

COURT FILE NUMBER	<u>2501-19283</u>
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	<u>CALGARY</u>
PLAINTIFF	COMPEER FINANCIAL, PCA
DEFENDANTS	SUNTERRA FARMS LTD., SUNWOLD FARMS LIMITED, SUNTERRA ENTERPRISES INC., RAY PRICE, DEBBIE UFFELMAN, <u>CRAIG THOMPSON</u> , <u>DAVID PRICE</u> , <u>ARTHUR PRICE</u> and <u>GLEN PRICE</u>
DOCUMENT	<u>AMENDED STATEMENT OF DEFENCE</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Blue Rock Law LLP 700, 215-9 th Ave SW Calgary, AB T2P 1K3 Scott Chimuk and David W. Mann, KC. T. 587.390.7041 and 403.605.3992 E. scott.chimuk@bluerocklaw.com / david.mann@bluerocklaw.com File: 1375-00001

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

General denial and overview of Defence

1. The Defendants, Sunterra Farms Ltd. ("Sunterra Canada"), Sunwold Farms Limited ("Sunwold Canada") (together, the "**Canadian Hog Farm Entities**"), Sunterra Enterprises Inc. ("SEI") (collectively the "Corporate Defendants"), Ray Price ("Ray Price"), Debbie Uffelman ("**Uffelman**"), Craig Thompson ("**Thompson**", David Price, Arthur Price ("Art Price") and Glen Price, deny every allegation of fact unless expressly admitted herein.
2. The Defendants admit the facts as alleged at paragraph 18 of the within Amended Statement of Claim, as sent to the Court on October 27, 2025 ("Statement of Claim"), save to say that Sunterra U.S. also housed pigs for unrelated parties including The Pork Group Inc.

Key facts

3. The Corporate Defendants are private corporations incorporated in Alberta and are members of the Sunterra Group – a series of companies ultimately owned and operated by members of the Price family. The Sunterra Group has operations dating back over 50 years, spanning multiple sectors of the agricultural and food distribution industries.
4. The Defendants do not bank with and have never banked with Compeer Financial PCA (“Compeer” or the ‘Plaintiff’).
5. 3 US Sunterra entities banked with Compeer: Sunwold Farms Inc. (“Sunwold US”), Sunterra Farms Iowa Inc. (“Sunterra US”) and Lariagra Farms South Inc. (Lariagra US”) (collectively the “US Hog Farm Entities”).
6. The US Hog Farm Entities worked with Canadian Hog Farm Entities of the Sunterra Group, namely the Corporate Defendants, in a large pig farming business. Piglets are born in Canada and were sold to the US Hog Farm Entities. These piglets are and were produced to No Antibiotics Ever or NAE standards, and as such attract and attracted a premium price once they mature into hogs and are sold in USD in the US. But to achieve that premium, significant time and resources are required.
7. Compeer, wrongfully and without warning cancelled all the credit facilities of the US Hog Entities in February 2025. This cancellation of credit caused the US Hog Farm Entities to experience liquidity issues which ultimately resulted in an insolvency (“**US Insolvency**”). After the cancellation of the credit facilities but prior to the US Insolvency, Art Price of the Sunterra Group met with Compeer and presented them with a proposal that would have solved any issues relating to the repayment of the Compeer debt (“**Price Proposal**”). The Price Proposal included defined participation in positive cash flows arising from the continued business operation of the Hog business and taking advantage of certain premiums which were attainable through the continued operation of the US entities in conjunction with pig purchases from the Canadian entities.

