

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

_____)
JAMES R. BARTLETT and CYNTHIA W.)
BARTLETT, TRUSTEES OF THE JAMES R.)
BARTLETT TRUST, Derivatively on Behalf of)
Nominal Defendant, GLOBALWARE)
SOLUTIONS, INC.) CA NO: 2010-
)
Plaintiff,)
)
v.)
)
MEZZANINE MANAGEMENT FUND III 'A' LP)
MEZZANINE MANAGEMENT FUND III 'B' LP)
MEZZANINE MANAGEMENT FUND III 'C' LP)
MEZZANINE MANAGEMENT LIMITED,)
BRADLEY A. JAY,)
MICHAEL T. LIESS,)
TIMOTHY P. LOSIK,)
ANTHONY RUDSTON,)
ROBERT ROCHE,)
DAVID TAYLOR,)
GARY LORTIE,)
)
Defendants,)
and,)
)
GLOBALWARE SOLUTIONS, INC.,)
)
Nominal Defendant.)
_____)

VERIFIED DERIVATIVE COMPLAINT AND JURY DEMAND

INTRODUCTION.

James R. Bartlett and Cynthia W. Bartlett, Trustees of the James R. Bartlett Trust (“Plaintiff”), a shareholder of Globalware Solutions, Inc., a Delaware corporation (“Globalware” or the “Company”), files this Verified Shareholder Derivative Complaint

on behalf of the Company against certain of its directors, officers and shareholders seeking to remedy breaches of fiduciary duty and self-dealing by the controlling shareholders, Mezzanine Management Fund III 'A' LP, Management Fund III 'B', Management Fund III 'C', and Management Fund Limited (collectively "Mezzanine") which have caused harm to the Company principally through the improper issuance of stock.

NATURE OF THE ACTION

1. Since early 2003 Mezzanine has been the controlling stockholder of the Company and has directed and/or controlled the presentation to stockholders of the Company's financial information and capitalization structure.

2. By notice dated September 2, 2005 the Company offered its stockholders a preemptive right to purchase common stock in the Company failing which exercise, among other things, Mezzanine would be issued common stock in consideration of cancellation of over \$31 million of alleged indebtedness to Mezzanine.

3. Unbeknownst to the Plaintiff, and upon information and belief, other stockholders at the time of that offer of sale of the common stock, certain funds apparently furnished to the Company by Mezzanine and represented as part of the \$31 million of debt had initially been treated by the Company as equity and then without disclosure to stockholders and without approval by disinterested directors, a fairness opinion or outside legal opinion, unilaterally recharacterized as debt only to be exchanged again for more equity.

4. Unbeknownst to the Plaintiff, and upon information and belief, other stockholders at the time of the offer of the securities, Mezzanine had determined the

interest rate of this purported \$31 million of debt without approval by disinterested directors, a fairness opinion or outside legal opinion.

5. In breach of its fiduciary duty to the Company, and in active concert with, or aided and abetted by, the directors and officers of the Company in 2004 and 2005, Mezzanine was issued over 194 million shares of Company common stock in exchange for cancellation of this alleged \$31 million of debt.

6. In September 2010, the Plaintiff made a formal inquiry of the Company, and its current and 2004-05 directors, requesting an explanation, of among other things, the steps taken if any to determine the due authorization and fairness of the 2005 issuance of stock to Mezzanine.

7. None of the Company or any current or past director responded to this inquiry.

8. The Company's present board of directors consists of two directors, one of whom was a primary actor in the wrongdoing complained of herein. The current board is incapable of making an independent and disinterested decision to institute and vigorously prosecute this action.

9. The Plaintiff is properly excused under Delaware law from having to make demand on the Company's board of directors prior to filing this action.

10. The Court should declare the rights of the Company, including without limitation that the 2005 stock issuance to Mezzanine is void and grant such other relief as is just.

PARTIES

11. The Plaintiff, a Massachusetts trust UDT June 28, 1994 having an address of 674 Chestnut Street, Lynnfield, Middlesex County, Massachusetts is, and was at all relevant times, an owner of Globalware common stock.

