CAUSE NO. CV10113

KENNETH M. CROUCHER AND NORMA A. CROUCHER	§	IN THE DISTRICT COURT
PLAINTIFFS,	§	
V.	§	33RD JUDICIAL DISTRICT
PETER GARBOWSKI AND BULK, INC.	§	
DEFENDANTS.	§	BLANCO COUNTY, TEXAS

COUNTER-PLAINTIFFS, PETER GARBOWSKI AND BULK, INC.'S FIRST AMENDED ORIGINAL COUNTERCLAIM

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Counter-Plaintiffs, Peter Garbowski and BULK, Inc. (collectively, "BULK"), and file this First Amended Original Counterclaim against Kenneth M. Croucher and Norma A. Croucher (collectively, the "Crouchers") and states as follows:

I. FACTS

8. Peter Garbowski of BULK and Kenneth "Ken" M. Croucher initially met in 2016 through Jerky Junction and its owner, Kyle Baird, who were business competitors in the ever-growing beef jerky business.[1] At the time of their meeting, Mr. Garbowski had secured a potential jerky production opportunity with Premier Nutrition requiring approximately 170,000 pounds of jerky production. After negotiations between Peter Garbowski and Ken Croucher, the parties entered into a gentleman's handshake agreement under which Garbowski would be paid a fee of $0.35 per pound in exchange for Croucher agreeing to provide the required beef jerky

[1] The global beef jerky market is expected to exceed $23.9 billion by 2027. *See Jerky Industry Statistics: Market Data Report 2026*. The United States accounts for 60% of the global beef jerky market. *See id.*

production. Croucher never paid Garbowski all of the agreed upon fee, but Garbowski chose to maintain the business relationship with Croucher because it produced a quality beef jerky product.

9. The following year, BULK opened and began operating two retail jerky stores under its own private label in San Pedro and Long Beach, California. BULK's private label jerky was manufactured by the Crouchers and Country Butcher, Inc., a California beef jerky business. The following year, BULK acquired its own manufacturing facility in Blanco, Texas called Whittington's Beef Jerky. BULK thereafter began producing its own product in Texas for sale to the consumer market.

10. In 2021, Ken Croucher first approached BULK about purchasing Country Butcher. Croucher had recently lost his primary manufacturing contract with PRIME Manufacturing. Having lost this contract (and its ability to financially survive), Croucher affirmatively represented to BULK that: (a) Country Butcher had a book of business with expected production of approximately 30,000 pounds of jerky per month and a pipeline of new business; and (b) the acquisition of Country Butcher and its customer base would result in BULK increasing its revenue from approximately $2.8 million to over $5 million annually. These material representations, which turned out to be false, were intended to be relied upon by Croucher and were relied upon by BULK in making the decision to purchase the stock of Country Butcher from the Crouchers.

11. On March 31, 2022, BULK and Crouchers entered into a Stock Purchase Agreement ("SPA") whereby Crouchers sold their stock in Country Butcher for total purchase price of $2,327,529.00 to be paid as follows: (a) $200,000.00 paid in cash at closing; and (b) a secured Promissory Note in the amount of $2,127,529.00 payable in one hundred and twenty

(120) equal monthly payments. As additional consideration for the sale, Kenneth M. Croucher agreed to provide consulting services to BULK, Croucher agreed to a three-year non-competition, which specifically provided that:

> ***For a period of three (3) years after the Closing Date (the "Restricted Period") each Seller shall not, directly or indirectly compete with the Company in any manner or capacity*** including by investing in, owning, managing, operating, financing, controlling, ***advising***, ***rendering services*** to or guaranteeing the obligations of any Person engaged in or planning to become engaged in, the Company's business; *provided*, that a Seller may purchase or otherwise acquire up to (but not more than) two percent (2%) of any class of the securities of any Person (but may not otherwise participate in the activities of such Person) if such securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934; *provided*, *further*, that such restrictions shall be suspended at any time that Purchaser is then in default under the Promissory Note.

(emphasis added). The intended and necessary purpose of the non-compete was to ensure the retention of the book of business as represented by Croucher and to ensure a smooth transition of the operations aspect of the business, including production, formulations, and operational knowledge. Croucher also executed a Consulting Agreement with BULK post-sale that obligated Croucher. Thereunder, Croucher agreed "to provide general post-acquisition transition services and operational consulting advice in connection with the beef jerky business of the Company and its affiliates ("Services")."

