



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

K-BAR HOLDINGS LLC, on behalf
of itself and all other similarly situated
stockholders of TILE SHOP
HOLDINGS, INC., and derivatively on
behalf of Nominal Defendant TILE
SHOP HOLDINGS, INC., a Delaware
corporation,

Plaintiff,

v.

ROBERT A. RUCKER, PETER J.
JACULLO III, PETER H. KAMIN,
CABELL LOLMAUGH, TODD
KRASNOW, and PHILIP B.
LIVINGSTON,

Defendants,

-and-

TILE SHOP HOLDINGS, INC., a
Delaware corporation,

Nominal Defendant.

C.A. No. _____

VERIFIED CLASS ACTION AND DERIVATIVE COMPLAINT

Plaintiff K-Bar Holdings LLC (“Plaintiff”), on behalf of itself and all other similarly situated stockholders of Tile Shop Holdings, Inc. (“Tile Shop” or the “Company”), and on behalf of nominal defendant Tile Shop, by and through its undersigned counsel, alleges the following upon knowledge as to itself and its own

actions, and upon information and belief as to all other matters, based upon the investigation conducted by its counsel, which included, among other things, a review of the United States Securities and Exchange Commission (“SEC”) filings by Tile Shop, news reports and press releases regarding Tile Shop and its directors and officers, and other publicly available information.

NATURE OF THE CASE

1. The board of directors of a Delaware corporation has a *fundamental duty and obligation* to “protect the corporation enterprise,” and to defend stockholders “from harm reasonably perceived, irrespective of its source.” This case involves a board that is purposely letting half of its members – including the known repeat fraudster who founded the company – buy a controlling stake in the company through open market purchases at depressed prices, without paying a fair price, much less a control premium. Instead of adopting a poison pill or taking other defensive measures to protect public stockholders in the face of a change of control transaction executed in the open market, this board helped turn a slowly developing creeping takeover into a modern street sweep.

2. In late 2017, the board abruptly replaced a skilled and effective Chief Executive Officer (“CEO”) with the Company’s founder despite the founder’s history of prior malfeasance. Putting the proverbial fox back in the henhouse helped

drive the stock price down, but not quickly (or sharply) enough to let the founder and his allied directors buy control on the open market.

3. So, on October 18, 2019, the board made the bad faith and disloyal decision to delist and deregister its common stock, then listed on NASDAQ, triggering an immediate fire sale of the shares because, among other things, many institutional investors cannot hold unlisted shares.

4. Violating their duty to defend the company from known threats while cynically attempting to sidestep the application of DGCL Section 203, the board is now delisting and deregistering the shares to let the founder and his cohorts (who constitute a majority of the board) execute an open market buying spree that will soon give them a majority of the Company's stock. Judicial intervention is both warranted and essential.

* * * * *

5. Robert Rucker founded, and together with Peter Jacullo and Peter Kamin, controlled the Tile Shop before the Company went public by merger in 2012. By that time, Rucker had already been caught falsifying the company's financials in a scheme to defraud his ex-wife and the court overseeing his divorce proceeding.

6. Despite retaining only a minority equity position in the Company after it became public traded, Rucker remained the Company's CEO and Rucker, Jacullo, and Kamin remained on the Company's board. That changed in November 2013,

when Rucker was again implicated in a fraud, concealing numerous related party transactions in which his brother-in-law secretly controlled numerous of the Company's key vendors. *See, e.g., In re Tile Shop Holdings, Inc. Stockholder Derivative Litigation*, C.A. No. 10884-VCG. With the surprise unearthing of these related party deals, Rucker was forced out of the executive suite.

7. In the wake of Rucker's departure, the Company hired an experienced and sophisticated CEO, who ran the company well. But Rucker and his friends on the board did not want to share Tile Shop's success with outside investors. As soon as the Company hit what should have been a temporary snag in its growth, Rucker and his cohorts took action. They first replaced the real executives with Rucker as interim CEO, soon thereafter appointing a "puppet" CEO who had been a warehouse worker with only a high school degree.

8. Research analysts promptly observed that while the company's modest financial troubles should not cause a significant decline in the stock price, apprehension about Rucker's history of malfeasance could. Rucker, Jacullo, and Kamin sought to benefit from the investor skepticism their own prior misconduct had created, slowly buying shares on the open market and making it easier to one day regain control of the Company and/or take the Company private.

9. This strategy proved too slow and expensive. Further, DGCL 203 would prevent Rucker, Jacullo, and Kamin from engaging in a take-private for a period of three years after buying more than 15% of the Company's stock.

10. Rucker, Jacullo, and Kamin then devised a new scheme to quickly gain control of the Company at a tremendous discount to the already depressed stock price, while attempting to circumvent DGCL Section 203 and avoiding paying anything close to a control premium to the Company's public stockholders. First, Defendants caused the Company to spend cash on a stock repurchase program that reduced the number of the Company's record holders to below 300.

11. As of October 17, 2019, Rucker, Jacullo, and Kamin individually held approximately 12.6%, 12.1%, and 4.8% of the Company's public stock, respectively. They obviously exceeded 15% when their shares were aggregated. Section 203 would thus hinder their ability to acquire greater control and effect a take-private.

12. On October 18, 2019, however, the Board abruptly decided to delist and deregister The Tile Shop's common stock (the "Go-Dark Scheme"). The Board knew that the Go-Dark Scheme would cause the market value of the Company's stock to plummet, particularly because many of the Company's institutional investors are prohibited from holding unlisted and unregistered stock and would

effectively force other long-term stockholders to sell rather than watch their investments dwindle.

13. When the Company announced that it was going dark on October 22, 2019, the Company's stock plummeted by 66%, to below \$2 per share. Immediately thereafter, Rucker, Jacullo, and Kamin began to rapidly purchase the Company's stock at deflated market prices, purchasing over 6.57 million shares and bringing their collective stake to over 40% of the Company's stock as of this filing's date.