12. Plaintiff will fairly and adequately represent the interests of the Company in enforcing its rights.

13. Globalware is a Delaware corporation having a principal place of business at 200 Ward Hill Avenue, Haverhill, Essex County, Massachusetts.

14. Defendant Bradley A. Jay (“Jay”) was at all relevant times an agent of Mezzanine. Upon information and belief, he was a director of the Company from and after October 2002 through 2003, some or all of 2004 and at other relevant times. Jay is currently one of two directors of the Company. Upon information and belief, Jay is a principal and/or agent of the defendant, Mezzanine Management Limited as well as partner in Mezzanine Management ventures.

15. Upon information and belief, Defendant Michael T. Liess (“Liess”) was a director of the Company in 2004, 2005 and at other relevant times.

16. Upon information and belief, Defendant Timothy P. Losik (“Losik”) was a director of the Company in 2004, 2005 and other relevant times. Losik was the Chief Financial Officer in 2005 and, upon information and belief, at other relevant times.

17. Defendant, Anthony Rudston (“Rudston”) was at all relevant times an agent of Mezzanine. He has been a director of the Company from 2001 through 2003, some or all of 2004 and at other relevant times. Rudston was Chief Executive Officer of the Company for most of 2003.

18. Defendant Robert Roche (“Roche”) has served as Chief Executive Officer of the Company, director and currently is Chairman of the Board of directors of the Company.

19. Upon information and belief, Defendant David Taylor was a director of the Company in 2003, 2004 and other relevant times.

20. Defendant Gary Lortie was the Chief Financial Officer of the Company and at all relevant times acting as the agent for Mezzanine (“Lortie”).

21. Defendant Mezzanine Management Fund III ‘A’ LP is a United Kingdom limited partnership having a registered address at Century House, 16 Parla Ville Road, Post Office Box HM 1806, Hamilton HMHX, Bermuda (“Mezzanine A”).

22. Defendant Mezzanine Management Fund III ‘B’ LP is a United Kingdom limited partnership having a registered address at Century House, 16 Parla Ville Road, Post Office Box HM 1806, Hamilton HMHX, Bermuda (“Mezzanine B”).

23. Defendant Mezzanine Management Fund III ‘C’ LP is a United Kingdom limited partnership having a registered address at Century House, 16 Parla Ville Road, Post Office Box HM 1806, Hamilton HMHX, Bermuda (“Mezzanine C”).

24. Defendant Mezzanine Management Limited is a Bermuda limited company having a registered address at Century House, 16 Parla Ville Road, Post Office Box HM 1806, Hamilton HMHX, Bermuda (“Mezzanine Limited”) (Mezzanine A, Mezzanine B, Mezzanine C and Mezzanine Limited are collectively referred to as “Mezzanine”). Upon information and belief, at all relevant times Mezzanine A, Mezzanine B, Mezzanine C and Mezzanine Limited have been managed or controlled by Jacobus Schouten.

BACKGROUND

25. The Company has approximately forty (40) stockholders.

26. On or about February 12, 2003, pursuant to a Securities Purchase Agreement, the Company issued and sold to Mezzanine 17,739,090 shares of common stock, representing on a fully diluted basis approximately a 62% controlling interest in the Company (the “Securities Purchase Agreement”).

27. As a condition of its agreement to purchase the controlling interest Mezzanine required the number of the Company’s directors to be set at five.

28. As a condition of its agreement to purchase the controlling interest Mezzanine required Rudston to be installed as Chief Executive Officer and Lortie as Acting Chief Financial Officer.

29. As a condition of its agreement to purchase the controlling interest, Mezzanine required that as an integrated part of the Securities Purchase Agreement, Mezzanine, the Company and all other stockholders execute and deliver a Third Amended and Restated Stockholders Agreement dated as of February 12, 2003 (the “Stockholder Governance Agreement”).

30. The Stockholder Governance Agreement requires the Company and its stockholders to “take all action within their respective power, including but not limited to, the voting of all capital shares of capital stock of the Company Owned by them, required to cause the Board of Directors of the Company to consist of five (5) members ...”.