12. Following the execution of the SPA, BULK began operations in Texas. Almost immediately after the sale, BULK began to encounter serious collection issues with Country Butcher customers. Croucher provided no material assistance in this regard despite his post-sale Consulting Agreement with BULK, and the collection problems resulting in a material impact on BULK's cash flow. In December 2023, Mr. Croucher, under the guise of his "consulting services" convinced BULK to transition production from its own facility in Blanco, Texas to Croucher's prior production partner PRIME Manufacturing located in Utah. Mr. Croucher at a

minimum provided negligent advice to BULK in directing a change in production, and it now appears that his actions may have been intentional for his own financial benefit as shown below.

13. Despite assurances from Croucher that PRIME Manufacturing could produce a saleable product for BULK, BULK almost immediately experienced serious operational issues with PRIME Manufacturing, including but not limited to: (a) inexcusable delays in production, (b) poor communication; (c) unexpected cost increases; and (d) unreliable manufacturing timelines. These problems further impacted the cash flow and BULK's ability to compete in the market. Suffice it to say, Croucher's consulting recommendations were poor, ill-conceived, and caused BULK serious financial damage.

14. In 2023, during the same time the above issues were occurring with PRIME, BULK was negotiating a large production contract for J&K Jerky, with an anticipated value of $2,000,000.00 annually. BULK learned after it submitted its pricing quotes to J&K Jerky, that Mr. Croucher was violating the non-competition provisions of the SPA by working either directly for or on behalf of PRIME Manufacturing to submit its own proposal to J&K Jerky. Mr. Croucher did not disclose his impermissible competition, nor did he disclose that he was assisting PRIME Manufacturing with developing recipes for the same customer. Mr. Croucher did however admit another violation of the SPA and its non-compete provisions when he informed BULK that he was consulting with and advising another competitor, Jerky Junction, on an expansion of its manufacturing facility. These acts by Mr. Croucher are a clear violation of SPA and Mr. Croucher's non-compete obligations.

15. BULK also learned that Ken Croucher assisted PRIME Manufacturing is undercutting BULK's pricing quote resulting in BULK losing the contract and the $2,000,00.00 in annual revenue. Ken Croucher's tortious interference with BULK's prospective business

relations caused BULK to suffer massive financial damage. Mr. Croucher's conduct was intentional and knowing.

16. The breaches of the SPA by Ken Croucher, his false representations of material fact and his intentional efforts to harm BULK by violating the SPA, violating his non-compete obligations (which Croucher admitted in 2024), and interfering with BULK's business ultimately caused BULK to close its Texas manufacturing operations. BULK thereafter was unable to make the payments due and owing under the Promissory Note. Croucher was informed that BULK could not make the payments and the parties thereafter attempted to negotiate an agreement whereby Croucher would take back its business in exchange for a release from the Promissory Note.

17. The 2025 Supplemental Agreement was memorialized in a short email dated January 10, 2025, that did not contain any material contract terms.[2] Based on this agreement, which did not obligate BULK to purchase any specified amount product from Croucher over any defined period of time, BULK re-formulated its business model shifting away from its own production to purchasing finished product to be resold through various distribution channels. While it fully intended to purchase manufactured jerky from the Crouchers, BULK simultaneously began developing new proprietary recipes internally for production by a separate manufacturing company.[3]

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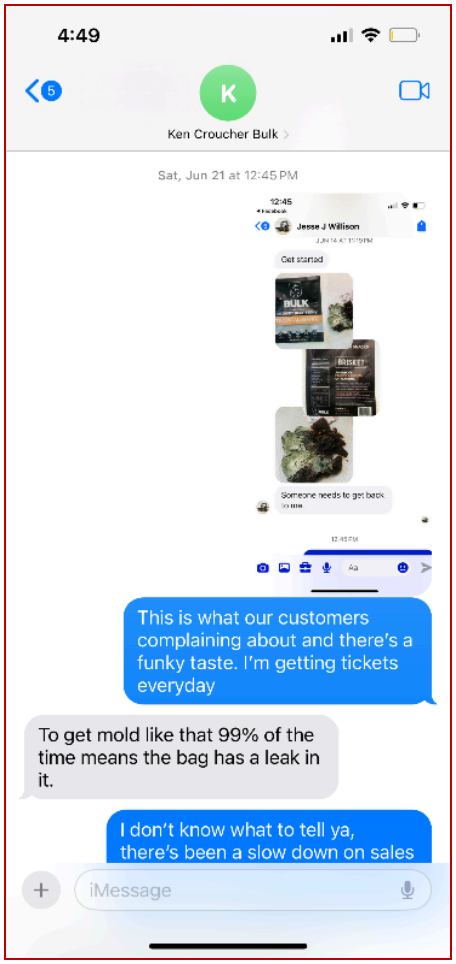
[2] The alleged 2025 Supplemental Agreement specifies no quantity of products to be purchased, no price per unit, no frequency of orders, no minimum purchase commitment, and no duration of the obligation.