Specific Responses

8. The Defendants deny that they owe the Plaintiff any duties as alleged or at all, or alternatively that to the extent that they owed any duties that they breached any duties as alleged or at all.
9. The Defendants deny that they caused any losses as alleged or at all.
10. In specific response to paragraph 1 of the Statement of Claim the Defendants deny that the Plaintiff suffered any losses as alleged or at all.
11. In the alternative if any losses were suffered, which is not admitted but denied, then those losses are exorbitant and exaggerated and the Defendants are not liable for them.
12. In the further alternative, if any losses were suffered, which is not admitted but denied, then there is a failure to mitigate, including by the failure of the Compeer to work with the US Receiver and Sunterra to realize the true value of the assets of the US Hog Farm Entities for the benefit of all stakeholders.
13. In the further alternative, if any losses were suffered, which is not admitted but denied, then those losses were not caused by the Defendants but were solely or partially caused by the Plaintiff such that it is contributorily negligent, or were all or partially caused by third parties including but not limited to the National Bank of Canada.
14. The Defendants deny that they, or any of them, participated in any fraudulent scheme as alleged. Further, or in the alternative, the Defendants state that to the extent that there was any such scheme as alleged or at all, which is denied, that Compeer was a knowing participant and cooperated in the scheme. At all material times hereto Compeer consented to, endorsed, and/or tacitly or expressly endorsed the actions of the Defendants. Specifically, Compeer knew about and authorized the financial practices of the Defendants including any intercompany loans or transfers.
15. In response to paragraphs 4 and 5 of the Statement of Claim, deny that any actions undertaken by them were done in furtherance of the alleged “Cheque Kiting Scheme”.

16. In response to paragraph 5 of the Statement of Claim, Price, Uffelman and Thompson did not cause or conceal anything as alleged.
17. In response to paragraph 6 of the Statement of Claim, SEI denies that it was a guarantor of any loans as alleged. In the alternative, to the extent that it was a guarantor of any loans as alleged, SEI claims set off and alleges that the refusal to accept the Price Proposal or to otherwise realize the true value of the assets of the US Hog Farm Entities constituted a breach of Compeer's contractual duty of good faith and both caused any losses that Compeer may have suffered as well as caused additional loss and damage to SEI, as well as to the other Sunterra Defendants.
18. In response to paragraph 13 of the Statement of Claim, Ray Price denies that he is the beneficial owner of the Sunterra Entities as alleged and further states that at all times he exercised reasonable diligence when acting as an officer and director of any of the entities as alleged. Ray further denies wrongful conduct and denies that he owes the Plaintiff any duty as alleged or at all.
19. In response to paragraph 14 of the Statement of Claim, Uffelman states that she exercised reasonable diligence when acting as an officer of any of the entities at all times, and denies that she had knowledge and oversight of and responsibility for the finances of the Sunterra companies as alleged. She further denies wrongful conduct and denies that she owes the Plaintiff any duty as alleged or at all.
20. In response to paragraph 15 of the Statement of Claim, Thompson denies that he had knowledge and oversight of and responsibility for the finances of the Sunterra companies as alleged.
21. In specific response to paragraph 16 of the Statement of Claim, David Price and Glen Price were directors of only Sunterra Enterprises Inc and not the Canadian Hog Farm Entities.
22. In specific response to paragraphs 28 and 29 of the Statement of Claim, Sunterra Enterprises denies the guarantees as alleged or at all, and in the alternative denies that the guarantees as alleged to have been granted on September 23, 2023, were continuing guarantees which applied after the granting of the three RLOCs by

Compeer on October 7, 2024, and in the alternative deny any liability to Compeer for any losses or damages, which are denied, as alleged or at all, given Compeer's participation in the activities of the U.S Hog Farm Entities as alleged, including by the ongoing grant of conditional credit to those entities resulting in the alleged loss or damages which were thereby caused by Compeer and were not contemplated by the alleged guarantees. Sunterra Enterprises further states that if in the alternative the guarantees alleged to have been granted on September 23, 2023 are deemed to apply to the liabilities of the US Hog Farm Entities to Compeer, then the liability under the alleged guarantee(s) for the debts owing by Sunwold Canada and Lariagra Canada are capped at a total of USD \$3,000,000 including any applicable interest.