14. The Board has done and is doing nothing to prevent Rucker, Jacullo, and Kamin from buying more stock and gaining absolute control of the Company. To the contrary, at the same time that it sits idly by while half its members buy outright control in the market, the Board is moving expeditiously to finalize its Go-Dark Scheme. The Company has already filed a Form 25 with the SEC requesting the delisting of its common stock, with November 8, 2019 as its last day of trading on the NASDAQ. The Company intends to file, on or about November 12, 2019, a Form 15 formally requesting the suspension of its reporting obligations under the Exchange Act and resulting deregistration of its common stock under Section 12(g).

15. The Tile Shop Board, comprised of a majority of directors who are directly benefiting from the Go-Dark Scheme or are loyal to Rucker, Jacullo, and Kamin, is actively breaching its fiduciary duties. Immediate judicial intervention is warranted. Through this complaint and related filings, Plaintiff requests that the

Court: (a) enjoin the Board and the Company from going dark; (b) enjoin Rucker, Jacullo, and Kamin and anyone acting with them, from purchasing more Tile Shop stock on the open market; (c) compel the Board to adopt a poison pill or negotiate a standstill agreement to stop Rucker, Jacullo, and Kamin and their affiliates from buying more Tile Shop stock absent a deal providing the Company's public stockholders a proper control premium above the Company's October 21, 2019 market price; (d) impose a constructive trust over the shares that Rucker, Jacullo, and Kamin acquired through their Delisting Scheme; and (e) award monetary damages resulting from the Tile Shop Board's breaches of fiduciary duty.

PARTIES AND NON-PARTIES

Plaintiff

16. Plaintiff is a stockholder of the Company and will continue to be a stockholder of the Tile Shop through the conclusion of this litigation.

Nominal Defendant

17. Non-party Tile Shop is a Delaware corporation headquartered in Plymouth, Minnesota. Tile Shop is a specialty retailer of manufactured and natural stone tiles, setting and maintenance materials, and related accessories in the United States. The Company operates 142 stores in 31 states and the District of Columbia.

The Company became publicly traded in August 2012 and has since traded on NASDAQ under the ticker symbol “TTS.”

Defendants

18. Defendant Robert A. Rucker founded the Tile Shop in 1985. Before the Company was publicly traded, Rucker owned 50% of the Company, served as the Company’s CEO, president, and as a member of the Company’s board of managers from 1985 until June 2012. Immediately after the Company went public, Rucker owned approximately 18.5% of Tile Shop common stock and was the Company’s chief executive officer (“CEO”) and president from June 2012 until December 2014. After resigning from his executive position when caught defrauding the company and its stockholders, Rucker re-emerged as interim CEO from October 27, 2017 until January 1, 2019. Rucker and The Tile Shop, Inc., of which Rucker is the sole officer, member of board and stockholder and currently owns approximately 12.6% of the Company’s stock.

19. Defendant Peter J. Jacullo III has served as a member of the Company’s Board since August 2012. Before the Company went public, Jacullo served as a member of Tile Shop’s board of managers from December 2007 to August 2012. Since July 1987, Jacullo has been a self-employed investor and consultant, and he wholly owns, and currently serves on the board of directors, of JWTS, Inc. (“JWTS”). Upon information and belief, Jacullo and JWTS owned part of Tile Shop

before it became public and owned approximately 12% of the Company immediately after the Company became publicly traded. Jacullo and JWTS currently own approximately 16.7% of the Company's stock.

20. Defendant Peter H. Kamin has served on the Board since August 2012. Upon information and belief, Kamin served on the Tile Shop's board of managers from January 2012 to August 2012 and owned part of the Company before it was publicly traded. Kamin is the founder and managing partner of 3K Limited Partnership, a private investment firm, and employs Defendant Livingston as a managing director of 3K Limited Partnership. Kamin currently owns approximately 13.1% of the Company's stock.

21. Defendant Cabell Lolmaugh is a member of the Board and was appointed President and CEO of Tile Shop in January 2019 by Rucker, Jacullo, Kamin, and the Board. Lolmaugh previously worked in the warehouse of one of the Company's Minnesota stores and was promoted in February 2018 to the Company's Chief Operating Officer ("COO"), while Rucker was interim CEO. Lolmaugh's qualifications to be President and CEO of Tile Shop, or any publicly traded company, are questionable, at best. Lolmaugh, who became CEO of the Company without any serious consideration of any external candidates, only has a high school degree and never worked at any other public company. Lolmaugh signed and caused the Company to file the Form 25 with the SEC requesting the delisting of its common

stock from NASDAQ and the deregistration of its common stock under Section 12(b) of the Exchange Act.

22. Defendant Todd Krasnow has served as a member of the Board since August 2012. Krasnow served as a member of Tile Shop's board of managers from January 2012 to August 2012 and owned part of the Company before it went public.

23. Defendant Philip B. Livingston has served as a member of the Board since 2016 and is a managing director at Defendant Kamen's 3K Limited Partnership.

24. The Defendants referred to in paragraphs 18 to 23 above collectively constitute the entirety of the Tile Shop Board. These individuals are hereinafter referred to as the "Board," the "Director Defendants" or the "Tile Shop Directors." By virtue of their positions as directors and/or officers of Tile Shop, the Director Defendants have, and at all relevant times had, the power to control and influence and did control and influence and cause the Company to engage in the practices complained herein. Each Director Defendant owed and owes the Company's stockholders fiduciary obligations of candor, due care, good faith, and loyalty and were and required to: (1) protect the Company and its stockholders from harm reasonably perceived, irrespective of its source; (2) act in furtherance of the best interests of its stockholders; (3) act to maximize stockholder value in connection

with any change in ownership and control; and (4) not favor their own interests at the expense of the Company and its public stockholders.

Non-Party

25. Non-party Christopher T. Cook was a member of the Board from September 2014 to October 19, 2019. Cook tendered his resignation from the Board, effectively immediately, the day after the Board approved the delisting and deregistering of the Company's stock, in what appears to be a disagreement with the strategy and scheme.

