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2 LARSON ZIRZOW & KAPLAN
3 KORY L. KAPLAN, ESQ.
4 Nevada Bar No. 13164
5 E-mail: kkaplan@lzklegal.com
6 850 E. Bonneville Ave.
7 Las Vegas, Nevada 89101
8 Telephone: (702) 382-1170
9 Fascimile: (702) 382-1169
10 *Attorney for Defendants/Counterclaimants*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 HERO PROP, LLP and TIANA ARMSTRONG,
14
15 **Plaintiffs,**

16 vs.

17 ALEC PETERS dba PROPWORX,
18 PROPWORX, INC., a Georgia Corporation, and
19 PROPWORX, a California Corporation,

20 **Defendants.**

Case No.: A-18-781549-C
Dept. No.: 24

**DEFENDANTS' ANSWER TO
AMENDED COMPLAINT FOR
DECLARATORY RELIEF AND
DAMAGES AND COUNTERCLAIM**

21 ALEC PETERS, an individual, and
22 PROPWORX, INC., a Georgia Corporation,

23 **Counterclaimants.**

24 v.

25 HERO PROP, LLP and TIANA ARMSTRONG,

26 **Counterdefendants,**

27 COME NOW, Defendants Alec Peters dba Propworx ("Mr. Peters") Propworx, Inc., a
28 Georgia Corporation, and Propworx, a California Corporation ("Propworx," collectively with Mr.
Peters, the "Defendants), by and through their counsel, Kory L. Kaplan, Esq. of the law firm of
Larson Zirzow & Kaplan, and hereby file this Answer to the Complaint, and state as follows:

...

...

LARSON ZIRZOW & KAPLAN
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Tel: (702) 382-1170 Fax: (702) 382-1169

1 1. Answering Paragraph 1 of the Complaint, Defendants state that they do not have
2 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
3 contained therein and upon such ground deny each and every allegation contained therein.

4 2. Answering Paragraph 2 of the Complaint, Defendants state that they do not have
5 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
6 contained therein and upon such ground deny each and every allegation contained therein.

7 3. Answering Paragraph 3 of the Complaint, Defendants admit that Alec Peters has
8 conducted live auctions in the State of Nevada and internet auctions to customers throughout the
9 world, including Nevada. As to the remainder of the Paragraph, Defendants deny each and every
10 allegation contained therein.

11 4. Answering Paragraph 4 of the Complaint, Defendants admit each and every
12 allegation contained therein.

13 5. Answering Paragraph 5 of the Complaint, Defendants state that they do not have
14 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
15 contained therein and upon such ground deny each and every allegation contained therein.

16 6. Answering Paragraph 6 of the Complaint, Defendants admit that that Alec Peters
17 was in frequent communication with Tiana Armstrong and Hero Prop, LLP to locate, buy, and sell
18 movie memorabilia and that Propworx and/or Propworx, Inc. has done business with Hero Prop,
19 LLP since October 2017. As to the remainder of the Paragraph, Defendants deny each and every
20 allegation contained therein.

21 7. Answering Paragraph 7 of the Complaint, Defendants state that the written
22 communications speak for themselves, and Defendants admit only that the referenced
23 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
24 knowledge or information upon which to base a belief as to the truth of the other allegations
25 contained therein and upon such ground deny each and every allegation contained therein. .

26 8. Answering Paragraph 8 of the Complaint, Defendants deny each and every
27 allegation contained therein.

28 9. Answering Paragraph 9 of the Complaint, Defendants deny each and every

1 allegation contained therein.

2 10. Answering Paragraph 10 of the Complaint, Defendants admit that they engaged
3 Jarrod Hunt to assist in procuring memorabilia. As to the remainder of the Paragraph, Defendants
4 deny each and every allegation contained therein.

5 11. Answering Paragraph 11 of the Complaint, Defendants state that the written
6 communications speak for themselves, and Defendants admit only that the referenced
7 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
8 knowledge or information upon which to base a belief as to the truth of the other allegations
9 contained therein and upon such ground deny each and every allegation contained therein.

