b) Bonuses for eligible employees are determined "at such time as any of the Included Companies [set forth on Exhibit B, which is subject to amendment by the Board at any time] is sold or the investment of [Canopy] in any of the Included Companies is exchanged for cash and/or readily tradable marketable securities (the "Triggering Event")." (*Id.* ¶ 5.)

(c) "The total amount to be paid as a bonus . . . upon each Triggering Event shall be five percent (5%) of the total amount of sales proceeds on the sale or exchange of the Included Company, less the total amount of investment plus debt that NFT and/or any affiliate of NFT has in the Included Company." (*Id.*)

(d) The bonus amount is to be allocated among employees "based on the Board's determination of the Employee's involvement, effort and contribution to the success of the Included Company for which the sale or exchange has occurred," with an initial recommendation to be made by Canopy's President, subject to review, approval and modification by Canopy's Board of Directors. (*Id.* ¶ 6.)

B. Early Incentive Plan Payments.

21. On Yarro's advice, Canopy hired Mott as its Vice President-Finance, Chief Financial Officer and Treasurer on May 3, 1999.

22. In August 1999, without Board review or approval, Yarro and Mott caused Canopy to distribute 5% of the net proceeds of a Triggering Event relating to the Portfolio Company Vinca, Inc. ("Vinca") to five Canopy employees, including Yarro and Mott. The bonus pool from the Vinca sale totaled approximately $2.1 million. Yarro alone received approximately $1.47 million of the bonus amount, and Mott, whom Canopy had hired only a few months earlier, received approximately $42,000.00.

23. In 1999 or early 2000, Caldera, then a Portfolio Company, settled a significant antitrust lawsuit it had filed against Microsoft Corporation.

24. On or about February 25, 2000, without Board review or approval, Yarro and Mott caused Canopy to distribute a portion of the Caldera settlement proceeds to six Canopy

employees, including Yarro and Mott, even though the Caldera settlement was not a Triggering Event as that term is defined in the Incentive Plan. The bonus pool from the Caldera settlement totaled approximately $7.6 million, and Yarro caused himself to be paid approximately $6.75 million of that amount. Mott received approximately $227,000.00.

25. On or about February 25, 2000, without Board review or approval, Yarro and Mott caused Canopy to distribute 10% of the proceeds of a Triggering Event relating to the Portfolio Company KeyLabs, even though the Incentive Plan by its own terms provides for a bonus pool of 5%. The bonus pool from the KeyLabs transaction totaled approximately $3.4 million. Yarro alone received approximately $2.9 million and Mott received $205,320.

C. The Recapitalization & Equity Compensation Plans.

26. Commencing in 2000, Defendants advised the Noordas to adopt an equity compensation plan that would provide employees an opportunity to acquire an equity interest in Canopy as a purported incentive to remain in Canopy's service. To do so, Defendants advised, required a significant modification of Canopy's capitalization structure.

27. Based on Defendants' advice, on November 3, 2000, the Noordas voted the Trust's shares in favor of Canopy's adoption of Amended and Restated Articles of Incorporation authorizing Canopy to issue up to 25,000,000 shares of common stock, with 25,000 shares of such stock designated as Class A Common Stock and 24,975,000 shares designated as Class B Common Stock (the "Amended Articles"). In connection with Defendants' recapitalization scheme, the Trust's 10,000,000 shares of stock – Canopy's only outstanding shares at the time – were converted into 10,000 shares of Class A Common Stock and 9,990,000 Shares of Class B Common Stock.

28. On information and belief, Christensen, in his capacity as legal counsel to Canopy, prepared documentation necessary to effectuate the recapitalization, including all necessary consent resolutions, the Articles of Restatement of the Articles of Incorporation of The Canopy Group, Inc., and the Amended Articles. At the time, the Noordas' trust and confidence in Defendants led them to believe the recapitalization plan was in Canopy's and the Trust's best interests.

29. Pursuant to Canopy's Amended Articles:

(a) Class A shares have one vote on each matter to be voted on by Canopy's shareholders. (Amended Articles at 1.)