FACTUAL BACKGROUND

A. The Origins of Tile Shop

26. Tile Shop was founded by Defendant Rucker in 1985 as Tile Shop LLC, a privately-owned business that owned and operated tile stores. Rucker was the CEO, president, and member of the Company's board of managers along with Jacullo, Kamin, and Krasnow. Rucker owned 50% of the private company. Upon information and belief, Jacullo, Kamin, and Krasnow also owned stakes in the private company.

B. Rucker is Convicted of Fraud

27. On April 6, 2000, Rucker filed for divorce from his wife of 24 years. A neutral business appraiser was jointly retained to value their marital assets,

including the 50% equity ownership of Tile Shop, as of December 31, 2000, when the Company had 14 stores in the upper Midwest.

28. As the court later found, in order to manipulate the purportedly neutral business appraisal process, Rucker “provided false and misleading information as well as financial records that were intentionally and fraudulently altered to cause The Tile Shop’s appraised value to be grossly understated for the purpose of the divorce.” Rucker instructed his attorney and employees to create a “doom and gloom” financial forecast that in his own words was the “worst possible damn scenario” to be shared with the neutral business appraiser.

29. Among other things, the Tile Shop financial forecast Rucker represented as accurate for FY01-FY03 had the store count remaining static at 14, annual revenue barely growing from \$46.9mm to only \$49.6mm, gross margins shrinking from 61.2% in FY01 to 54.0% in FY03, and net income before tax dropping from \$2.9mm in FY01 to \$2.3mm in 2003.

30. As the neutral business appraisal process was being completed for the divorce, Rucker simultaneously utilized a second set of significantly more bullish financial forecasts for business planning that were not shared with his wife. These business-use forecasts included \$6.9 mm of net income in FY01. At the same time, the secret forecasts contemplated opening as many as 6 new stores the instant the divorce was finalized.

31. According to Tile Shop's FY01 audited financial statements, the Company generated \$51.8mm in revenue and \$6.7mm in net income before taxes. In other words, Rucker's internal financial forecast, which he fraudulently withheld from the neutral business appraiser, was almost perfectly accurate.

32. After the divorce was finalized, Rucker's ex-wife learned of her husband's fraud regarding the Company's financial forecasts. After a bench trial in 2005, Judge Kaman of the Minnesota Fourth Judicial District for Hennepin County, Minnesota found Rucker guilty of fraud by misrepresenting and failing to disclose information relating to the financial condition of Tile Shop to the neutral business appraiser as part of the state court supervised divorce proceedings. Judge Kaman thereafter redistributed the value of the Tile Shop as a marital asset and awarded Rucker's ex-wife an additional \$4.2 million, using the correct financial forecast.

33. Rucker was willing to commit fraud to minimize the value of his ownership of Tile Shop to be paid to the mother of his child. It is not beyond his character to institute a scheme to regain control of the Company at the expense of public stockholders.

C. The Tile Shop Becomes Public by Merging with JWC and Another Rucker Scandal Promptly Emerges

34. In August 21, 2012, Tile Shop LLC entered into a merger agreement with JWC Acquisition Corp. ("JWC") and Nabron International, Inc. ("Nabron"). In connection with the transaction, JWC acquired the Tile Shop LLC, changed its

name to Tile Shop Holdings, Inc. and the Company became publicly traded on the NASDAQ under the symbol “TTS.” Nabron and JWC (with its managers, Adam Suttin and William Watts) held over 40% of the Company’s common stock. JWC appointed Suttin and Watts to the Board, with Watts as Chairman.

35. Rucker no longer controlled the Company (holding approximately 18.5% of the Company’s stock initially after the Company began trading publicly). Yet he remained the CEO of the Company and a director. Defendants Jacullo, Kamin, and Krasnow also remained on the Board. Rucker, Kamin, and Jacullo also profited from the Merger, cashing out 3.4 million shares of Tile Shop stock at the average price of \$19.57 per share for approximately \$67 million between December 2012 and June 2013.

36. Rucker, now running a public company, soon embroiled Tile Shop in yet another scandal. In November 2013, analyst firm Gotham City Research published a report asserting that the Company’s earnings were overstated and that the Company’s largest supplier was owned by the brother-in-law of Tile Shop’s then-CEO, Rucker.

37. Gotham City Research found that Beijing Pingxiu, a Chinese export trading company selling tile materials, was Tile Shop’s largest China-based supplier and accounted for over 30% of the Company’s cost of goods sold. Beijing Pingxiu was an undisclosed related party because it was owned by Fumitake Nishi, an

employee of Tile Shop and Rucker's brother-in-law through his second wife, Lee Shoon Hammond, who also goes by Xun Li. The Company's stock price plummeted 39% upon the publication of the Gotham City Research report.

38. Facing numerous stockholder lawsuits, the Company conducted an audit committee investigation. *See, e.g., In re Tile Shop Holdings, Inc. Stockholder Derivative Litigation*, C.A. No. 10884-VCG, Verified Consolidated Complaint, Trans. ID 57636666. The audit committee investigation confirmed the inappropriate vendor relationship with Nishi and Beijing Pingxiu and that between 2011 and 2013, millions of dollars were syphoned to Beijing Pingxiu. The committee also uncovered that Nishi had acquired a majority ownership interest in another key Tile Shop vendor, Nanyang Helin Stone Company, in 2010.

39. In January 2014, the Company fired Nishi for "multiple violations of the company's business ethics policy." Caught red-handed, Rucker "retired" as the CEO of Tile Shop, while remaining a member of the Board. Rucker, Jacullo, Kamin, and Krasnow later settled the stockholder lawsuits arising out of Rucker's related-party transaction scandal. *See, e.g., In re Tile Shop Holdings, Inc. Stockholder Derivative Litigation*, C.A. No. 10884-VCG (Del. Ch. April 23, 2018) Trans. ID 61946240.