10 12. Answering Paragraph 12 of the Complaint, Defendants state that the written
11 communications speak for themselves, and Defendants admit only that the referenced
12 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
13 knowledge or information upon which to base a belief as to the truth of the other allegations
14 contained therein and upon such ground deny each and every allegation contained therein.

15 13. Answering Paragraph 13 of the Complaint, Defendants state that the written
16 communications speak for themselves, and Defendants admit only that the referenced
17 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
18 knowledge or information upon which to base a belief as to the truth of the other allegations
19 contained therein and upon such ground deny each and every allegation contained therein.

20 14. Answering Paragraph 14 of the Complaint, Defendants state that they do not have
21 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
22 contained therein and upon such ground deny each and every allegation contained therein.

23 15. Answering Paragraph 15 of the Complaint, Defendants state that they do not have
24 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
25 contained therein and upon such ground deny each and every allegation contained therein.

26 16. Answering Paragraph 16 of the Complaint, Defendants state that they do not have
27 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
28 contained therein and upon such ground deny each and every allegation contained therein.

1 17. Answering Paragraph 17 of the Complaint, Defendants state that they do not have
2 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
3 contained therein and upon such ground deny each and every allegation contained therein.

4 18. Answering Paragraph 18 of the Complaint, Defendants state that they do not have
5 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
6 contained therein and upon such ground deny each and every allegation contained therein.

7 19. Answering Paragraph 19 of the Complaint, Defendants state that they do not have
8 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
9 contained therein and upon such ground deny each and every allegation contained therein.

10 20. Answering Paragraph 20 of the Complaint, Defendants object to the extent that this
11 Paragraph seeks a legal conclusion and on that basis deny the allegation. Without waiving said
12 objection, Defendants state that the written communications speak for themselves, and Defendants
13 admit only that the referenced communications state what Plaintiffs allege them to say, and state
14 that they do not have sufficient knowledge or information upon which to base a belief as to the
15 truth of the other allegations contained therein and upon such ground deny each and every
16 allegation contained therein.

17 21. Answering Paragraph 21 of the Complaint, Defendants state that the written
18 communications speak for themselves, and Defendants admit only that the referenced
19 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
20 knowledge or information upon which to base a belief as to the truth of the other allegations
21 contained therein and upon such ground deny each and every allegation contained therein.

22 22. Answering Paragraph 22 of the Complaint, Defendants state that the written
23 communications speak for themselves, and Defendants admit only that the referenced
24 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
25 knowledge or information upon which to base a belief as to the truth of the other allegations
26 contained therein and upon such ground deny each and every allegation contained therein.

27 23. Answering Paragraph 23 of the Complaint, Defendants state that the written
28 communications speak for themselves, and Defendants admit only that the referenced

1 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
2 knowledge or information upon which to base a belief as to the truth of the other allegations
3 contained therein and upon such ground deny each and every allegation contained therein.

4 24. Answering Paragraph 24 of the Complaint, Defendants deny each and every
5 allegation contained therein.

6 25. Answering Paragraph 25 of the Complaint, Defendants state that the written
7 communications speak for themselves, and Defendants admit only that the referenced
8 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
9 knowledge or information upon which to base a belief as to the truth of the other allegations
10 contained therein and upon such ground deny each and every allegation contained therein.

11 26. Answering Paragraph 26 of the Complaint, Defendants state that the written
12 communications speak for themselves, and Defendants admit only that the referenced
13 communications state what Plaintiffs allege them to say, and state that they do not have sufficient
14 knowledge or information upon which to base a belief as to the truth of the other allegations
15 contained therein and upon such ground deny each and every allegation contained therein.

16 27. Answering Paragraph 27 of the Complaint, Defendants deny each and every
17 allegation contained therein.

18 28. Answering Paragraph 28 of the Complaint, Defendants deny each and every
19 allegation contained therein.

20 29. Answering Paragraph 29 of the Complaint, Defendants deny each and every
21 allegation contained therein.

22 30. Answering Paragraph 30 of the Complaint, Defendants state that they do not have
23 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
24 contained therein and upon such ground deny each and every allegation contained therein.