(b) Upon liquidation, dissolution or winding up of Canopy, whether voluntary or involuntary, "the holders of Class A Common Stock shall be entitled to equal distributions of the net assets of the Corporation . . . ." (*Id.* at 2.)

(c) The relative rights, privileges and limitations of the Class A shares and Class B shares "shall be in all respects identical, share for share, except that the voting power for the election of directors and other matters coming to a vote before the shareholders of the corporation, shall be vested exclusively" in the holders of the Class A shares until the earlier of October 31, 2020 or the occurrence of a "Liquidation Event," defined to include "any liquidation, dissolution or winding up of the Corporation." (*Id.*)

30. On November 7, 2000, immediately after the recapitalization and based on Defendants' advice, Canopy adopted an equity compensation plan entitled The Canopy Group, Inc. 2000 Stock Option Plan (the "Equity Plan"). Under the Equity Plan, employees became

eligible to receive "twenty year non-qualified stock options to purchases shares of [Canopy's] Class A Voting Common Stock and Class B Nonvoting Common Stock."

31. Christensen, in his capacity as legal counsel to Canopy, prepared and filed documentation relating to the Equity Plan and, along with Yarro and Mott, advised the Noordas that its adoption was in Canopy's best interests. At the time, the Noordas' trust and confidence in Defendants, particularly Yarro, led them to believe the Equity Plan was in Canopy's best interests.

32. The Equity Plan provides for excessive compensation and, on its face, is unfair to Canopy and the Trust. The most egregious aspects of the plan and the options issued under it are as follows:

(a) Despite the plan's purported purpose to provide employees with an incentive to remain in service, it allows for options that vest immediately. (Equity Plan, Art. 2 (I)(B).)

(b) It provides for the issuance of options that do not terminate until October 31, 2020. (*Id.*)

(c) It provides for issuance of options with discounted exercise prices, i.e., exercise prices "less than the Fair Market Value per share on the Option grant date . . . ." (*Id.* at Art. 2(I)(a)(i).)

(d) It provides for issuance of Class A options with a tax protection payment clause that requires Canopy to pay a cash bonus to the Optionee (as that term is defined in the Equity Plan) "in approximately the amount of the state and federal income taxes payable with respect to the ordinary taxable compensation income deemed received

as a result of the exercise of such option plus the receipt of the tax protection payment itself." (*Id.* at Art. 2(II)(A).)

(e) Terminated employees are permitted an excessive period of time to exercise their options. For example, if an Optionee ceases to remain in "Service" (broadly defined to include service to Canopy or any subsidiary "in the capacity of an Employee, a non-employee member of the board of directors or a consultant") for any reason other than cause, disability or death, the Optionee shall have "a period beginning on the date of cessation of Service and ending on the later of (1) the date that is three (3) months following the date of such cessation of Service, or (2) the last day of the next February following the date of such cessation of Service, during which [he or she] may exercise each outstanding vested Option held by such Optionee." (*Id.* at Art. 2(I)(C)(i).) Even if an Optionee is terminated for cause, such Optionee has one month following the date of cessation of Service services to exercise each outstanding vested option held by such Optionee. (*Id.*)

(f) Until Class B shares are registered and a public market exists for them, "each Class B option shall include the right to elect a 'Cashless Exercise' with respect to Options whose termination date is accelerated by reason of the Optionee's cessation of Service for any reason other than for Cause." A Cashless Exercise may only be made in the month of February of each year. An Optionee who elects a Cashless Exercise pays the options exercise price and all applicable withholding taxes by receiving a reduced number of shares. (*Id.* at Art. 2(I)(H).)

(g) Each option includes a limited resale right under which an Optionee may elect to sell to Canopy any shares of common stock purchased by the exercise of the option or any previously exercised option. This resale right can be exercised at any time during the month of February through the year 2020, but terminates upon the Optionee's termination for cause, and terminates the February following termination for any reason other than cause. The resale right for each calendar year may be exercised "with respect to a number of shares equal to 5% of the sum of (1) the total number of shares of Common Stock that the Optionee has previously purchased by the exercise of Options; and (2) the total number of shares of Common Stock then subject to outstanding options held by the Optionee; provided, however, that the Optionee may also exercise the Resale Right with respect to any shares of Common Stock for which the Optionee had, but did not exercise, a Resale Right in a prior calendar year." (*Id.* at Art. 2(II)(B).)