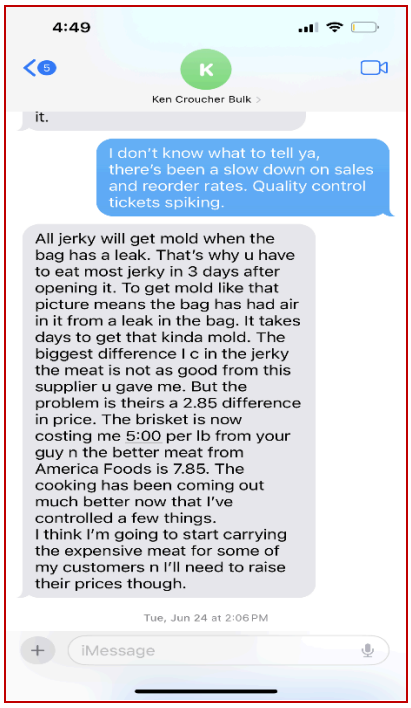
[3] BULK does not use any of the Crouchers' recipes in its current products. In fact, the evidence presented by the Crouchers to this Court in support of its Temporary Restraining Order is materially misleading and false. Exhibit C to Crouchers' TRO Application was offered to show that BULK was using the Crouchers' recipe for Mango beef jerky product. Exhibit C purportedly compares the Crouchers' Mango beef jerky product with the BULK Mango beef jerky. The BULK product identified by the Crouchers as a trade secret violation ***was the product***

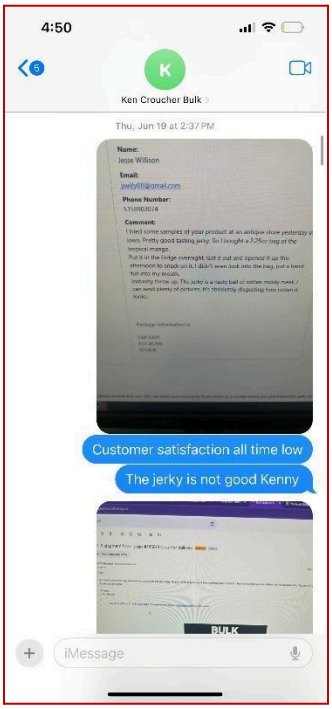
18. As it transitioned away from the Crouchers' manufactured products, BULK did honor the spirit of the email, and placed orders with the Crouchers. Unfortunately, the product manufactured by the Crouchers was of such poor quality that the majority could not be sold, and that which was sold resulted in a litany of customer complaints. This caused BULK to suffer lost sales of approximately $30,000.00 per month, damage to its brand and reputational harm. The quality issues were well-documented and shared with Croucher. BULK thereafter took affirmative steps to try and assist the Crouchers with the manufacturing problems.

Below is a small sample of BULK's issues with the Crouchers' product:

sold by the Crouchers to BULK before it ceased purchasing from the Crouchers. The presence of identical ingredients does not indicate a misappropriation but instead confirms that the products originate from the same manufacturing formulation.







Crouchers could never remedy the defects in its

---------- Forwarded message ---------
From: **Nick Buschini** <nick@bulkbeefjerky.com>
Date: Thu, Mar 13, 2025 at 8:16 AM
Subject: Re: Bad batch
To: Ken Croucher <countrybutcher@sbcglobal.net>
Cc: Linus Wik <linus@bulkbeefjerky.com>, P T G <pete@bulkbeefjerky.com>, <abetorres662@gmail.com>

Hey Ken have you tried it yourself? This is signed off by you?

The taste is almost an initial chemical soap taste in every flavor that masks the true flavor. I've tested numerous bags, and it's prevalent in all of them, so I wanted you to call me back.

It's either the tanks or the screens that were not completely cleaned off or dried.

Nick Buschini
424-536-3050

manufacturing process that rendered the product unconsumable.

19. Faced with continuing losses in customers and revenue, BULK had no choice but to stop purchasing from the Crouchers. BULK's last order from the Crouchers was delivered in January 2026, and the same quality problems remained. The Crouchers thereafter initiated this lawsuit.