31. The Stockholder Governance Agreement grants the Company’s stockholders certain preemptive rights to purchase securities.

32. Upon information and belief, at all relevant times the Stockholder Governance Agreement has remained in full force and effect.

33. The Securities Purchase Agreement specified the consideration for the purchase of the control shares of capital stock that Mezzanine pay in cash the par value: payment of one cent per share (\$177,390.90) and “execut[ion] and deliver[y] [of] a Limited Recourse Guaranty and a Security Agreement (collectively, the ‘Guarantee Documents’) to Wells Fargo Business Credit, Inc. (‘Wells Fargo’) pursuant to which the Investors [Mezzanine] agree[s] to guarantee up to an aggregate of \$2,822,609.10 of the Obligations (as defined in the Guarantee Documents).”

34. Pursuant to the Securities Purchase Agreement, Mezzanine “absolutely and unconditionally agree[d] to immediately transfer to the Company any Returned Collateral...”.

35. In the closing binder of the Securities Purchase Agreement prepared by Mezzanine’s counsel, Willkie, Farr & Gallagher are fourteen (14) Limited Recourse Guaranty and Security Agreements executed and delivered by Mezzanine to Wells Fargo evidencing pledges of \$8,522,463.85 of cash collateral (certificates of deposit). The fourteen pledges bear three different dates: One in the amount of \$600,000 is dated January 31, 2003; four in the aggregate amount of \$2,822,608.80 are dated February 14, 2003; and nine in the aggregate amount of \$5,099,855.05 are dated March 18, 2003.

36. Upon information and belief, the February 12, 2003 transaction was the first overt action of Mezzanine and its agents culminating in the September 2005 Recapitalization as hereinafter alleged.

37. Upon information and belief, in March 2003, Jay and Rudston, on behalf of Mezzanine and in furtherance of Mezzanine's plan, proposed to issue additional stock to Mezzanine to bring its ownership to 90%, at a significant discount from the price Mezzanine paid in February 2003.

38. In doing so, Jay and Rudston, on behalf of Mezzanine, upon information and belief, contemplated double-counting some or substantially all of the consideration Mezzanine paid in February 2003.

39. Upon information and belief, Jay and Rudston's plan to issue additional stock to Mezzanine was undertaken in part to deprive the minority stockholders of their rights to representation and observation on the board of directors.

40. In April 2003, Lortie reported to the Company's board of directors and, upon information and belief, to Wells Fargo, that the Company's outside auditors, BDO Seidman did not complete an audit of the Company's books and records for the period from July 1, 2002 to February 28, 2003.

41. In his April 2003 report, Lortie included an unaudited balance sheet as of February 28, 2003 and June 30, 2002, statement of operations both for the eight-month period from July 1, 2002 to February 28, 2003 and the twelve month period ending June 30, 2002, and statement of cash flows from operating activities and from financing activities for the eight month period ending February 28, 2003.

42. The Company's unaudited balance sheet as of February 28, 2003 did not reflect any of the consideration paid for the 17,739,090 shares of common stock issued on February 12, 2003 to Mezzanine.

43. The Company's unaudited balance sheet as of February 28, 2003 stated additional paid in capital to be an aggregate of \$14,228,697.

44. The Company's unaudited balance sheet as of February 28, 2003 did not reflect any notes payable to shareholders or related parties.

45. On May 21, 2003 Rudston wrote to stockholders and represented that as of May 21, 2003 Mezzanine had made "\$5 Million in equity cash infusions and [had advanced] \$9 Million in cash pledged to secure additional borrowings..." Rudston informed stockholders that BDO Seidman, the Company's auditors, would be replaced and that the Company expected to retain Ernst & Young as outside auditor and that a meeting of stockholders would be held in June, 2003.

46. In his May 21st transmittal, Rudston provided stockholders management's unaudited balance sheet and cash flows, including from financing activities as of March 31, 2003, prepared upon information and belief by Lortie.