33. On November 7, 2000, the same day Canopy adopted the Equity Plan, Yarro executed a Stock Option Agreement, personally and purportedly on behalf of Canopy, granting himself a fully-vested twenty-year option to purchase 10,000 Class A voting shares at $5.00 per share. Yarro also executed a second Stock Option Agreement, personally and purportedly on behalf of Canopy, granting himself a fully-vested twenty-year option to purchase 9,990,000 Class B shares at $5.00 per share. At the time, the $5.00 strike price of Yarro's options was $14.27 below Canopy's then net value per share of $19.27. In other words, Yarro caused himself to receive options allowing him to immediately acquire 40% of Canopy's

authorized Class A and B shares at a fraction of their value. At the time, the transaction was worth approximately $14.27 million to Yarro.

34. Yarro also executed stock option agreements purportedly granting Mott fully vested options to acquire 500 Class A shares and 499,500 Class B shares at $7.00 per share, worth, at the time, approximately $6.14 million to Mott.

35. In addition to wrongfully enriching himself and Mott, Yarro also executed stock option agreements purporting to grant options on Class A and B shares to various other Canopy employees at strike prices ranging from $5.00 to $19.00 per share, each of which were excessive and constituted waste of corporate assets. Moreover, the grant to Yarro, Mott and Canopy's other employees of options allowing them to acquire in excess of 10,000 Class A voting shares, as detailed below, enabled Yarro, Mott and Canopy's employees to acquire a majority of Canopy's Class A voting shares:

Employee	Number & Class	Exercise Price	Vesting
Ralph Yarro	10,000 Class A	$5.00	100%
	9,990,000 Class B	$5.00	100%
Darcy Mott	500 Class A	$7.00	100%
	49,500 Class B	$7.00	100%
Barbara Jackson	25 Class A	$5.00	100%
	24,975 Class B	$5.00	100%
Joyce Wiley	300 Class A	$5.00	100%
	299,700 Class B	$5.00	100%
Rob Penrose	150 Class A	$5.00	100%
	149,850 Class B	$5.00	100%
Boyd Worthington	120 Class A	$19.00	25% starting 2/8/01
	119,880 Class B	$19.00	25% starting 2/8/01

Jan Newman	150 Class A	$19.00	25% starting 2/8/01
	149,850 Class B	$19.00	25% starting 2/8/01
Dan Baker	110 Class A	$19.00	25% starting 2/8/01
	109,890 Class B	$19.00	25% starting 2/8/01
Frankie Gibson	35 Class A	$19.00	25% starting 2/8/01
	34,965 Class B	$19.00	25% starting 2/8/01

D. The Shareholder Agreement.

36. On or about November 8, 2000, on the advice of Defendants, the Trust, Yarro, and Canopy entered into a Shareholder Agreement (the "Shareholder Agreement") pursuant to which the parties, including all future Canopy shareholders, purportedly agreed as follows:

(a) That for so long as they are willing and able to serve as directors, the Noordas and Yarro shall be elected directors of Canopy. (Shareholder Agreement § 1(a).)

(b) That consent of all of the shareholders holding Class A stock is required for the following matters:

(i) A "Liquidation Event," as defined in the Amended Articles.

(ii) Amendment, modification or restatement of the Amended Articles, or entry into any voting or management agreement inconsistent with the Shareholder Agreement.

(iii) Entry into any transaction with any shareholder or any person or entity that is an affiliate of or has a significant relationship with a shareholder, other than on an arms' length basis.

(iv) An increase or decrease in the size of the Board of Directors or any other action that "adversely affects the rights of any of the Shareholders set forth in this Agreement." (*Id.* at § 2(b).)

(c) That directors may not be removed except as provided in Utah Code Ann. § 16-10a-809, as amended. (*Id.* at § 3.)

(d) That "any person who serves as a director of [Canopy] will be obligated as a fiduciary to [Canopy] and its shareholders, as is more specifically provided by Utah Code Section § 16-10a-840(1)." (*Id.* at § 4.)