D. Rucker, Jacullo and Kamin Commence their Scheme to Regain Control of the Company

40. Upon Rucker's "retirement," Tile Shop appointed Chris Homeister as CEO. Homeister had been the Company's COO since October 2013 and had previously served as the General Manager and Senior Vice President of Best Buy's Entertainment Business Group. Homeister earned an M.B.A. from The University of Notre Dame, and a B.B.A. degree in Finance from The University of Iowa.

41. Upon his appointment as CEO, Homeister focused the Company on fiscal, balance sheet, and operational improvements. The Company made store-level retention, training, and effective compensation structures a core focus to enhance the level of service for customers. Homeister guided the Company to a successful 2016, slowing down new store openings so the Company could pay down its debt by 57%. Management even began returning some of the freed-up cash flows to shareholders, announcing a \$0.05 per share quarterly dividend to stockholders (\$10.4 million annual distributions) in March 2017.

42. As a result of Homeister's leadership, the Company's stock traded as high as \$20.25 per share in June 2017.

43. However, Rucker and his friends on the Board, including Jacullo and Kamin, did not like to share Tile Shop's success with outside investors and wanted to regain control of the Company. Further, JWC had exited its position in the Company in 2013 and thereafter, previously independent directors Suttin and Watt,

left the Board in 2016 and sold the majority of their Tile Shop investments. Nabron also exited its investment in the Company in the first half of 2017. As a result, Rucker, Jacullo, Kamin and the other Rucker loyalists on the Board were free to seize any opportunity that may emerge to push Homeister out of the Company.

44. Opportunity presented itself to Rucker, Jacullo, and Kamin in the second half of 2017. On July 18, 2017, the Company reported second-quarter earnings. The Company reported that sales and earnings were up 6.2% and 15.4%, respectively. The Tile Shop, under Homeister's leadership, also continued to chip away at its debt and improve the quality of its balance sheet with management expecting to reduce debt to \$10 million by year-end 2017, down from \$93.3 million as of December 2014. However, the Company reduced part of its full-year guidance and comparable-store sales growth decreased from 8.2% to 0.5%. The Company explained that the shortfall in comparable-store sales growth was due to the lower sales in April as a result of the timing of the Easter holiday. Management saw the April result as an aberration and left comparable-store sales growth guidance for the year unchanged.

45. Predictably, the market price for the Company's stock drastically decreased from \$20.25 per share on July 17, 2019, closing at \$15.00 per share on July 18, 2019.

46. Rucker, Jacullo, and Kamin were pleased with the market's reaction and, with JWC and Nabron out of the picture, used the negative market reaction to pressure Homeister out and regain control of the Company. First, Rucker voiced his disagreement with how the Company was being run and used the 2Q 2017 results to convince his friends on the Board to initiate a comprehensive review of management and the Company's strategy. Second, Rucker, Kamin, and Jacullo used the depressed stock price to slowly begin re-acquiring control without paying a control premium.

47. On October 3, 2017, the Company reported its preliminary 3Q 2017 results. Again, while net sales grew 7.5%, comparable store sales for the trailing nine-month period only increased 2.2% compared to 9.0% from the previous year. The market reacted negatively with the market price for the Company's stock plummeting 35% and closing at \$8.55 per share on October 31, 2017.

48. The second quarter results gave Rucker, Jacullo, Kamin and the rest of the Board the ammunition needed to push Homeister out as CEO. As a result, Homeister resigned shortly after the Company's earnings report.

49. Despite his long history of fraudulent behavior and embroiling the Company in scandals, Rucker was named interim CEO by his friends on the Board on October 27, 2017. The market disapproved of the known fraudster being re-appointed to CEO. For example, analysts commented that Rucker is "an odd choice,

given the controversy that accompanied his departure and the clear execution issues under his command.” Another analyst reported that he was “skeptical” of the Company due to Rucker’s reinsertion as CEO.

50. Analysts had good reason to be concerned with Rucker’s re-appointment. He immediately began to unwind Homeister’s strategy to improve the Company’s balance sheet and implemented a strategy that would focus on spending on “higher-end tile” and benefiting Rucker, at the expense of the Company’s public stockholders.

51. For example, despite the previous scandal and stockholder litigations, Rucker and the Board caused the Company to revive its contract with Nanyang Helin Stone Co. Ltd, which Rucker’s brother in-law, Fumitake Nishi, reacquired control of in 2018. The Company purchased \$12 million of stone materials from Nishin in 2018 alone and continues to engage in dealings with this related party. Rucker also appointed his son, Adam Rucker, as the Director of Information Technology and caused the Company to pay him over \$120,000 and \$140,000 in salary and benefits in 2017 and 2018, respectively. As demonstrated by the Company’s disastrous Enterprise Resource Planning (“ERP”) system deployment in the beginning of 2019 and continued internal control material weaknesses regarding its ERP system, Adam Rucker is not qualified to be the Director of Information Technology for a public

company. Upon information and belief, Adam Rucker attended the University of Minnesota for a year and majored in Education, but never graduated.

52. Further, Rucker and the Board later appointed a “puppet” to run the Company. Specifically, Rucker and the Board appointed Lolmaugh as COO in February 2018 and then as President and CEO in January 2019. Lolmaugh is completely unqualified to run the Company, or any publicly traded company. Lolmaugh was made CEO of the Company without any serious consideration of any external candidates. Lolmaugh has only a high school degree, and never worked at any other public company. Lolmaugh is a former warehouse worker at one of the Company’s Minnesota stores, near Rucker’s home, and an individual who Rucker and the Board can use to implement their strategy to run the Company for their benefit, and at the expense of public stockholders.

E. The Board Approves the Delisting and Deregistering to Allow Rucker and his Cronies to Gain Control of the Company “On the Cheap”

53. Outside investors began to exit their Tile Shop investments with the Company engaging in related party transactions for the benefit of Rucker’s family, Rucker’s reemergence in the C-Suite and the appointment of an obviously unqualified CEO. For example, Tremblant Capital, which owned 9.1% of the Company as of September 2016, and the then-largest non-insider holder, completely exited its Tile Shop investment by March 31, 2018. The Company’s market price for its stock decreased from \$8.55 per share on October 31, 2017 to \$5.35 share on

March 1, 2018. The Company's stock traded from \$7 down to \$2 per share between March 2018 and September 2019.