47. The Company's unaudited balance sheet and cash flows from financing activities as of March 31, 2003 provided to stockholders for their consideration prior to the stockholders' meeting did not reflect any of the consideration paid for the 17,739,090 shares of common stock issued to Mezzanine. The Company's March 31, 2003 balance sheet represented that notes payable to related parties was zero and made no mention of Mezzanine's \$8,522,463.85 pledged cash collateral to Wells Fargo. The Company's March 31, 2003 balance sheet represented additional paid in capital to be \$14,068,697.

48. On or about June 30, 2003 the Company's CFO Lortie issued to the Board, and upon information and belief to Wells Fargo, an unaudited balance sheet stating Additional paid in capital to be \$31.435 Million.

49. Upon information and belief the \$17-plus million increase in additional paid in capital from February 2003 reflects some or all of the consideration initially ascribed by the Company for the 17,739,090 shares of common stock issued to Mezzanine on February 12, 2003.

50. By August 2003, the minority stockholders were no longer represented on the board of directors as required by, and in violation of, the Stockholders Governance Agreement.

51. While stockholders had been informed in May 2003 that the Company expected to engage Ernst & Young as outside auditor, the Company engaged the Boston accounting firm of Vitale, Caturano & Company.

52. On November 21, 2003, Vitale, Caturano & Company issued an audit report of management's consolidated balance sheet for the Company for the fiscal year ending June 30, 2003.

53. While Note 9, titled "Stockholders' Equity", of the Company's audited balance sheet for fiscal year ending June 30, 2003 describes the three classes of preferred stock and specifies the total proceeds from each issuance of preferred stock, there is no disclosure by management or explanation by the auditor as to the total proceeds to be ascribed for the February 12, 2003 issuance to Mezzanine of 17,739,090 shares of common stock, representing on a fully diluted basis approximately a 62% controlling interest in the Company.

54. While the Company's audited balance sheet for fiscal year ending June 30, 2003 reflected the number of shares of common stock issued to Mezzanine in February 2003 and in Note 11, titled "Income Taxes", referenced that "[i]n February 2003 change

of ownership of the Company ... occurred,” there is no statement by management or explanation by the auditors as to the characterization of the infusions of cash by Mezzanine in consideration of the February 12, 2003 issuance to Mezzanine of 17,739,090 shares of common stock.

55. The Company’s audited balance sheet for the fiscal year ending June 30, 2003 states additional paid in capital to be \$16,427,494 but there is no statement by management or explanation by the auditor regarding the two-plus million dollar difference from the additional paid in capital stated on the June 30, 2002 balance sheet audited by BDO Seidman.

56. There are no notes payable to shareholders or to related parties listed on the schedule of liabilities on Company’s audited balance sheet for the fiscal year ending June 30, 2003.

57. Vitale, Caturano & Company’s November 21, 2003 audit report includes descriptions of material events occurring in September and October 2003 but there is no disclosure of any notes payable to shareholders or related parties.

58. In November 2003, the Company and Wells Fargo entered into an amended and restated Line of Credit agreement which, upon information and belief, was intended by Jay, Rudston and Lortie to enable Mezzanine to take disguised, illegal distributions.

59. On January 23, 2004, Lortie issued a report to the board of directors stating that Mezzanine’s collateral pledged to Wells Fargo was \$11 million and included an unaudited balance sheet as of December 31, 2003.

60. Lortie's December 31, 2003 balance sheet listed as current liabilities \$5 million of notes from shareholders and listed as equity additional paid in capital of \$21,458,729.

61. On or about December 10, 2004, Vitale, Caturano & Company transmitted to the Company's board of directors a draft audited balance sheet for the fiscal year ending June 30, 2004.

62. That draft audited balance sheet for the fiscal year ending June 30, 2004 listed notes payable to stockholders in the amount of \$21 million and additional paid in capital of \$19,250,105 and in Note 9 stated that "[d]uring fiscal 2004, the Company entered [into] note agreements with a stockholder for aggregate proceeds of \$21,000,000."