20. Crouchers' allegations are materially misleading and factually incomplete. First, BULK has made payments to the Crouchers totaling approximately $885,186.29, including the closing cash payment of $265,544.75, post-closing inventory payments of $73,641.54, and twenty-eight (28) monthly note installments of $19,500.00 each. Second, Croucher did not submit a true and correct copy of the SPA to this Court. The SPA's Disclosure Schedules[4] were not presented to the Court. A true and correct copy of the Disclosure Schedules is attached hereto as **Exhibit A**. Notably, the Disclosure Schedules contain no intellectual property schedule and fail to identify any recipe or formulation now claimed as a trade secret by the Crouchers.

21. Crouchers' claim of a trade secret ignores the express terms of the SPA and the Disclosure Schedules, which defeat any trade secret claim as a matter of law. Schedule 2.13 states Croucher's recipes were already subject to a 2017 Confidential Settlement and Mutual License Agreement between Country Butcher and Perky Jerky, LLC — another beef jerky competitor. That settlement restricted production and expansion of certain "Modified Recipes"

[4] The Disclosure Schedules states:

> [t]hese Schedules are incorporated into the Agreement and are made a part thereof as if set out in full in the Agreement. Any item disclosed in any Schedule referenced by a particular Section in the Agreement shall be deemed to have been disclosed with respect to every other Section in the Agreement if the relevance of such disclosure to such other sections is reasonably apparent on the face of such disclosure.

and established that these formulations had been disclosed to and licensed with an industry competitor prior to the sale of the County Butcher stock to BULK.

22. Moreover, Section 4.1 of the SPA expressly provides:

> [n]othing contained in this Agreement shall prohibit any Seller from using in any commercial or non-commercial manner any recipes, whether or not created by or during his or her employment by the Company, in vegan or other non-meat based products or applications. To the extent that such recipes are deemed owned by the Company, ***the Company hereby grants Sellers a permanent, non-exclusive, royalty-free license to use the same***.

This provision grants Crouchers a permanent license back to use the very recipes they now claim are protectable trade secrets misappropriated by BULK. A license-back provision is only necessary when the licensor, BULK here, owns the intellectual property. This language is the SPA's own acknowledgment that the recipes are now owned by BULK, not Crouchers. Moreover, as admitted in Croucher's Affidavit submitted in support of the *ex parte* Temporary Restraining Order, at closing Croucher "delivered to BULK and Garbowski all of Country Butcher's corporate records, trade secrets, proprietary recipes, production instructions, customer lists, and other confidential and proprietary information." Croucher's trade secret claim simple has no basis in law or fact.[5]

23. Based on Crouchers' actions, BULK asserts the following counterclaims against the Crouchers as set forth below.

II. CAUSES OF ACTION

[5] Under the Texas Uniform Trade Secrets Act, a plaintiff must identify the alleged trade secret with reasonable particularity. *See* TEX. CIV. PRAC. & REM. CODE § 134A.002. Croucher's generic references to unspecified "recipes" and "formulations", none of which were ever scheduled, listed, or specifically identified in the SPA, fail to establish a trade secret.

Count 1 – Fraud and Fraudulent Inducement (Kenneth M. Croucher)

24. BULK repeats and incorporates the facts and allegations as stated in paragraphs 1-23 for all purposes.

25. Prior to the execution of the SPA, Kenneth M. Croucher made misrepresentations of material fact to BULK regarding Crouchers' book of business that was in fact not producing 30,000 pounds of jerky per month, and that if BULK purchased the stock, BULK's revenue would increase from approximately $2.8 million to over $5 million annually. Mr. Croucher intended for BULK to rely on these knowingly false representations of material facts and BULK relied on the false representations of material facts in making the decision to execute the SPA.

26. As a proximate result of the fraud committed by Mr. Croucher, BULK has incurred damages in excess of this Court's minimal jurisdictional limits.

Count 2 – Breach of Contract (Kenneth M. Croucher)

27. BULK repeats and incorporates the facts and allegations as stated in paragraphs 1-26 for all purposes.

28. BULK and Kenneth M. Croucher entered into a valid contract. BULK performed its contractual obligations pursuant to the SPA. Mr. Croucher breached the SPA by violating the non-competition provisions therein. This breach by Kenneth M. Croucher occurred prior to any payment default by BULK. Specifically, Mr. Croucher knowingly and intentionally violated his non-compete obligations by working either directly for or on behalf of PRIME Manufacturing to submit a competing proposal to J&K Jerky. Mr. Croucher did not disclose his impermissible competition, nor did he disclose that he was assisting PRIME Manufacturing with developing recipes for the same customer. Kenneth M. Croucher also was violating the SPA by advising BULK's competitor, Jerky Junction, on an expansion of its manufacturing facility

29. As a result of Mr. Croucher's breach of the SPA, BULK has suffered damages in excess of this Court's minimal jurisdictional limits.