54. During this time frame Rucker, Jacullo, and Kamin continued their scheme to regain control of the Company at a depressed price and without paying a control premium. Between January 1, 2018 and September 30, 2019, Rucker, Kamin and Jacullo purchased over 2 million shares of Company stock at an average price of \$5.23 per share. These purchases increased Rucker, Kamin and Jacullo's combined ownership of the Company by another 4%.

55. Rucker, Jacullo, and Kamin also used other means to reduce the public stockholder float of Tile Shop common stock to increase control. On April 29, 2019, the Board authorized a share repurchase program to purchase shares of Company common stock for an aggregate repurchase price not to exceed \$15,000,000. Needless to say, utilizing corporate cash to execute a stock repurchase program does not typically suggest that the same company needs to delist to save a nominal amount on securities compliance costs.

56. According to the Company's November 4, 2019, Form 10-Q, the Company repurchased 2,307,023 shares of common stock, thereby decreasing the public float of common stock by approximately 4.4%.

57. However, Rucker, Jacullo, and Kamin wanted to regain control faster and cheaper and devised a more drastic scheme. The outside stockholder exodus

and share repurchase program reduced the number of record holders of Tile Shop stock to less than 300. As a result, Tile Shop could “go dark” and delist and deregister its securities.

58. Rucker, Jacullo, Kamin, and the Board knew that delisting and deregistering the stock would eliminate the ability of many of the Company’s existing institutional stockholders to invest in the Company, further destroying the market value of Tile Shop stock. They also believed that a delisting and deregistering may exempt Rucker, Jacullo, or Kamin from DGCL Section 203, meaning Rucker, Jacullo, or Kamin could buy over 15% of the Company’s stock and then immediately take the Company private without Board approval (which approval could not be obtained without further breaches of fiduciary duty) or a stockholder vote.

59. On October 18, 2019, the Board determined to delist the Company’s common stock and deregister its common stock under Section 12(g) of the Exchange Act. The Board also terminated the Company’s stock repurchase program, which by then had achieved its improper purpose of decreasing the number of record holders of Tile Shop stock to less than 300.

60. Rucker, Jacullo, and Kamin could now accelerate their plan to purchase control of the Company “on the cheap” and take it private and without the restraints

of DGCL Section 203 or paying a control premium to public stockholders (the “Go-Dark Scheme”).

61. On October 19, perhaps reflecting some measure of disagreement with the conduct of Rucker and his cronies on the Board, former director Cook resigned.

62. The Company announced the delisting and the discontinuance of the stock repurchase program on October 22, 2019. The Board asserted that the delisting would save the Company costs associated with being a public company. But, the public company costs are only in the range of a few million dollars per year. Indeed, the total audit and related professional services rendered by the Company’s principal accountant, Ernst & Young LLP, was only \$643,000 in 2018. The Company’s twelve-month Adjusted EBITDA is over \$38 million and its balance sheet shows assets far in excess of its liabilities. In reality, the Board agreed to the delisting and deregistering to facilitate the Go-Dark Scheme for Rucker, Jacullo, and Kamin.

63. As planned, between October 21 and October 22, 2019, the Company’s stock plummeted 66% from \$3.35 to \$1.13 per share. Between October 23, 2019 to the date of the filing of this Complaint, Rucker, Jacullo, and Kamin disclosed the purchase of over 6.57 million shares of Company stock at an average price of \$1.60 per share. These purchases increased Rucker, Kamin and Jacullo’s combined

ownership of the Company by *another 12.94%*. Kamin and Jacullo continue to rapidly buy stock to gain control of the Company¹:

Between October 23 and Nov 4, 2019							Source
Trade Date	Trade Participant	Net Buy (shs)	Price				
10/23/2019	Jacullo	177,251	1.53	\$	2,712,003.03		Farm 4
10/24/2019	Jacullo	600,000	1.69		1,014,000		Farm 4
10/23/2019	3K Ltd LP (Kamin)	54,550	1.55		84,552.5		SC13D of Nav4
10/23/2019	Kamin (Chd. Trust)	251,448	1.55		389,744.4		SC13D of Nav4
10/23/2019	Kamin GST Trust	41,900	1.55		64,945		SC13D of Nav4
10/23/2019	Kamin (Rev. Trust)	444,474	1.55		688,934.7		SC13D of Nav4
10/23/2019	Kamin	1,414,884	1.55		2,193,070.2		SC13D of Nav4
10/24/2019	3K Ltd LP (Kamin)	13,068	1.68		21,954.24		SC13D of Nav4
10/24/2019	Kamin (Chd. Trust)	70,031	1.68		117,652.08		SC13D of Nav4
10/24/2019	Kamin GST Trust	44,850	1.68		75,348		SC13D of Nav4
10/24/2019	Kamin (Rev. Trust)	106,514	1.68		178,943.52		SC13D of Nav4
10/24/2019	Kamin	232,287	1.68		390,242.16		SC13D of Nav4
10/25/2019	3K Ltd LP (Kamin)	9,528	1.62		15,435.36		SC13D of Nav4
10/25/2019	Kamin (Chd. Trust)	43,898	1.62		71,114.76		SC13D of Nav4
10/25/2019	Kamin Fam Found	50,000	1.62		81,000		SC13D of Nav4
10/25/2019	Kamin GST Trust	50,000	1.62		81,000		SC13D of Nav4
10/25/2019	Kamin (Rev. Trust)	77,923	1.62		126,235.26		SC13D of Nav4
10/25/2019	Kamin	169,514	1.62		274,612.68		SC13D of Nav4
10/28/2019	3K Ltd LP (Kamin)	5,635	1.8		10,143		SC13D of Nav4
10/28/2019	Kamin (Chd. Trust)	25,296	1.8		45,532.8		SC13D of Nav4
10/28/2019	Kamin (Rev. Trust)	44,949	1.8		80,908.2		SC13D of Nav4
10/28/2019	Kamin	98,225	1.8		176,805		SC13D of Nav4
10/29/2019	3K Ltd LP (Kamin)	5,080	1.76		8,940.8		SC13D of Nav4
10/29/2019	Kamin (Chd. Trust)	23,017	1.76		40,509.92		SC13D of Nav4
10/29/2019	Kamin (Rev. Trust)	38,472	1.76		67,710.72		SC13D of Nav4
10/29/2019	Peter H. Kamin	89,021	1.76		156,676.96		SC13D of Nav4
10/30/2019	Kamin Fam Found	40,000	1.75		70,000		SC13D of Nav4
10/30/2019	Kamin GST Trust	56,600	1.75		99,050		SC13D of Nav4
10/31/2019	Kamin	204,056	1.63		332,611.28		SC13D of Nav4
10/31/2019	3K Ltd LP (Kamin)	12,242	1.63		19,954.46		SC13D of Nav4
10/31/2019	Kamin (Chd. Trust)	56,255	1.63		91,695.65		SC13D of Nav4
10/31/2019	Kamin (Rev. Trust)	92,888	1.63		151,407.44		SC13D of Nav4
11/1/2019	Kamin	34,488	1.7		58,629.6		SC13D of Nav4
11/1/2019	3K Ltd LP (Kamin)	2,325	1.7		3,952.5		SC13D of Nav4
11/1/2019	Kamin (Chd. Trust)	10,499	1.7		17,848.3		SC13D of Nav4
11/1/2019	Kamin (Rev. Trust)	16,733	1.7		28,446.1		SC13D of Nav4
11/4/2019	Kamin	146,842	1.66		243,757.72		SC13D of Nav4
11/4/2019	3K Ltd LP (Kamin)	10,384	1.66		17,237.44		SC13D of Nav4
11/4/2019	Kamin (Chd. Trust)	43,147	1.66		71,624.02		SC13D of Nav4
11/4/2019	Kamin (Rev. Trust)	70,227	1.66		116,576.82		SC13D of Nav4
	<i>Total Shares Purchased</i>	6,573,801.00		\$	10,490,806.62		
		Weighted Average Price		\$	1.60		
		Increased Ownership			12.9%		

