

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN VIDUREK, KIMBERLY VIDUREK and  
JAMES VIDUREK

Case No.: 7:20-cv-6714-CS

Plaintiffs,

vs.

STEVE DOUGLAS, MIKE FROST,  
KAMM “RANDY”, CBE GROUP, INC.,  
N CASSADINE, J MELENDEZ, SUSAN LAMASTRO,  
JEANETTE WILLET, FRANK J CHAN,  
CHARLES P. RETTIG and BOBBI S MARTIN

Defendants.

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**DEFENDANTS STEVE DOUGLAS, MIKE FROST, RANDALL KAMM  
AND THE CBE GROUP, INC.’S ANSWER TO COMPLAINT**

Defendants Steve Douglas, Mike Frost, Randall Kamm,<sup>1</sup> and The CBE Group, Inc. (“CBE”) (collectively “Defendants”), by and through their counsel, to file their Original Answer to Plaintiff’s Complaint. At the outset, Defendants note that Plaintiffs’ Complaint incorrectly and defectively named individuals Pim Pollen, Margareth De Wit, and Alessandro Donetti of CBE Group, which is unrelated and in no way affiliated with The CBE Group, Inc. *See Doc. 1*. Plaintiffs now file a pleading, that Defendants convey as an amended complaint, naming Steve Douglas, Mike Frost, Kamm “Randy” VP, and CBE Group, Inc. *See Doc. 15*. However, Plaintiffs have not received leave to amend their Complaint, nor have they properly served Defendants. Nonetheless, to avoid any prospect of default, Defendants file their Original Answer as follows:

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<sup>1</sup> Randall Kamm was improperly named as “Kamm ‘Randy’ VP” in Plaintiff’s pleading introducing Mr. Kamm as a defendant. *Doc. 15*.

**I. RESPONSE TO CLARIFY AS PER JUDGE SEIBEL REQUEST**

1. Defendants admit that Plaintiffs bring this action before this Court. Defendants deny that they committed any unlawful conduct. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 1; therefore, they deny the same.

- a. Defendants deny Paragraph 1.a to the extent it is an incomplete and/or inaccurate statement of law. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 1.a; therefore, they deny the same.
- b. Defendants deny that they were served in this case and further deny that they defaulted.
- c. Defendants deny Paragraph 1.c as an incomplete and/or inaccurate statement of law.
- d. Defendants deny Paragraph 1.d as an incomplete and/or inaccurate statement of law.
- e. Defendants deny that they defaulted. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 1.e; therefore, they deny the same.
- f. Defendants deny Paragraph 1.f as it pertains to Defendants. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 1.f; therefore, they deny the same.

- g. Defendants deny Paragraph 1.g as it pertains to Defendants. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 1.g; therefore, they deny the same.
  - h. Defendants deny being served with a “Notice and Demand.” Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 1.h; therefore, they deny the same.
2. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 2; therefore, they deny the same.
- a. Defendants deny Paragraph 2.a as it pertains to Defendants. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 2.a; therefore, they deny the same.
  - b. Defendants admit that Plaintiffs address their “Action at Law” for tax years 2014, 2015, and 2016.
  - c. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 2.c; therefore, they deny the same.
  - d. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 2.d; therefore, they deny the same.
  - e. Defendants deny Paragraph 2.e as an incomplete and/or inaccurate statement of law.
  - f. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 2.f; therefore, they deny the same.
3. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 3; therefore, they deny the same.

- a. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 3.a; therefore, they deny the same.
- b. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 3.b; therefore, they deny the same.
- c. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 3.c; therefore, they deny the same.
- d. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 3.d; therefore, they deny the same.
- e. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 3.e; therefore, they deny the same.
- f. Defendants deny Paragraph 3.f as it pertains to Defendants. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 3.f; therefore, they deny the same.
- g. Defendants deny Paragraph 3.g as it pertains to Defendants. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 3.g; therefore, they deny the same.

## **II. AS DIRECTED BY THE COURT PLAINTIFFS RESPONSE TO DEFENDANTS'**

### **MOTION LETTER TO THE COURT CONCERNING THEIR DEFAULT**

- 1. Defendants deny Paragraph 1.
- 2. The allegations in Paragraph 2 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 2.
- 3. Defendants admit Paragraph 3.

4. Defendants deny Paragraph 4.

5. Defendants deny Paragraph 5.

6. The allegations in Paragraph 6 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 6.

7. Defendants admit Paragraph 7.

8. The allegations in Paragraph 8 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 8.

9. The allegations in Paragraph 9 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 9.

10. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 10; therefore, they deny the same.

11. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 11; therefore, they deny the same.

12. The allegations in Paragraph 12 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 12.

13. The allegations in Paragraph 13 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 13.

14. The allegations in Paragraph 14 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 14.

15. The allegations in Paragraph 15 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 15.

16. The allegations in Paragraph 16 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 16.

17. The allegations in Paragraph 17 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 17.

18. The allegations in Paragraph 18 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 18.

19. The allegations in Paragraph 19 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 19.

20. The allegations in Paragraph 20 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 20.

21. The allegations in Paragraph 21 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 21.

22. The allegations in Paragraph 22 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 22.

23. The allegations in Paragraph 23 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 23.

24. The allegations in Paragraph 24 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 24.

25. The allegations in Paragraph 25 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 25.

26. The allegations in Paragraph 26 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 26.

27. The allegations in Paragraph 27 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 27.

28. The allegations in Paragraph 28 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 28.

29. The allegations in Paragraph 29 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 29.

30. The allegations in Paragraph 30 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 30.

31. The allegations in Paragraph 31 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 31.

32. The allegations in Paragraph 32 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 32.

33. The allegations in Paragraph 33 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 33.

34. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 34; therefore, they deny the same.