63. Upon information and belief, Mezzanine in concert with, and/or aided and abetted by, Jay and Lortie, caused the Company sometime on or after August 10, 2004 to execute back-dated promissory notes each at a stated interest rate of 8% per annum reflecting approximately \$21.9 million of purported loans from Mezzanine to the Company from January 27, 2003 to August 10, 2004.

64. Upon information and belief, some or all of the principal of one of these promissory notes dated February 24, 2004 in the stated principal amount of \$11,099,414.31 was initially treated as additional paid in capital by the Company and Mezzanine.

65. Upon information and belief, in the period from July 1, 2003 to June 30, 2004 and thereafter Mezzanine took disguised, illegal dividends in the form of returned

cash collateral pledged to Wells Fargo, some or all of which should have been the Company's property as consideration paid for issuance of its stock.

66. Upon information and belief, Mezzanine caused the Company to treat some or all of Mezzanine's common stock as a de facto, unauthorized preferred stock with an 8% cumulative return.

Invalid Composition of Board; No duly elected Directors.

67. On or about June 27, 2003, a special meeting of the Company's stockholders was held at which, on motion of Rudston, a slate of three directors was nominated and elected.

68. Upon information and belief, no annual meeting of the Company's stockholders was held for the fiscal year ending June 2003.

69. Upon information and belief, Taylor resigned as director sometime in 2003 and from and after August 2003 the minority stockholders were denied their representation and/or observation rights under the Stockholder Governance Agreement.

70. According to the Company's annual report to the Secretary of State of the Commonwealth of Massachusetts for fiscal year ending June 30, 2003 and as of April 13, 2004, Rudston, Taylor and Jay were the sole three directors of the Company.

71. Upon information and belief, no annual meeting of the Company's stockholders was held for fiscal year ending June 2004.

72. According to the Company's annual report to the Secretary of State of the Commonwealth of Massachusetts for fiscal year ending June 30, 2004 and as of July 22, 2004, Rudston, Taylor and Jay were the sole three directors of the Company.

73. Upon information and belief, no annual meeting of the Company's stockholders was held for fiscal year ending June 2005.

74. According to the Company's annual report to the Secretary of State of the Commonwealth of Massachusetts for fiscal year ending June 30, 2005 and as of September 15, 2005 Losik and Liess were the sole two directors of the Company.

75. According to the Company's annual franchise tax report to the Secretary of State of the State of Delaware Jay and Taylor were the sole two directors as of September 21, 2005.

76. According to the Company's annual franchise tax report to the Secretary of State of the State of Delaware Jay and Taylor were the sole two directors as of August 30, 2006.

77. According to the Company's annual report to the Secretary of State of the State of Delaware Jay and Taylor were the sole two directors as of February 28, 2007.

78. According to the Company's annual report to the Secretary of State of the Commonwealth of Massachusetts for the fiscal year ending June 30, 2008 and as of September 15, 2008, Jay and Roche were the sole two directors of the Company.

79. According to the Company's annual report to the Secretary of State of the Commonwealth of Massachusetts for the fiscal year ending June 30, 2010 and as of August 13, 2010, Jay and Roche were the sole two directors of the Company.

Improperly Constituted Board Authorized September 2005 Recapitalization to be Submitted for Stockholder Approval.

80. Upon information and belief, the Company's board of directors as of June 23, 2005 was constituted with less than five directors.

81. Upon information and belief, as of June 23, 2005 the board of directors of the Company purported to authorize a plan of recapitalization requiring amendment of the Company's Articles of Incorporation and approval of stockholders.

82. On or about September 2, 2005, pursuant to the Stockholder Governance Agreement, the Company issued a notice to stockholders informing stockholders of the Company's intention to issue and sell to Mezzanine both a new Series D preferred stock in exchange for Mezzanine's outstanding Series B and Series C preferred stock and 194,148,150 shares of common stock in consideration of the cancellation of Mezzanine loans to the Company "in the aggregate principal amount of \$31,349,414" (the "September 2005 Recapitalization"). The notice offered the Company's stockholders their preemptive right under the Stockholder Governance Agreement to purchase their pro rata share of those additional securities in the Company.