(e) That the Shareholder Agreement shall terminate upon agreement of the shareholders or the last to die of the Noordas. (*Id.* at § 7.)

37. Christensen, in his capacity as legal counsel to Canopy, participated in drafting the Shareholder Agreement and, along with Yarro and Mott, advised that its adoption was in Canopy's and the Trust's best interests. At the time, the Noordas' trust and confidence in Defendants, particularly Yarro, led them to believe the Shareholder Agreement was in Canopy's and the Trust's best interests.

38. Pursuant to a Stock Purchase Agreement executed by Yarro personally and on purportedly on behalf of Canopy on November 17, 2000, Yarro exercised his Class A stock options and acquired 10,000 shares of Class A voting stock, an amount equivalent to that held by the Trust.

E. Subsequent Distributions of Incentive and Equity Compensation.

39. On or around December 1, 2000, Yarro executed stock option agreements granting options on Class A and B shares to Gerald Garbe with a strike price of $18, as follows:

Employee	Number & Class	Exercise Price	Vesting
Gerald Garbe	52 Class A	$18.00	25% starting 12/01/01
	51,948 Class B	$18.00	25% starting 12/01/01

40. In December 2000, without Board review or approval, Yarro caused Canopy to distribute 5% of Canopy's gain on the value of a merger involving the Portfolio Company Utah Health Informatics, or approximately $23,749, to ten Canopy employees, including himself and Mott. Yarro alone received $10,687 of the bonus amount, and Mott received $5,225.

41. On Yarro's advice, Canopy hired Christensen as its Vice President-Legal, Corporate Counsel, and Assistant Secretary and Treasurer on or about January 16, 2001.

42. At the time of Christensen's employment, Yarro and Christensen executed stock option agreements pursuant to which Christensen purportedly acquired fully-vested twenty-year options to purchase 150 Class A voting shares and 149,850 Class B shares at $10.00 per share. The $10.00 strike price was approximately $9.00 below Canopy's then net value per share of approximately $19.00, making the transaction worth approximately $1.35 million to Christensen. At the same time, Christensen acquired twenty-year options to purchase 300 Class A voting shares and 299,700 Class B shares at $18.00 per share, vesting 25% per year starting in 2002. Yarro also executed stock option agreements purporting to grant options on Class A and B shares to Canopy employee Darla Newbold, all as summarized below:

Employee	Number & Class	Exercise Price	Vesting
Brent Christensen	150 Class A	$10.00	100%
	149,850 Class B	$10.00	100%
	300 Class A	$18.00	25% starting 1/16/02
	299,700 Class B	$18.00	25% starting 1/16/02
Darla Newbold	45 Class A	$18.00	25% starting 1/16/02
	44,955 Class B	$18.00	25% starting 1/16/02

The foregoing equity compensation was excessive, unfair to Canopy, and constituted waste of corporate assets.

43. On or about February 28, 2002, without Board review or approval, Defendants caused Canopy to distribute 10% of the proceeds of a Triggering Event relating to the Portfolio Company Altiris, Inc. ("Altiris") to twelve Canopy employees, even though the Incentive Plan, by its own terms, provides for a bonus pool equal of 5%. The bonus pool totaled approximately $1.15 million. Yarro alone received $503,317, Mott received approximately 152,000, and Christensen received $135,128.

44. On April 19, 2002, on the advice of Defendants, Canopy repriced the exercise price of all outstanding options with an exercise price of $18.00 or higher to $13.00, at a time when Canopy's net value per share was approximately $14.13.

45. At approximately the same time, Yarro executed stock option agreements purporting to grant options on Class A and B shares to Canopy employee Allan Smart with a strike price of $13.00, as follows:

Employee	**Number & Class**	**Exercise Price**	**Vesting**
Allan Smart	90 Class A Shares	$13.00	25% starting 1/3/03
	89,910 Class B	$13.00	25% starting 1/3/03

46. On November 21, 2002, on Defendants' advice, Canopy repriced the exercise price of all outstanding options with an exercise of $8.00 or higher to $8.00, at a time when Canopy's net value per share was approximately $12.00.