¹ Source: Company's SEC Filings.

F. The Board Knowingly Breaches Its Duty to Protect the Company's Public Stockholders From The Known Threat of a Creeping Takeover

64. As discussed above, it is the Board's fiduciary duty to act in the best interest of the Company's public stockholders and to maximize stockholder value in connection with any change in control. Here the Board, has and continues to abdicate its duty to protect the Company public stockholders and is knowingly allowing Rucker, Jacullo, and Kamin to effect a change of control at the expense of Tile Shop's public stockholders.

65. The Board was aware of Rucker, Jacullo, and Kamin's purchases of Tile Shop stock and that they sought to regain control of Tile Shop. The Board knew that the Going-Dark Scheme would destroy stockholder value and reduce the Company's stock price. Nevertheless, the Board is violating its fiduciary duty to prevent Rucker, Jacullo, and Kamin from gaining control of the Company for pennies on the dollar and without paying a control premium to public stockholders.

66. At a minimum, the Board should have adopted a poison pill or insisted on a standstill agreement that prevents Rucker, Jacullo, and Kamin from continuing their open market scheme to seize control without paying any control premium.

67. Instead, the Board is knowingly allowing Rucker, Jacullo, and Kamin to effectuate a scheme that is saving Defendants tens of millions of dollars at the expense of the Company's public stockholders, who have already lost millions of

dollars in value in their holdings of Tile Shop common stock and are not being offered a control premium, even as they lose control of the Company.

68. Indeed, the Company already filed a Form 25 with the SEC requesting the listing of its common stock from NASDAQ and the deregistration of its common stock under Section 12(b) of the Exchange Act and expects that its last day of trading on the NASDAQ will be November 8, 2019. The Company also intends to file, on or about November 12, 2019, a Form 15 requesting the deregistration of its common stock under 12(g) of the Exchange and the suspension of its reporting obligations under the Exchange Act.

CLASS ACTION ALLEGATIONS

69. Plaintiff brings this action on behalf of itself and on behalf of a class of public stockholders of the Company (the “Class”). Excluded from the Class are Defendants and any directors or officers of the Tile Shop, as well as the members of their immediate families, and any entity in which any of them has a controlling interest, and the legal representatives, heirs, successors, or assigns of any such excluded party.

70. This action is properly maintainable as a class action.

71. The members of the Class are so numerous that joinder of all members is impracticable.

72. There are common questions of fact and law including, among other things the following:

- a. Whether the Board breached its fiduciary duties to the Company's stockholders through the conduct described above;
- b. Whether the Board breached its fiduciary duties by failing to protect the Company's public stockholders from the known, obvious and substantial threat to stockholder value posed by the delisting, deregistering, the Go-Dark Scheme and by Rucker, Jacullo, and Kamin's purchases of Tile Shop stock up to and beyond the point of acquiring control of the Company without paying any control premium and without paying fair value.
- c. Whether the Board is facilitating a street sweep by allowing Rucker, Jacullo, and Kamin to buy control of the Company.

73. Plaintiff's claims are typical of the claims of the members of the Class, and Plaintiff does not have any interests adverse to the Class.

74. Plaintiff is an adequate representative of the Class, has retained skilled counsel with extensive litigation in this nature, and will fairly and adequately protect the interests of the Class.

75. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual

members of the Class which would establish incompatible standards of conduct for the party opposing the Class.

76. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

DEMAND FUTILITY ALLEGATIONS

77. Plaintiff repeats and realleges each and every allegation above as if set fully herein.

78. To the extent claims alleged herein are deemed to be derivative causes of action, Plaintiff also brings this action derivatively in the right and for the benefit of Tile Shop to redress the breaches of fiduciary duty and other violations of law by the Defendants, as alleged herein.