25 **FIRST CLAIM FOR RELIEF**
26 **(Declaratory Relief)**

27 31. Answering Paragraph 31 of the Complaint, Defendants repeat and re-allege their
28 answers previously set forth herein and incorporate the same by reference as if fully set forth

1 herein.

2 32. Answering Paragraph 32 of the Complaint, Defendants deny each and every
3 allegation contained therein.

4 33. Answering Paragraph 33 of the Complaint, Defendants deny each and every
5 allegation contained therein.

6 34. Answering Paragraph 34 of the Complaint, Defendants deny each and every
7 allegation contained therein.

8 35. Answering Paragraph 35 of the Complaint, Defendants state that they do not have
9 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
10 contained therein and upon such ground deny each and every allegation contained therein.

11 **SECOND CLAIM FOR RELIEF**
12 **(Defamation/Libel Per Se)**

13 36. Answering Paragraph 36 of the Complaint, Defendants repeat and re-allege their
14 answers previously set forth herein and incorporate the same by reference as if fully set forth
15 herein.

16 37. Answering Paragraph 37 of the Complaint, Defendants deny each and every
17 allegation contained therein.

18 38. Answering Paragraph 38 of the Complaint, Defendants object to the extent that this
19 Paragraph seeks a legal conclusion and on that basis deny the allegation. Without waiving said
20 objection, Defendants deny each and every allegation contained therein.

21 39. Answering Paragraph 39 of the Complaint, Defendants deny each and every
22 allegation contained therein.

23 40. Answering Paragraph 40 of the Complaint, Defendants deny each and every
24 allegation contained therein.

25 41. Answering Paragraph 41 of the Complaint, Defendants deny each and every
26 allegation contained therein.

27 42. Answering Paragraph 42 of the Complaint, Defendants deny each and every
28 allegation contained therein.

1 43. Answering Paragraph 43 of the Complaint, Defendants deny each and every
2 allegation contained therein.

3 **AFFIRMATIVE DEFENSES**

4 1. Plaintiffs have failed to state a claim against Defendants upon which relief can be
5 granted.

6 2. Defendants are not the real party in interest.

7 3. The claims, and each of them, are barred by the failure of the Plaintiffs to plead those
8 claims with particularity.

9 4. Plaintiffs, by their acts and conduct, have waived any and all claims alleged herein
10 against the Defendants.

11 5. The damages, if any, suffered by Plaintiffs, were caused in whole or in part by their
12 own actions and/or omissions.

13 6. Plaintiffs are barred from recovery on her claims pursuant to the equitable doctrines of
14 waiver and estoppel.

15 7. Any and all damages sustained by Plaintiffs are the result of negligence of a third-party
16 over whom Defendants have no control.

17 8. Plaintiffs' counterclaims are barred by the doctrine of unclean hands.

18 9. Plaintiffs' counterclaims are barred in whole or in part by the doctrine of estoppel,
19 laches, and/or waiver.

20 10. Plaintiffs have failed to mitigate damages.

21 11. There has been payment and/or satisfaction in reference to the cause of action which is
22 the subject matter of the Complaint herein.

23 12. Defendants were justified and privileged to engage in the conduct in question that is
24 alleged to have caused injury or damage.

25 13. Plaintiffs have failed to timely plead this matter and has thereby delayed the
26 investigation and litigation of this claim to the prejudice of Defendants, and accordingly this action
27 should be dismissed.

28 14. It has been necessary for the Defendants to retain the services of an attorney to defend

1 this action and a reasonable sum should be allowed Defendants as and for attorney's fees, together
2 with its costs expended in this action.

3 15. Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged
4 herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of this
5 Answer, and therefore, Defendants reserve the right to amend this answer to allege additional
6 affirmative defenses if subsequent investigation warrants.

7 16. Some affirmative defenses may have been pled for purposes of non-waiver. Defendant
8 reserves the right to amend the affirmative defenses as discovery progresses.

9 **DEMAND IS MADE BY DEFENDANTS FOR A TRIAL BY JURY.**

10 WHEREFORE, Defendants pray as follows:

- 11 1. That Plaintiffs take nothing by way of their Complaint on file herein;
- 12 2. That Defendants be awarded reasonable attorney's fees and costs; and
- 13 3. For such other and further relief as the Court may deem just and proper for having
14 to defend this action.