Count 3 – Negligent Misrepresentation (Kenneth M. Croucher)

30. BULK repeats and incorporates the facts and allegations as stated in paragraphs 1-29 for all purposes.

31. Kenneth M. Croucher made false representations to BULK in the course of a transaction in which BULK had a pecuniary interest. Croucher did not exercise reasonable care or competence in communicating information to BULK. Specifically, and to the extent that such representations were not knowing and intentional, Mr. Croucher was negligent in representing the following material facts: (a) Mr. Croucher's book of business was producing 30,000 pounds of jerky per month; and (b) if BULK acquired the Country Butcher stock, BULK's revenue would increase from approximately $2.8 million to over $5 million annually.

32. As a result of Kenneth M. Croucher's negligent misrepresentations BULK has suffered damages in excess of this Court's minimal jurisdictional limits.

Count 4 – Tortious Interference with Prospective Business Relations (Kenneth M. Croucher)

33. BULK repeats and incorporates the facts and allegations as stated in paragraphs 1-32 for all purposes.

34. Kenneth Croucher tortiously interfered with the prospective business relationship between BULK and J&K Jerky. While Mr. Croucher was contractually obligated under the express terms regarding competition in Section 4.1 of the SPA, Croucher was secretly working with PRIME Manufacturing to interfere with the prospective contract between BULK and J&K Jerky by actively undercutting BULK's price quote resulting in the loss of the J&K Jerky contract, which was valued at $2,000.000.00 annually.

35. Kenneth M. Croucher's tortious interference proximately caused BULK to sustain damages in excess of $2,000,000.00.

Count 5 – Malicious Prosecution (Kenneth M. Croucher & Norma A. Croucher)

36. BULK repeats and incorporates the facts and allegations as stated in paragraphs 1-35 for all purposes.

37. A person who obtains an injunction wrongfully is liable for damages caused by issuance of the injunction. Here, the Crouchers agreed to terminate and nullify the SPA via the 2025 Supplemental Agreement. That Agreement negated any further contractual or other obligations of BULK or Garbowski and returned the Country Butcher business to the Crouchers. The 2025 Supplemental Agreement specifies no quantity of products to be purchased, no price per unit, no frequency of orders, no minimum purchase commitment, and no duration of the obligation. Most importantly, it does not obligate BULK to make any further payments under the SPA. Instead of complying with this Agreement and ignoring the intent of the parties, the Crouchers filed this lawsuit and wrongfully obtained an injunction that has destroyed BULK's business. The injunction obtained by the Crouchers was prosecuted maliciously and without probable cause.

38. As a direct and proximate cause of the Crouchers' malicious prosecution, BULK has lost its key personnel, its warehouse, customer relationships and lost sales totaling approximately $150,000.00 per month and future sales and business opportunities. Moreover, based on the factually unsupported claims regarding the alleged confidential recipes, BULK has now lost its contract with One World Specialties, its sole manufacturer.

VI. REQUEST FOR ATTORNEY'S FEES

39. In accordance with Chapter 38 of the Texas Civil Practices and Remedies Code, BULK seeks an award of its reasonable and necessary attorneys' fees.

VII. Conditions Precedent

40. All conditions precedent to recovery have occurred or have been satisfied.

Prayer

WHEREFORE PREMISES CONSIDERED, Counter-Plaintiffs request the Court enter judgment awarding Counter-Plaintiffs:

1. All damages, including but not limited to actual damages, to which they are entitled;

2. Pre- and post-judgment interest at the maximum rate allowed by law;

3. All court costs and reasonable attorneys' fees incurred in connection with this matter, as permitted by Tex. Civ. Prac. & Rem. Code § 38.001, and as otherwise allowed by law and in the name of equity;

4. Issue all writs necessary to effectuate the judgment; and

5. Any other relief this Court deems just and proper at law or in equity.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of **July 2026**, a true and correct copy of the above and foregoing has been transmitted in accordance with the requirements of the Texas Rules of Civil Procedure, addressed as follows:

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