47. At approximately the same time, Yarro executed stock option agreements purporting to grant options on Class A and B shares to Canopy employee Mark Cusick with a strike price of $8.00, as follows:

Employee	Number & Class	Exercise Price	Vesting
Mark Cusick	150 Class A	$8.00	25% starting 7/1/02
	149,850 Class B	$8.00	25% starting 7/1/02

48. On or about August 26, 2002, without Board review or approval, Defendants caused Canopy to distribute 10% of the proceeds of a Triggering Event relating to the Portfolio Company Traxxes to fourteen Canopy employees, even though the Incentive Plan, by its own terms, provided for a bonus pool of 5%. The bonus pool totaled $708,242. Yarro alone received $283,296, Mott received $100,216, and Christensen received $100,216.

49. On or about November 21, 2002, on Defendants' advice, Canopy adopted a resolution stating that "the officers and directors of the Corporation shall be entitled to indemnification to the maximum extent allowed by Utah law."

50. On or about December 2, 2002, without Board review or approval, Defendants caused Canopy to distribute 10% of the proceeds of another Triggering Event relating to Altiris to thirteen Canopy employees, even though the Incentive Plan, by its own terms, provided for a bonus pool of 5%. The bonus pool totaled approximately $1.03 million. Yarro alone received $516,844, Mott received $134,379, Christensen received $132,312.

51. On or about April 4, 2003, without Board review or approval, Defendants caused Canopy to distribute 10% of the proceeds of yet another Triggering Event relating to Altirus to thirteen Canopy employees, even though the Incentive Plan, by its own terms, provided for a bonus pool of 5%. The bonus pool totaled approximately $317,246. Yarro alone received approximately $151,834, Mott received $41,242, and Christensen received $40,607.

52. On or about June 3, 2003, without Board review or approval, Defendants caused Canopy to distribute 10% of the proceeds of another Triggering Event relating to Altiris

to thirteen Canopy employees, even though the Incentive Plan, by its own terms, provided for a bonus pool of 5%. This time the bonus pool totaled approximately $2.4 million. Yarro alone received approximately $1.08 million, Mott received $301,004, and Christensen received $296,373.

53. On or about August 20, 2003, without Board review or approval, Defendants caused Canopy to distribute 10% of the proceeds of another Triggering Event relating to Altiris, even though the Incentive Plan, by its own terms, provided for a bonus pool of 5%. This time the bonus pool totaled approximately $3.37 million. Yarro alone received approximately $1.58 million, Mott received $472,082, and Christensen received $446,792.

F. Compensation From Exercise of Resale Rights.

54. Between 2000 and the present, Yarro acquired $4,236,670 in compensation from Canopy by exercising options to acquire Class B shares and reselling those shares to Canopy pursuant to the resale provisions in Article 2, Section II, of the Equity Plan.

55. From 2000 to the present, Mott acquired $881,733 in compensation from Canopy by exercising options to acquire Class B shares and reselling those shares to Canopy pursuant to the resale provisions in Article 2, Section II, of the Equity Plan.

56. From 2001 to the present, Christensen acquired $607,941 in compensation from Canopy by exercising options to acquire Class B shares and reselling those shares to Canopy pursuant to the resale provisions in Article 2, Section II, of the Equity Plan.

57. From 2000 to the present, employees other than Defendants acquired a total of $1,655,712 in compensation from Canopy by exercising options to acquire Class B

shares and reselling those shares to Canopy pursuant to the resale provisions in Article 2, Section II, of the Equity Plan.

58. By allowing Canopy's employees to exercise resale rights under the Equity Plan, Defendants wasted corporate assets.

G. Summary of Excessive Cash Compensation Taken By Defendants

59. Between 1999 and 2004, Yarro took a total of at least $19,535,602 in excessive cash compensation pursuant to the Incentive Plan and exercises of resale rights acquired pursuant to the Equity Plan. This amount does not include the value of options and stock improperly acquired by Yarro pursuant to the Equity Plan. Nor does it include amounts received by Yarro from Canopy as base compensation and annual bonuses, which totaled approximately $275,000 to $300,000 per year, or compensation received by Yarro directly from Portfolio Companies.