83. The September 2005 Recapitalization required amendment of the Company's Certificate of Incorporation.

84. Upon information and belief, for lack of an annual meeting there was no duly constituted Board of Directors of the Company as of June 23, 2005.

85. Upon information and belief, the persons purporting to be directors of the Company in June 2005 were controlled by Mezzanine.

86. As a matter of law, all acts of the persons purporting to be directors of the Company in June 2005 were and are void and unauthorized as the acts of an illegally constituted board.

87. As a matter of law, under 8 Del. C. § 242(b), the September 2005 Recapitalization is void for lack of due authorization by a validly constituted board of directors.

88. If there were two directors validly in office in June 2005, then as a matter of law under 8 Del. C. § 141(b) there was no quorum of directors empowered to adopt the resolution required by 8 Del. C. § 242 to propose an amendment of the Company's Certificate of Incorporation to be voted upon by stockholders; and, the September 2005 Recapitalization is void for lack of due authorization by the board of directors.

89. If there were three directors validly in office, the board was illegally constituted in violation of the Stockholder Governance Agreement's requirement of a five member board; and, the September 2005 Recapitalization is void for lack of due authorization by the board of directors.

90. The Company's September 2, 2005 notice of the September 2005 Recapitalization did not fairly inform the stockholders of their rights under 8 Del. C. §§ 242, 245.

91. Upon information and belief, Mezzanine and the Company initially treated substantial portions of the claimed \$31,349,414 debt as equity on the Company's books.

92. Upon information and belief, 8% interest is included in the purported \$31,349,414 debt.

93. Because there was no lawfully constituted board of directors the characterization of the debt was not duly authorized.

94. Assuming a lawfully constituted board of directors, the characterization of the debt was not duly authorized:

- a. Because the material facts were not disclosed or known by disinterested directors; or,
- b. Because the material facts were not disclosed to stockholders and approved in good faith by the stockholders; or,
- c. Because the transaction was not fair to the Company.

95. Upon information and belief, Wells Fargo returned to Mezzanine some or all of the \$8.5 million pledged by Mezzanine which was required to have been transferred to the Company and treated as additional paid in capital for the 17.74 million shares of common stock issued to Mezzanine on February 12, 2003.

96. Following the September 2, 2005 notice, the Fourth Restatement of the Company's Articles of Incorporation was filed with the Delaware Secretary of State.

97. The amendment to the Company's charter purportedly effected by the Fourth Restatement of the Company's Articles of Incorporation is void for lack of due authorization by a validly constituted board of directors of the Company.

98. The amendment to the Company's charter purportedly effected by the Fourth Restatement of the Company's Articles of Incorporation is void for lack of due authorization because the material facts were not disclosed to or known by disinterested directors duly authorized to approve the proposed amendment.

99. The amendment to the Company's charter purportedly effected by the Fourth Restatement of the Company's Articles of Incorporation is void for lack of due authorization because the values of Mezzanine's exchange of preferred stock with the accompanying warrants were determined by interested persons acting as directors and,

upon information and belief, without a fairness opinion, and the preferred stock exchange was not fair to the Company.

100. The amendment to the Company's charter purportedly effected by the Fourth Restatement of the Company's Articles of Incorporation is void for lack of due authorization because the pricing of the issuance of common stock to Mezzanine and the value of the exchange of the purported debt were determined by interested persons acting as directors and, upon information and belief, without a fairness opinion, and the issue and sale of common stock was not fair to the Company.

101. The amendment to the Company's charter purportedly effected by the Fourth Restatement of the Company's Articles of Incorporation is void because the material facts were not disclosed to stockholders and approved in good faith by the stockholders.

102. The Company issued 194,148,150 shares of common stock to Mezzanine in consideration of cancellation of \$31,518,617 of alleged indebtedness of the Company to Mezzanine.

103. The issuance of the 194,148, 150 shares of common stock to Mezzanine in consideration of cancellation of \$31,518,617 of alleged indebtedness of the Company to Mezzanine is void for lack of authorization by a validly constituted board of directors.