23. In specific response to paragraphs 36-46, of the Statement of Claim, the Defendants deny that the intercompany transactions occurred as alleged. In the alternative, to the extent that intercompany transactions occurred, they occurred with full transparency to and with the tacit and/or express consent and knowledge of Compeer.
24. In specific response to paragraph 54, say that Compeer undertook no new action as alleged because it was already manually approving each cheque written.
25. In specific responses to paragraphs 58, and 68-83, the Defendants say that the corporate veil of the Canadian Hog Farm Entities has not been pierced to allow Compeer to enforce its claims and seek damages against any of the individual defendants and specifically:
 - a. deny that Ray Price, Uffelman and Thompson caused at least the US. Sunterra Entities and the Canadian Sunterra Entities to perpetuate a highly-sophisticated and fraudulent cheque kiting Scheme (the “**Cheque Kiting Scheme**”) as alleged or at all, or any fraud as against Compeer.
 - b. state that all actions and conduct (including omissions) alleged to have been taken by the Ray Price, Uffelman and Thompson is denied, but in the alternative say that:

- i. any such actions and conduct were not tortious and identified no separate identity of interest from that of the corporation so as to make the impugned actions or conduct their own;
 - ii. neither the Canadian Hog Farm Entities nor the U.S. Hog Farm Entities were dominated and controlled and being used by Ray Price, Uffelman and Thompson or any of them as a shield for fraudulent or improper conduct;
 - iii. there is no factual underpinning pleaded by the Plaintiff to support allegations that any of Ray Price, Uffelman and Thompson acted outside of their capacity as officers, directors or employees of the relevant entities, there was no separate identity of interest and the none of the actions or conduct alleged were carried out for the benefit of any of the Individual Defendants.
- c. In further specific response to paragraph 68 to 83 of the Statement of Claim:
 - i. say that for each and every time the Canadian Sunterra Entities issued a cheque to the U.S Sunterra Entities, the Defendants deny that any of them made a representation that the Canadian Hog Farm Entities had the capacity to honor the cheques and in the alternative say that the relevant Defendants made honest representations and made no intentional concealment of the truth;
 - ii. deny that the evidence of Price, Uffelman and Thompson includes admissions of conduct amounting to the perpetration of the alleged Cheque Kiting Scheme;
 - iii. deny that they knowingly took advantage of any float or conditional credit provided by Compeer and NBC, deliberately and with sufficient knowledge of the manner in which Compeer and NBC respectively verified, cleared and settled cheques, regarding the extension of conditional credit and the lack of holds on cheques to commit the fraud as alleged, and say that it was Compeer and NBC that had the superior

knowledge, expertise and experience, as well as their clearing banks, to understand the extent of conditional credit being granted and further that they turned their minds to and indeed scrutinized the relevant transactions;

- iv. deny that the denominations of the cheques in amounts less than USD \$1,000,000 was a deliberate tactic to transact significant funds while evading detections of fraud and say that the choice of those amounts was to allow for quicker processes for business efficiency, in a context where there were already significant inefficiencies and delays on the banks' part in the clearing of funds from the transactions through the accounts with Compeer and NBC respectively;
- v. deny that the intercompany transactions described had no legitimate purpose and say that they arose from the needs of business operations arising from the difference in cash and accrual accounting for taxation purposes between Canada and the United States, and in the context of the lack of real time transparency in the transaction records of and account statements issued by Compeer and NBC respectively, and the inefficiencies and problems with their respective account netting systems, and continued and grew without subjective knowledge of the extent of conditional credit being created and without intent to make any misrepresentation to or to otherwise deceive Compeer;
- vi. the Defendants say that Ray Price honestly represented to the Compeer the reason for the use of cheque for intercompany transfers and contrary to paragraph 36 of the Statement of Claim, Compeer never questioned Ray Price nor any of the Defendants about the manner in which the U.S. Sunterra Entities Compeer Accounts were used in connection the Sunterra Group's approach to intercompany transactions between its U.S. and Canadian operations *per se*, but only questioned the use of cheques between the U.S. Hog Farm Entities and the Canadian Hog Farm Entities for that purpose.