60. Between 1999 and 2004, Mott took a total of at least $2,557,727 in excessive cash compensation pursuant to the Incentive Plan and exercises of resale rights acquired pursuant to the Equity Plan. This amount does not include the value of options and stock improperly acquired by Mott pursuant to the Equity Plan. Nor does it include amounts received by Mott from Canopy as base compensation and annual bonuses, which totaled approximately $115,000 to $180,000 per year, or compensation received by Mott directly from Portfolio Companies.

61. Between 2001 and 2004, Christensen took a total of at least $1,759,370 in excessive cash compensation pursuant to the Incentive Plan and the exercise of resale rights acquired pursuant to the Equity Plan. Such amount does not include the value of options and

stock improperly acquired by Christensen pursuant to the Equity Plan. Nor does it include amounts received by Christensen from Canopy as base compensation and annual bonuses, which totaled approximately $165,000 to $173,000 per year, or compensation received by Christensen directly from Portfolio Companies.

62. Defendants estimate the value of their purported options exceeds $100 million.

63. Under Defendants' control, Canopy has never distributed a dividend to the Trust.

64. Mrs. Noorda has never been paid for her services as an officer and director of Canopy.

65. Mr. Noorda has received only nominal compensation for his services as an officer and director, ranging from $40,000 per year in 2000 to $60,000 per year in 2001, 2002 and 2003.

FIRST CLAIM FOR RELIEF
(Breach of Fiduciary Duty of Loyalty)

66. Plaintiffs incorporate by reference the allegations above.

67. Defendants each owed a fiduciary duty of loyalty to Plaintiffs.

68. Under this duty, Defendants were obligated to use their ingenuity, influence, and energy and to employ their resources, to preserve and enhance the property and earning power of Canopy, even if the interests of Canopy were in conflict with their own personal interests.

69. By the conduct alleged above, including, without limitation, implementing excessive and unfair incentive and equity compensation packages for themselves and Canopy's

other employees and ceding undue control of Canopy to its employees, Defendants have breached the fiduciary duty of loyalty that they owed to Plaintiffs.

70. As a direct and proximate result of Defendants' wrongful acts, Plaintiffs have suffered and will continue to suffer damages in an exact amount to be proven at trial.

71. Defendants' breach of the fiduciary duty of loyalty was performed intentionally, knowingly, and with reckless indifference toward, and a disregard of, the rights of Plaintiffs, entitling Plaintiffs to an award of punitive damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION
(Aiding and Abetting Breach of Fiduciary Duty)

72. Plaintiffs incorporate by reference the allegations above.

73. By the foregoing acts, Mott and Christensen aided and abetted Yarro in breaching his fiduciary duty of loyalty to Plaintiffs.

74. As a direct and proximate result of Mott's and Christensen's wrongful acts, Plaintiffs have suffered and will continue to suffer damages in an exact amount to be proven at trial.

75. Defendants' aiding and abetting of Yarro in breaching his fiduciary duty of loyalty was performed intentionally, knowingly, and with reckless indifference toward, and a disregard of, the rights of Plaintiffs, entitling Plaintiffs to an award of punitive damages in an amount to be determined at trial.

THIRD CAUSE OF ACTION
(Breach of Fiduciary Duty)

76. Plaintiffs incorporate by reference the allegations above.

77. Christensen, as Canopy's attorney, owed Canopy the fiduciary duty of undivided loyalty.

78. By the conduct alleged above, Christensen has breached the fiduciary duty of undivided loyalty that he owed to Canopy.

79. By the conduct alleged above, Christensen has breached the ethical obligations he owed to Canopy under Rule 1.8 of the Utah Rules of Professional Conduct.

80. As a direct and proximate result of Christensen's wrongful acts, Canopy has suffered and will continue to suffer damages in an exact amount to be proven at trial.

81. Christensen's breach of his fiduciary duty of undivided loyalty to Canopy was performed intentionally, knowingly, and with reckless indifference toward, and a disregard of, the rights of Canopy, entitling Canopy to an award of punitive damages in an amount to be determined at trial.