79. Plaintiff has owned shares of Tile Shop at all relevant times and continues to hold shares of Tile Shop common stock.

80. Plaintiff will adequately and fairly represent the interests of Tile Shop and its stockholders in enforcing and prosecuting the Company's rights, and Plaintiff has retained counsel experienced in prosecuting this type of derivative action.

81. Plaintiff has not made a pre-suit demand on the Board to assert the claims set forth herein against the Defendants because such a demand would have been futile, and thereby is excused because the allegations herein, at a minimum,

permit the inference that the directors lack the requisite disinterest to determine fairly whether these claims should be pursued.

82. As of the time of the filing of this action, Defendants Rucker, Jacullo, and Kamin comprised half of the six-member Board of Tile Shop. All three are directly implicated in the scheme to seize control of the Company through open market purchases. Thus, at least half of the Board is directly involved in the wrongful conduct complained of herein. Demand is excused because Rucker, Jacullo, and Kamin are materially interested in the Go-Dark Scheme and are using the Go-Dark Scheme to purchase control of the Company at a depressed price to their benefit and at the expense of the Company and its public stockholders.

83. Furthermore, and among other things, the entire Board acted disloyally and in bad faith by knowingly failing to advance the best interests of the Company and its stockholders by approving the delisting and deregistering, failing to implement a poison pill, and rushing to finalize the delisting and deregistering for the benefit of Rucker, Jacullo, and Kamin and to the detriment of the Company and its public stockholders. The Board is also beholden to Rucker, Jacullo, and Kamin as exhibited by their long-time directorships on the Board before and after it became publicly traded, appointing Rucker as interim CEO even though Rucker previously embroiled the Company in scandals and committed fraud, and appointed Lolmaugh,

who is completely unqualified, to serve as CEO at Rucker's request. Livingston is also employed at Kamin's 3K Limited Partnership.

84. As alleged herein, the Director Defendants failed to protect the value of the Company for the benefit of the Company and its public stockholders. The Board's actions are disloyal, but at a minimum, the Board's decisions were without the bounds of reason and therefore made without requisite care.

COUNT I
Breach of Fiduciary Duty
(Against the Director Defendants)

85. Plaintiff incorporates each allegation set forth above as if fully set forth herein.

86. As directors and officers of the Tile Shop, the Director Defendants owed Plaintiff and all other Company stockholders fiduciary duties of loyalty, care and candor.

87. The Director Defendants have breached their fiduciary duties by approving the delisting and deregistering to deflate the value of the Company's stock thereby allowing Rucker, Jacullo, and Kamin to purchase large amounts of Company stock on the open market, and attempt to gain control of the Company on terms highly favorable to Rucker, Jacullo, and Kamin at the expense and to the significant detriment of the Company's public stockholders.

88. The Director Defendants also breached their fiduciary duty to take reasonable action to protect known threats to corporate and stockholder welfare. By failing to take any steps to limit the plain and inescapable risks to stockholders' interests posed by Rucker, Jacullo, and Kamin's ongoing, open and notorious actions to gain a controlling interest in the Company on the open market, the Board has allowed Rucker, Jacullo, and Kamin to rapidly approach absolute control through open market purchases, thus causing grave damage to the Class by stripping them of the right to receive a control premium in a sale of control of the Company.

89. Further, the Director Defendants have breached their fiduciary duty by allowing control of the Company to change without maximizing stockholder value or obtaining a fair price for the change of control for the Company's public stockholders.

90. In light of Rucker, Jacullo, and Kamin's known continued accumulation of the Company's shares before and after the delisting and deregistering, the Board was obligated to take reasonable defensive measures to stop Rucker, Jacullo, and Kamin from gaining control of the Company. There was and continues to be a distinct threat that Rucker, Jacullo, and Kamin will continue to acquire control of the Company "on the cheap," and it would have been and is proportionate and lawful for the Board to adopt a "poison pill" to protect stockholders' majority interest in the Company and the value of their shares.

Alternatively, the Board could have and should incorporate a standstill provision, or take other measures, to prevent Rucker, Jacullo, and Kamin from further acquiring shares of the Company.

91. The Board is aware of the creeping acquisition of control by half its members and its willful failure to act in the face of this known threat is a breach of its duty of loyalty to the Company and all its stockholders.

92. Plaintiff and the Class have suffered and will suffer additional damages as a result of the acts and conduct of the Director Defendants alleged herein. Plaintiff and the Class have lost the value of the shares of Company stock and will not receive any control premium for their shares as a result of Defendants' breaches of fiduciary duty.

COUNT II
Breach Of Fiduciary Duty
(Derivatively Against the Director Defendants)

93. Plaintiff incorporates each allegation set forth above as if fully set forth herein.

94. As directors and officers of the Tile Shop, the Director Defendants are fiduciaries of the Company and its stockholders and owe the Company the highest duties of good faith, fair dealing, due care, and loyalty.

95. The Director Defendants breached their fiduciary duties by approving the delisting and deregistering and failing to implement a poison pill or standstill to

prevent Rucker, Jacullo, and Kamin from obtaining control of the Company at a depressed price. In acting for the benefit of Rucker, Jacullo, and Kamin rather than Tile Shop, the Director Defendants were not acting in good faith, failed to exercise due care, and acted disloyally towards the Company in breach of their fiduciary duties.