- vii. say that there is no contractual relationship between, nor any fiduciary or other duty owing by of the Defendants to Compeer;
 - viii. say that in respect of any representation as alleged or at all (which are denied), there was no subjective knowledge, nor reckless or willful blindness, on the part of any of the Defendants that any representations made as alleged were false; and
 - ix. deny that Ray Price, Uffelman and/or Thompson have made any of the admissions as alleged in paragraphs 69, 75 and 80 of the Statement of Claim.
- d. In specific and further response to paragraph 80 of the Statement of Claim, say that there was no intention of the part of any of the Defendants to deceive Compeer nor to induce Compeer to act, and further that Compeer chose to grant conditional credit to the U.S Hog Farm Entities regardless of any representations made by or on behalf of any of the Defendants and continued to do so with knowledge and full transparency of the transactions undertaken between the Canadian Hog Farm Entities and the US Hog Farm Entities, and the conditional credit being granted by Compeer for that purpose. Further, Compeer had superior knowledge, experience and expertise of the system of conditional credit and clearing bank operations such that it could not have been deceived by any representations by any of the Defendants as alleged or at all. In these circumstances, it cannot be said that Compeer would not have granted the conditional credit for the intercompany transactions as alleged but for the actions and conduct (including omissions) of the Defendants or any of them.

26. In specific response to paragraph 81 of the Statement of Claim, the Defendants:

- a. refer to and repeat paragraph 24 and 25 above and deny that any of the Defendants were perpetuating a Cheque Kiting Scheme as alleged or at all, or knowingly undertook the actions and conduct alleged to conceal the continued perpetuation of any such scheme.

b. deny that the Sunterra Group utilized a unified accounting system that integrated all financial activities, including the activities of the U.S. Hog Farm Entities and the Canadian Hog Farm Entities and further, or in the alternative, deny that Price, Uffelman and Thompson knew that there were insufficient funds at Compeer and National Bank to cover the cheques written for the Canadian Hog Farm Entities and the U.S. Hog Farm Entities. In particular, and without limitation, the Defendants point to the combined positive balance of approximately USD \$21,000,000 in funds payable to the U.S Sunterra Entities and Lariagra U.S. as pleaded in paragraph 63 of the Statement of Claim, and say that Ray Price held an honest belief in the availability of those funds as a positive balance that could be used to pay off funds owing in the accounts of the Canadian Hog Farm Entities with NBC, as per paragraph 57(g) and 60 of the Statement of Claim.

27. In specific response to paragraph 82, repeat paragraph 26(b) above and deny that any funds were misappropriated and further, or in the alternative, deny that Ray Price and Uffelman had knowledge as alleged or at all regarding the alleged false positive balance on the relevant accounts giving rise to interest payments in favor of the U.S. Hog Farm Entities or any of them.

Allegation of Fraud, Deceit and Fraudulent Misrepresentation and of Civil Conspiracy

28. In specific response to paragraphs 92-95 and 96-99 of the Statement of Claim, the Defendants say that:

a. in the context of the above, the allegations in paragraphs 92-95 and 96-99 are an artifice and fabrication designed by the Plaintiffs to try and get around the consequences of their failure to join the US Hog Farm Entities as Defendants to the Compeer claim as identified in the orders of this Court in these CCAA proceedings dated July 24, 2025 (“Compeer Claim”);

29. In specific response to paragraph 92-95, and in the alternative to paragraph 28 above

- a. the Defendants repeat paragraph 28 above, and deny that there was any deceit, fraud, or fraudulent misrepresentations for which they, or any of them, are liable to Compeer; and
 - b. Further or in the alternative say that the Plaintiff's loss and damages as alleged were caused by Compeer's own actions and omissions, or by those of NBC.
30. In specific response to paragraphs 96-99 of the Statement of Claim, the Defendants deny that there was any conspiracy and in particular repeat paragraph 28 (iv) above and:
- a. deny that they carried out any the alleged unlawful conduct, namely the Cheque Kiting Scheme, (the "Alleged Unlawful Conduct");
 - b. further, or in the alternative, deny that any two or more of them entered into an agreement to carry out the Alleged Unlawful Conduct pursuant to that agreement;
 - c. further, or in the alternative, deny:
 - i. that the Alleged Unlawful Conduct was directed toward the Plaintiff,
 - ii. that the Defendants (or any relevant combination of them) should have known that injury to the Plaintiff was likely to result; and
 - iii. that the loss and damages to the Plaintiff did in fact occur as alleged, in respect of which the Defendants refer to and repeat paragraphs ... above in relation to causation.
31. Alternatively, even if there was any unlawful conduct conspiracy committed by any two of more of the Defendants as alleged, which is vehemently denied, Compeer was either a participant in, or willfully blind ^ to the conduct in question and/or its effects.
32. In response to paragraph 100-102 and the Plaintiff's claims for compensation pursuant to s 242 of the Business Corporations Act, R.S.A., c B-9, the Defendants:

- a. deny that there was any conduct that was oppressive ^, unfairly prejudicial, or which unfairly disregards the interests of security holders, creditors, directors or officers for which the Plaintiff seeks relief, including the alleged Cheque Kiting Scheme, which is denied, and the Defendants refer to and repeat paragraphs .28-30 above;
 - b. further and in the alternative, state that Compeer is not a creditor or complainant within the meaning of the Alberta *Business Corporations Act* as it was not a lender to any of the Defendants;
 - c. further or in the alternative state that the Plaintiff cannot be said to have been oppressed or unfairly dealt with by the Defendants or any of them, nor to have been unfairly prejudiced, by any conduct as alleged, or at all, because the Plaintiff had full visibility of that conduct, which it examined and scrutinized from a position of superior knowledge, experience and and had the power to stop it but did not do so prior to February 2025, and in that context acquiesced to the alleged conduct over an extended period of time;
 - d. further or in the alternative, any loss and damages suffered by Compeer was caused by the US Hog Farm Entities as the customers of the Plaintiff and/or NBC, and not by the Defendants or any of them.
33. In further specific response to paragraphs 101 and 102 of the Statement of Claim, these paragraphs ought to be struck out with respect to David Price, Art Price and Glen Price, because no conduct has been pleaded on their behalf and the Defendants therefore cannot know the case they have to answer. Further, David Price and Glen Price were not and are not directors of the Canadian Hog Farm Entities, or either of them, and it has not been alleged by the Plaintiff that Sunterra Enterprises took part in the alleged Cheque Kiting Scheme on which the oppression claims as pleaded by the Plaintiff is based.
34. In further specific response to paragraphs 101 and 102, Art Price denies any knowledge of the alleged conduct comprising the alleged Cheque Kiting Scheme prior to on or around February 11, 2025

35. There is no justification for delay in the bringing of any and all actions against the Defendants within this Compeer Claim and in particular as against David Price, Art Price, Glen Price and Ray Price in relation to the subject matter of the Compeer Claim. The derivative action anticipated by the Plaintiff in paragraph 102 of the Statement of Claim is, *ipso facto*, related to the same subject matter as the Compeer Claim and the same parties who are now Defendants without breach of the within claim, and cannot and/or ought not be allowed to proceed after the hearing of the Compeer Claim pursuant to the doctrines of *res judicata*, issue estoppel and/or abuse of process.

No knowledge and no profit

36. In specific reply to paragraphs 71 and 72 of the Statement of Claim, the Defendants specifically deny that they had any such knowledge with respect to the cheque verification, clearing, and settlement process of Compeer, nor did any Defendant have knowledge of insufficient funds in any account. The fact is that the accounts were in such a state of flux that the knowledge alleged to be had by the Defendants is impossible to have at any one point in time.

37. Further, the fact is that Compeer and NBCs back-office operations automatically, and without input from the Defendants, applied or removed funds and thereby varied amounts in various accounts – therefore any overdraft or default is due to their systems and processes, and not the Defendants. As well, in respect of paragraph 68(b) of the Statement of Claim, the Defendants specifically deny that the sub \$1 Million cheques were sent for the purposes of ^ avoiding scrutiny or for any purpose amounting to wrongful conduct.

38. In further reply to the allegations at paragraphs 68 – 83 and the entirety of the Statement of Claim generally, the fact is that none of the Defendants profited because of the alleged impugned conduct.