FOURTH CAUSE OF ACTION
(Removal of Yarro as a Director Pursuant to Utah Code Ann. § 16-10a-809)

82. Plaintiffs incorporate by reference the allegations above.

83. By the foregoing acts, Yarro has engaged in "fraudulent or dishonest conduct or gross abuse of authority or discretion with respect to the corporation." Utah Code Ann. § 16-10a-809.

84. Yarro's removal as a director of Canopy is in the best interests of Canopy.

85. Accordingly, Yarro must be removed as a director pursuant to Utah Code Ann. § 16-10a-809.

FIFTH CAUSE OF ACTION
(Constructive Trust)

86. Plaintiffs incorporate by reference the allegations above.

87. By the foregoing acts, Defendants have acquired title to or possession of Canopy's property, including cash, stock, and options, with actual and/or constructive knowledge that such acquisition constituted a breach of their fiduciary duties to Canopy.

88. Accordingly, Defendants have been unjustly enriched and are under an equitable duty to convey such property to Canopy.

SIXTH CAUSE OF ACTION
(Conversion)

89. Plaintiffs incorporate by reference the allegations above.

90. By the foregoing acts, Defendants have exercised dominion and control over Canopy's property in a manner inconsistent with Canopy's rights therein.

91. As a direct and proximate result of Defendants' wrongful acts, Canopy has suffered and will continue to suffer damages in an exact amount to be proven at trial.

92. Defendants' conversion of Canopy's property was performed intentionally, knowingly, and with reckless indifference toward, and a disregard of, the rights of Canopy, entitling Canopy to an award of punitive damages in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION
(Breach of Contract – Incentive Plan)

93. Plaintiffs incorporate by reference the allegations above.

94. To the extent the Incentive Plan constitutes a valid and enforceable contract between Canopy and Defendants, Defendants have breached the Incentive Plan by

causing themselves to be paid incentive bonuses derived from: (1) the Caldera lawsuit proceeds, and (2) bonus pools totaling more than 5% of any Triggering Event, as that term is defined in the Incentive Plan.

95. The foregoing breaches constitute material breaches of Defendants' obligations under the Incentive Plan.

96. As a direct and proximate cause of Defendants' breaches, Canopy has suffered and will continue to suffer damages.

97. Canopy is therefore entitled to an award of damages in an amount to be proved at trial.

EIGHTH CAUSE OF ACTION
(Breach of Covenant of Good Faith and Fair Dealing – Incentive Plan)

98. Plaintiffs incorporate by reference the allegations above.

99. To the extent the Incentive Plan constitutes a valid and enforceable contract between Canopy and Defendants, Defendants, as parties to that contract, owe Canopy a duty to act in good faith and deal fairly with Canopy.

100. This duty included a duty on Defendants to act consistently with the purpose of such contract, principally to procure Defendants' undivided loyalty to Canopy, and Canopy's expectations thereunder.

101. Defendants breached the duty of good faith and fair dealing implied in the Incentive Plan by, among other things, implementing excessive and unfair incentive compensation payments and equity compensation packages for themselves and Canopy's other employees, ceding undue control of Canopy to its employees, and otherwise breaching their fiduciary duty of loyalty to Canopy.

102. The foregoing breaches constitute material breaches of Defendants' obligations under the Incentive Plan.

103. As a direct and proximate result of Defendants' breaches of the covenant of good faith and fair dealing implied in the Incentive Plan, Canopy has suffered and will continue to suffer damages.

104. Canopy is therefore entitled to an award of damages in an amount to be proved at trial.

NINTH CAUSE OF ACTION
(Breach of Covenant of Good Faith and Fair Dealing – Option Agreements)

105. Plaintiffs incorporate by reference the allegations above.

106. To the extent the option agreements entered into between Canopy and Defendants constitute valid and enforceable contracts, Defendants, as parties to those contracts, owe Canopy a duty to act in good faith and deal fairly with Canopy.

107. This duty included a duty on Defendants to act consistently with the purpose of such contracts, principally to procure Defendants' undivided loyalty to Canopy, and Canopy's expectations thereunder.

