

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

ANDREA ROSSI, et al.,)
)
 Plaintiffs,)
 v.)
)
THOMAS DARDEN, et al.,)
)
 Defendants.)
_____)

No. 16-cv-21199-CMA (JJO)

AFFIDAVIT OF JOHN A. MAZZARINO

I, John A. Mazzarino, in accordance with 28 U.S.C. § 1746, declare as follows:

1. For nearly thirty years, I have been involved in numerous joint business ventures with Thomas Darden, often under the branding umbrella “Cherokee.” These ventures include Cherokee Investment Partners, LLC (“CIP”), Cherokee Investment Services, Inc. (“CIS”), Cherokee Advisers, LLC (“CA”), and Industrial Heat, LLC (“Industrial Heat”), among many others.

2. CIP and CA are privately held companies co-founded by Mr. Darden and me. They provide investment management services to private equity funds that specialize in the acquisition, remediation, and sustainable redevelopment of contaminated real estate. Mr. Darden and I are both Managing Members of both CIP and CA.

3. CA has no employees, and receives revenues only from management fees, tax credit projects, or capital contributions by Mr. Darden and me.

4. Like CA, CIP receives revenues only from management fees, tax credit projects, or capital contributions by Mr. Darden and me. CIP has eight individuals on its payroll, including myself and Mr. Darden, who are co-founders.

5. CIS is a privately held company that Mr. Darden and I also co-founded. It provides services to a number of Cherokee entities, including CA and CIP, as well as affiliated entities that are involved with private investments that Mr. Darden and I have made, including Industrial Heat. More specifically, CIS is a service provider that provides administrative services, including but not limited to financial accounting and reporting. CIS presently has seven individuals on its payroll.

6. For many years, the law firm of Schell Bray, PLLC (“Schell Bray”) has represented numerous entities that Mr. Darden and I co-founded, including those I reference in this Declaration, and has provided advice to us regarding the formation of such entities and related legal matters.

7. In 2012, Mr. Darden and I entered into negotiations with Plaintiff Andrea Rossi regarding the terms of what would culminate in a License Agreement to use Mr. Rossi’s intellectual property known as “Energy Catalyzer” or “E-Cat” technology within specific geographic territories. Mr. Darden and I jointly communicated with lawyers from Schell Bray on numerous legal issues relating to the negotiation of the License Agreement which was executed on October 26, 2012. Many of such communications were via email and were intended to remain confidential.

8. On October 24, 2012, Mr. Darden and I co-founded Industrial Heat for purposes of entering into the License Agreement with Andrea Rossi and his company. Together we, directly or through affiliated entities, contributed the initial capital to the company, and I continue, through a family investment vehicle, to hold a substantial equity stake in Industrial Heat. Prior to the creation of Industrial Heat, Mr. Darden and I jointly communicated with lawyers from Schell Bray on legal issues relating to the formation of Industrial Heat, and

received legal advice regarding the establishment of the appropriate corporate vehicle for entering the License Agreement and related legal matters. Many of the communications with counsel were via email, and were intended to remain confidential.

9. Mr. Darden is the Manager and an officer of Industrial Heat, and is a director of the parent company of Industrial Heat, IH Holdings International Limited (“IHHI”) which owns 100% of Industrial Heat. I am a director of IHHI, along with Mr. Darden. Because Mr. Darden and I are both investors in Industrial Heat, and are both directors of its parent company, we share a common interest in securing a return on our investment and in avoiding or managing litigation that could adversely affect our investment.

10. Prior to the formation of Industrial Heat, CA paid for the work performed by Schell Bray in connection with the negotiation of the License Agreement and the formation of Industrial Heat. Because Mr. Darden and I co-founded and jointly own CA, such costs are effectively paid by Mr. Darden and me. Mr. Darden and I had a common interest in maintaining the appropriate separateness of the corporate entities we co-founded, including CIP, CIS, CA and Industrial Heat, among others. Thus, a number of the officers and/or employees of such entities were from time-to-time copied on confidential emails relating to the various legal issues that arose in connection with the Industrial Heat transactions.

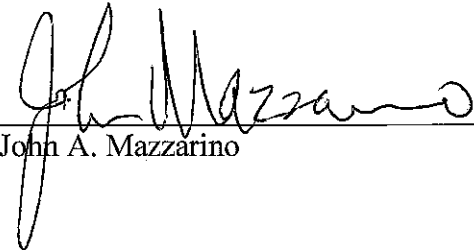
11. In May of 2015, after the recapitalization of Industrial Heat, Industrial Heat began reimbursing CA for the time that CIS employees spent in connection with Industrial Heat.

12. In approximately July or August of 2015, Mr. Darden and I retained Jones Day to advise in connection with disputes arising with Andrea Rossi with respect to the License Agreement. About that time, Mr. Darden and I began jointly and regularly communicating with lawyers from both Jones Day and Schell Bray on issues related to Industrial Heat’s rights and

obligations under the License Agreement. Many of such communications were via email, and were intended to remain confidential.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of February, 2017.



John A. Mazzarino