35. The allegations in Paragraph 35 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 35.



36. The allegations in Paragraph 36 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 36.

37. The allegations in Paragraph 37 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 37.

38. The allegations in Paragraph 38 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 38.

39. The allegations in Paragraph 39 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 39.

40. The allegations in Paragraph 40 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 40.

41. The allegations in Paragraph 41 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 41.

42. The allegations in Paragraph 42 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 42.

43. The allegations in Paragraph 43 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 43.

44. The allegations in Paragraph 44 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 44.

45. The allegations in Paragraph 45 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 45.

46. The allegations in Paragraph 46 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 46.

47. The allegations in Paragraph 47 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 47.

48. The allegations in Paragraph 48 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 48.

49. The allegations in Paragraph 49 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 49.

50. The allegations in Paragraph 50 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 50.

51. The allegations in Paragraph 51 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 51.

52. The allegations in Paragraph 52 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 52.

53. The allegations in Paragraph 53 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 53.

54. The allegations in Paragraph 54 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 54.

55. The allegations in Paragraph 55 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 55.

56. The allegations in Paragraph 56 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 56.

57. The allegations in Paragraph 57 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 57.

58. The allegations in Paragraph 58 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 58.

59. The allegations in Paragraph 59 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 59.

60. The allegations in Paragraph 60 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 60.

61. The allegations in Paragraph 61 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 61.

62. The allegations in Paragraph 62 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 62.

63. The allegations in Paragraph 63 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 63.

64. The allegations in Paragraph 64 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 64.

65. Defendants deny Paragraph 65 as it pertains to Defendants. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 65; therefore, they deny the same.

66. Defendants deny Paragraph 66 as it pertains to Defendants as Defendants were never properly served. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 66; therefore, they deny the same.

67. Defendants deny Paragraph 67 as it pertains to Defendants as Defendants were never properly served. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 67; therefore, they deny the same.

68. Defendants deny Paragraph 68 as it pertains to Defendants. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 68; therefore, they deny the same.

69. The allegations in Paragraph 69 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 69.

70. The allegations in Paragraph 70 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 70.

71. The allegations in Paragraph 71 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 71.

72. The allegations in Paragraph 72 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 72.

73. The allegations in Paragraph 73 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 73.

74. The allegations in Paragraph 74 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 74.

75. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 75; therefore, they deny the same.

76. The allegations in Paragraph 76 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 76.

77. The allegations in Paragraph 77 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 77.

78. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 78; therefore, they deny the same.

79. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 79; therefore, they deny the same.

80. The allegations in Paragraph 80 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 80.

81. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 81; therefore, they deny the same.

82. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 82; therefore, they deny the same.

83. Defendants lack knowledge or information sufficient to form a belief about the truth of Paragraph 83; therefore, they deny the same.

**FIRST AFFIRMATIVE DEFENSE**

84. A violation, if it occurred, was the result of a bona fide error.

**SECOND AFFIRMATIVE DEFENSE**

85. Plaintiffs' damages, if any, are the result of the actions of third parties over whom Defendants have no control.

**THIRD AFFIRMATIVE DEFENSE**

86. Plaintiffs' damages, if any, were pre-existing damages not caused by Defendants.

**FOURTH AFFIRMATIVE DEFENSE**

87. Plaintiffs have failed to mitigate damages, if any.

**FIFTH AFFIRMATIVE DEFENSE**

88. Plaintiffs proximately caused their own damages, if any.

**SIXTH AFFIRMATIVE DEFENSE**

89. Plaintiffs lack Article III standing to pursue the allegations in the Complaint.

**SEVENTH AFFIRMATIVE DEFENSE**

90. The Court lacks personal jurisdiction over the Defendants because they have failed to be properly served as set forth in the Federal Rules of Civil Procedure.

**EIGHTH AFFIRMATIVE DEFENSE**

91. Plaintiffs have failed to state a claim upon which relief can be granted.

WHEREFORE, Defendants Steve Douglas, Mike Frost, Randall Kamm and The CBE Group, Inc. respectfully demand judgment against Plaintiffs dismissing the Amended Complaint in its entirety together for such other, further or different relief, not inconsistent herewith, as may be just, equitable and proper, together with the costs and disbursements of this action.

Dated: March 3, 2021

**LIPPES MATHIAS WEXLER FRIEDMAN LLP**

s/ Brendan H. Little

Brendan H. Little, Esq.

Attorneys for Defendants

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 3, 2021, I electronically filed the foregoing Answer via the CM/ECF system, which should then send notification of such filing to all counsel of record. A copy of the Answer was also sent by first class mail to Plaintiffs at:

John Vidurek  
Kimberly Vidurek  
James Vidurek  
1 South Drive  
Hyde Park, NY 12539

/s/ Brendan H. Little  
Brendan H. Little, Esq.