104. The issuance of the 194,148,150 shares of common stock to Mezzanine in consideration of cancellation of \$31,518,617 of alleged indebtedness of the Company to Mezzanine is void:

a. Because the material facts were not disclosed or known by disinterested directors; or,

b. Because the material facts were not disclosed to stockholders and approved in good faith by the stockholders; or,

c. Because the transaction was not fair to the Company.

COUNT I – MONEY HAD AND RECEIVED – AGAINST MEZZANINE

105. The Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

106. As described above, Mezzanine has received money to which it is not entitled.

107. Mezzanine is liable *ex contractu* for money had and received with interest.

COUNT II – BREACH OF FIDUCIARY DUTY – ALL DEFENDANTS

108. The Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

109. By reason of their positions as officers, directors and/or fiduciaries of the Company and because of their ability to control the corporate affairs of the Company, the Defendants owed the Company fiduciary obligations of trust, loyalty and utmost good faith, and were and are required to control and manage the Company in the best interest of the Company and its shareholders so as to benefit all shareholders equally and not in furtherance of the interests of the controlling stockholder at the expense of the minority stockholders.

110. At all relevant times hereto each of the individual Defendants was acting as the agent of the controlling stockholder, Mezzanine and was at all times acting within the scope of that agency.

111. At all times relevant to the allegations in this Complaint, each of the Defendants owed the Company a fiduciary duty to exercise their powers and discharge their respective duties in good faith with a view to the interests of the corporation and of the shareholders and with that degree of diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in like positions.

112. By the conduct described herein, the Defendants have repeatedly breached their fiduciary duty to the Company by engaging in self dealing, or acting in concert with and/or aiding and abetting Mezzanine in its self dealing.

113. As a result of these breaches of fiduciary duty, the Company has suffered substantial damages.

COUNT III – DECLARATORY RELIEF

114. The Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

115. After a trial, the Court should issue a judgment declaring the September 2005 Recapitalization void.

WHEREFORE, plaintiff demands judgment as follows:

A. Granting judgment against each defendant in favor of GlobalWare Solutions, Inc. for the amount of damages sustained by GlobalWare as a result of the breaches of fiduciary duty and other wrongdoing by each defendant;

B. Requiring that a full accounting be made, including imposition of one or more constructive trusts in granting judgment against each defendant for the amount of the total financial losses to GlobalWare as a result of the acts complained of;

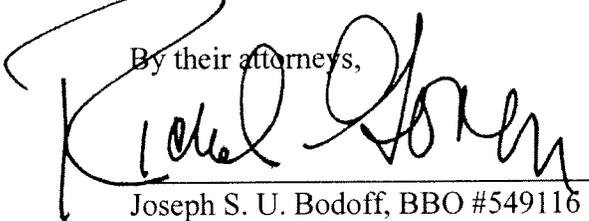
- C. Declaring the rights of the parties;
- D. Awarding to plaintiff the costs and disbursements of this action, including reasonable attorneys' and experts' fees, and costs and expenses; and
- E. Granting such other and further relief as the Court may deem just and proper.

JURY DEMAND

THE PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

JAMES R. BARTLETT AND CYNTHIA
W. BARTLETT, TRUSTEES OF THE
JAMES R. BARTLETT TRUST,
DERIVATIVELY ON BEHALF OF
GLOBALWARE SOLUTIONS, INC.

By their attorneys,

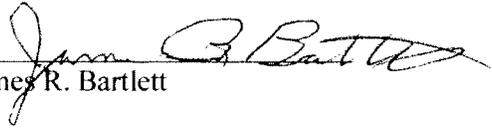


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Dated: December 21, 2010

VERIFICATION

On the 15 day of December, 2010, I, James R. Bartlett, do hereby declare under the penalty of perjury that I make foregoing allegations in part upon my own personal knowledge and in part upon the investigation of plaintiff's counsel, that I have read the foregoing Verified Derivative Complaint and that to the best of my knowledge the allegations contained therein are true and correct, except as to the matters alleged on information and belief, and that as to those matters I believe them to be true.


James R. Bartlett