108. Defendants breached the duty of good faith and fair dealing implied in the option agreements by, among other things, implementing excessive and unfair incentive and equity compensation packages for themselves and Canopy's other employees, ceding undue control of Canopy to its employees, and otherwise breaching their fiduciary duty of loyalty to Canopy.

109. The foregoing breaches constitute material breaches of Defendants' obligations under the option agreements.

110. As a direct and proximate result of Defendants' breaches of the covenant of good faith and fair dealing implied in the option agreements, Canopy has suffered and will continue to suffer damages.

111. Canopy is therefore entitled to termination and rescission of the Defendants' option agreements and an award of damages in an amount to be proved at trial.

TENTH CAUSE OF ACTION
(Breach of Contract – Shareholder Agreement)

112. Plaintiffs incorporate by reference the allegations above.

113. To the extent the Shareholder Agreement entered into between Plaintiffs and Defendants constitutes a valid and enforceable contract, Defendants have breached their obligations under §§ 2(b)(iii), 2(b)(iv) and 4 of the Shareholder Agreement by implementing excessive and unfair incentive and equity compensation packages for themselves and Canopy's other employees, ceding undue control of Canopy to its employees, and otherwise breaching their fiduciary duty of loyalty to Plaintiffs.

114. The foregoing breaches constitute material breaches of Defendants' obligations under the Shareholder Agreement.

115. As a direct and proximate cause of Defendants' breaches, Plaintiffs have suffered and will continue to suffer damages.

116. Plaintiffs are therefore entitled to avoid, terminate and rescind Defendants' purported rights under the Shareholder Agreement and to an award of damages in an amount to be proved at trial.

ELEVENTH CAUSE OF ACTION
(Breach of Covenant of Good Faith and Fair Dealing – Shareholder Agreement)

117. Plaintiffs incorporate by reference the allegations above.

118. To the extent the Shareholder Agreement entered into between Plaintiffs and Defendants constitutes a valid and enforceable contract, Defendants, as parties to that contract, owe Plaintiffs a duty to act in good faith and deal fairly with Plaintiffs.

119. This duty included a duty on Defendants to act consistently with the purpose of the Shareholder Agreement, principally to procure Defendants' undivided loyalty to Plaintiffs.

120. Defendants breached the duty of good faith and fair dealing implied in the Shareholder Agreement by, among other things, implementing excessive and unfair incentive and equity compensation packages for themselves and Canopy's other employees, ceding undue control of Canopy to its employees, and otherwise breaching their fiduciary duty of loyalty to Plaintiffs.

121. The foregoing breaches constitute material breaches of Defendants' obligations under the Shareholder Agreement.

122. As a direct and proximate result of Defendants' breaches of the covenant of good faith and fair dealing implied in the Shareholder Agreement, Plaintiffs have suffered and will continue to suffer damages.

123. Plaintiffs are therefore entitled to avoid, terminate and rescind Defendants' purported rights under the Shareholder Agreement and to an award of damages in an amount to be proved at trial.

JURY DEMAND

124. Plaintiffs demand a trial by jury on all issues so triable.

WHEREFORE, Plaintiffs request the following relief:

A. A judgment awarding Plaintiffs actual, special and consequential damages in amounts to be proved at trial;

B. A judgment declaring that Defendants' stock option agreements are null and void, that all stock and cash compensation acquired by Defendants pursuant to the Equity Plan must be returned to Canopy, and that all options acquired by Defendants pursuant to the Equity Plan are terminated and rescinded;

C. A judgment declaring that all cash, stock, options and other property acquired by Defendants in violation of their fiduciary duty of loyalty to Canopy is being held by Defendants in constructive trust for Canopy and that Defendants are under an equitable duty to return and convey such property to Canopy;

D. An order removing Yarro as a director of Canopy pursuant to Utah Code Ann. § 16-10a-809;

E. A judgment declaring that Defendants' purported rights under the Shareholder Agreement are void, terminated, and rescinded;

F. A judgment awarding Plaintiffs punitive damages as appropriate; and

G. A judgment that Plaintiffs recover the costs of suit herein, including attorney's fees and costs.

DATED this 24th day of January 2005.

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