Any matters that defeat the Plaintiff's Claim

Waiver, Acquiescence, Laches, Estoppel

39. In reply to the Statement of Claim generally, even if the alleged facts were true, which is denied, in the alternative these facts would all have been known and consented to by Compeer for years and were not in issue. In this regard, the Defendants refer to and rely on paragraphs 30-31 above. The Defendants plead and rely upon the doctrines of waiver, acquiescence, laches, and estoppel. Compeer acquiesced to the conduct it now complains of, and seeks redress for, years prior to advancing this claim. Compeer waived its rights to demand strict performance with the loan agreements and terms of the FCM Accounts and/or other relevant obligations among the U.S. Hog Farm Entities, and is estopped from enforcing the express terms of its loan agreements or account terms or seeking recovery from the Defendants herein.

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Any alleged loss caused by National Bank of Canada

40. If damages were suffered, which is denied, the damages alleged to be caused by these Defendants are more properly attributable to the freezing actions of NBC, not any of the Defendants. The Defendants seek contribution and indemnity from NBC pursuant to a third-party claim that will be filed by the Defendants.

Limitations

41. In the alternative, all the foregoing facts were known by Compeer more than two years prior to filing the Statement of Claim. The fact is that the U.S. Hog Farm Entities have been in an overdraft position with Compeer many times in the past because their business necessarily relies on credit, and that credit varies from day to day. While the merits of the causes of action are denied, the fact is that the Plaintiff knew or ought to have known of the facts giving rise to the within causes of action, and that such causes of action would have warranted a proceeding seeking a remedial order, more than two years prior to the filing of the within Statement of Claim, and the Defendants plead and rely on the Alberta *Limitations Act*, RSA 2000, c L-12 as a complete defence.

Set-Off

42. The actions of the Plaintiff have caused the Defendants loss and damage as particularized in the Counterclaim. Accordingly the Defendants plead set off.

Declarations of exemption sought by Compeer

43. State that the claims made by Compeer do not relate to property or services obtained by false pretenses or fraudulent misrepresentation, in respect of which the Defendants are liable. Further and in the alternative say that section 19(2) of the CCAA does not operate in all cases to exempt any such claims from a plan of compromise or arrangement, but rather such exemption depends upon whether the compromise or arrangement explicitly provides for the claim's compromise and the creditor in question in relation to that debt votes for the acceptance of the compromise or arrangement. To make a declaration to the effect sought by Compeer in paragraph 1(c) of its Amended Notice of Application now, would be peremptory in circumstances where the assets and liabilities of the Corporate Defendants have not yet been determined and a plan has not yet been prepared or proposed, and would undermine the purposes of the CCAA.
44. In respect of the declaration sought in paragraph 1(d) of the Amended Notice of Application, the Defendants state that the exemption sought therein cannot extend to Uffelman nor Thompson on any basis because Section 5.1(2)(b) of the CCAA applies only in respect of directors and neither Uffelman nor Thompson were directors of any of the Corporate Defendants at any time. In respect of Ray Price, the Defendants deny that he made any misrepresentations to creditors of any of the Defendants, Compeer not being a creditor of any of the Corporate Defendants, nor to Compeer, and deny that he undertook wrongful or oppressive conduct as a director of one of more of the Corporate Defendants such that the exception in section 5.1(2) could apply in respect of any release in connection with a compromise or arrangement of one or more of the Corporate Defendants pursuant to that section.

Tracing funds granted by conditional credit

45. The Defendants deny that Compeer is entitled to trace any funds granted by conditional credit to any of the US Hog Farm Entities, including pursuant to the alleged Cheque Kiting Scheme, which is denied, and say that any such funds are not held in trust by any of the defendants as constructive trustee for Compeer and or in the alternative such funds have been dissipated or have been transformed and can no longer be identified because they have been mixed with other funds and Compeer has not and cannot provide sufficient certainty as to the traceable connection between the original funds and any substitute assets.

Remedy sought:

46. The Defendants, Sunterra Farms Ltd., Sunwold Farms Limited, Sunterra Enterprises Inc., Ray Price, Debbie Uffelman, Craig Thompson, David Price, Arthur Price and Glen Price respectively request this Honourable Court to dismiss the within Claim with solicitor and his own client (full-indemnity) costs payable to the Defendants, and such further and other relief as this Honourable Court deems just and equitable in the circumstances.