96. As a result of the actions of the Director Defendants, the Company has been and will be damaged.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment in their favor and in favor of the Class and against all Defendants as follows:

A. Declaring that this Action is properly maintainable as a class action, and certifying Plaintiff as Class representative and Plaintiff's counsel as Class counsel;

B. Declaring that the Director Defendants breached their fiduciary duties owed to Plaintiffs and the Class;

C. Temporarily, preliminarily and permanently enjoining the Board and the Company from going dark;

D. Temporarily, preliminarily and permanently enjoining Rucker, Jacullo, and Kamin, their affiliates, associates and all those acting in concert with them from purchasing additional shares of Tile Shop stock on the open market;

E. Compelling the Board to adopt a poison pill or enter in to a standstill agreement that would preclude Rucker, Jacullo, and Kamin from buying additional Tile Shop shares on the open market unless and until the Board negotiates a deal with Rucker, Jacullo, and Kamin that provides the Company's public stockholders a control premium above the Company's October 21, 2019 market price;

F. Imposing a constructive trust over the shares that Rucker, Jacullo, and Kamin acquired through the Go-Dark Scheme in violation of Delaware law;

G. Awarding damages, including rescissory damages, to Plaintiff and the Class;

H. Awarding pre and post judgment interest to Plaintiff and the Class;

I. Awarding Plaintiff the costs and disbursements of this Action, including reasonable attorneys' and experts' fees; and

J. Granting such other and further relief as this Court may deem just and proper.

DATED: November 5, 2019

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

OF COUNSEL:

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Attorneys for Plaintiff

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

K-BAR HOLDINGS LLC, on behalf
of itself and all other similarly situated
stockholders of TILE SHOP
HOLDINGS, INC., and derivatively on
behalf of Nominal Defendant TILE
SHOP HOLDINGS, INC., a Delaware
corporation,

Plaintiff,

v.

ROBERT A. RUCKER, PETER J.
JACULLO III, PETER H. KAMIN,
CABELL LOLMAUGH, TODD
KRASNOW, and PHILIP B.
LIVINGSTON,

Defendants,

-and-

TILE SHOP HOLDINGS, INC., a
Delaware corporation,

Nominal Defendant.

C.A. No. _____

**AFFIDAVIT AND VERIFICATION OF
KEVIN BARNES IN SUPPORT OF VERIFIED
CLASS ACTION AND DERIVATIVE COMPLAINT**

Kevin Barnes, being duly sworn, does hereby state as follows:

1. I, Kevin Barnes, am Principal of K-Bar Holdings, LLC, the plaintiff in the above-captioned action and a continuous holder of common stock of the Tile Shop Holdings, Inc. during all relevant times alleged in the Verified Class Action and Derivative Complaint (the “Complaint”). I am a resident of the United States and am of full legal age. I make this affidavit in support of the Complaint filed as in the above-captioned case.

2. I make this affidavit under penalty of perjury.

3. I have read the Complaint and consulted with counsel.

4. The facts alleged in the Complaint are true and correct to the best of my knowledge, information and belief.

5. In accordance with Delaware Court of Chancery Rules 23 (aa) and Rule 23.1(b), neither I nor K-Bar Holdings, LLC have received, been promised or offered and will not accept any form of compensation, directly or indirectly, for prosecuting or serving as a representative party in this Action except for:

(a) Such damages or other relief as the Court may award it as a member of the class;

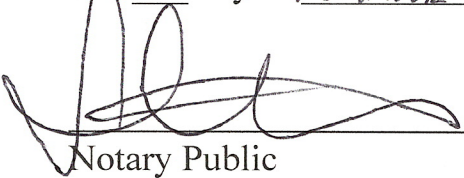
(b) such fees, costs or other payments as the Court expressly approves to be paid to or on behalf of K-Bar Holdings, LLC; or

(c) reimbursement, paid by its attorneys, of actual and reasonable out-of-pocket expenditures incurred directly in connection with the prosecution of this action.

Executed this 5th day of November 2019

By: Kevin Barnes
Kevin Barnes, Principal
K-Bar Holdings, LLC

SWORN TO AND SUBSCRIBED before me,
this 5th day of November, 2019.



Notary Public

My Commission Expires: 11/08/2019

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
John S. Hutchison, Notary Public
Valley Twp., Chester County
My Commission Expires Nov. 8, 2019
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

SUPPLEMENTAL INFORMATION PURSUANT TO RULE 3(A)
OF THE RULES OF THE COURT OF CHANCERY

The information contained herein is for the use by the Court for statistical and administrative purposes only. Nothing stated herein shall be deemed an admission by or binding upon any party.

1. Caption of Case: K-Bar Holdings LLC (Plaintiff) v. Robert A. Rucker, Peter J. Jacullo III, Peter H. Kamin, Cabell Lolmaugh, Todd Krasnow and Philip B. Livingston (Defendants) and Tile Shop Holdings, Inc. (Nominal Defendant)

2. Date Filed: November 5, 2019

3. Name and address of counsel for plaintiff(s): Gregory V. Varallo (Bar No. 2242), BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP, 500 Delaware Avenue, Suite 901, Wilmington, DE 19801

4. Short statement and nature of claim asserted: Class action and derivative claims for breach of fiduciary duty

5. Substantive field of law involved (check one):

<input type="checkbox"/> Administrative law	<input type="checkbox"/> Labor law	<input type="checkbox"/> Trusts, Wills and Estates
<input type="checkbox"/> Commercial law	<input type="checkbox"/> Real Property	<input type="checkbox"/> Consent trust petitions
<input type="checkbox"/> Constitutional law	<input type="checkbox"/> 348 Deed Restriction	<input type="checkbox"/> Partition
<input checked="" type="checkbox"/> Corporation law	<input type="checkbox"/> Zoning	<input type="checkbox"/> Rapid Arbitration (Rules 96,97)
<input type="checkbox"/> Trade secrets/trade mark/or other intellectual property		<input type="checkbox"/> Other

6. Related cases, including any Register of Wills matters (this requires copies of all documents in this matter to be filed with the Register of Wills): n/a

7. Basis of court's jurisdiction (including the citation of any statute(s) conferring jurisdiction):
10 *Del. C.* §§ 341, 342 & 343

8. If the complaint seeks preliminary equitable relief, state the specific preliminary relief sought.

9. If the complaint seeks a TRO, summary proceedings, a Preliminary Injunction, or Expedited Proceedings, check here . (If #9 is checked, a Motion to Expedite must accompany the transaction.)

10. If the complaint is one that in the opinion of counsel should not be assigned to a Master in the first instance, check here and attach a statement of good cause.

/s/ Gregory V. Varallo
Gregory V. Varallo (Bar No. 2242)