15 **DEFENDANTS' COUNTERCLAIM AGAINST PLAINTIFFS**

16 COME NOW, Counterclaimants Alec Peters, an individual, and Propworx, Inc., a Georgia
17 Corporation, by and through their counsel, Kory L. Kaplan, Esq. of the law firm of Larson Zirzow
18 & Kaplan, and hereby file this Counterclaim against Counterdefendants Hero Prop, LLC and Tiana
19 Armstrong, and allege as follows:

20 **I.**

21 **THE PARTIES, JURSDICTION AND VEHICLE**

22 1. Defendant/Counterclaimant Alec Peters, an individual ("Mr. Peters"), is, and at all
23 times relevant hereto was, a resident of Gwinnett County, Georgia. At all relevant times hereto,
24 Mr. Peters was an officer of Defendant/Counterclaimant Propworx, Inc.

25 2. Defendant/Counterclaimant Propworx, Inc., a Georgia Corporation ("Propworx
26 Inc.," collectively with Mr. Peters, "Counterclaimants"), is, and at all times relevant hereto was, a
27 Georgia corporation with its principal place of business located in Gwinnett County, Georgia.

28 3. Upon information and belief, Plaintiff/Counterdefendant Hero Prop, LLP ("Hero

1 Prop”), is, and at all times relevant hereto was, a Nevada limited liability partnership with its
2 principal place of business located in Clark County, Nevada.

3 4. Upon information and belief, Plaintiff/Counterdefendant Tiana Armstrong (“Ms.
4 Armstrong,” collectively with Hero Prop, “Counterdefendants”), is and at all times relevant hereto
5 was, a resident of Clark County, Nevada. Upon further information and belief, Ms. Armstrong is,
6 and at all relevant times hereto was, a representative, employee, and/or agent of Hero Prop.

7 5. Jurisdiction is proper in this Court because the parties are either residents of Clark
8 County, Nevada, are Nevada entities, or have adequate ties to Clark County, Nevada based on their
9 business interactions in this jurisdiction.

10 **II.**

11 **GENERAL ALLEGATIONS**

12 6. Counterclaimants repeat, re-allege and incorporate the allegations set forth in the
13 preceding paragraphs of this Complaint as if fully set forth herein.

14 7. Propworx, Inc. is a premier auction house for Hollywood studios, auctioning props,
15 costumes, memorabilia, and various other items from many famous television shows and movies.
16 In addition to auctions, Propworx, Inc. offers private sales for many of its items prior to auction.

17 8. Counterclaimants have significant experience in the industry and have developed
18 relationships with many buyers, sellers, brokers, agents, and other contacts throughout the years.

19 9. As a result of Counterclaimants’ esteemed reputation and relationships, Propworx,
20 Inc. also brokers items owned by third-party sellers.

21 10. On or about October 10, 2017, Mr. Peters was contacted via Facebook messenger
22 by Ms. Armstrong.

23 11. Ms. Armstrong inquired about various items related to the popular television show,
24 Star Trek, to be purchased by Jeremy Stieglitz (“Mr. Stieglitz”), a wealthy client she represented.

25 12. Ms. Armstrong proposed working together with Propworx, Inc. to locate and sell
26 items to Mr. Stieglitz.

27 13. On or about October 10, 2017 at 10:55 p.m., Ms. Armstrong stated in a Facebook
28 message to Mr. Peters that she never charges a commission of more than twenty percent (20%) of

1 an offering because it is “a karma thing.”

2 14. Although Propworx, Inc. typically charges a higher commission, it relied upon Ms.
3 Armstrong’s representations that she never charges a commission of more than twenty percent
4 (20%), and thus accepted a lower commission based upon her representation.

5 15. On or about October 14, 2017, Ms. Armstrong asked Mr. Peters if he knew Adam
6 Schneider (“Mr. Schneider”), a Star Trek memorabilia collector.

7 16. Ms. Armstrong stated that Mr. Schneider was in possession of several items that
8 Mr. Stieglitz desired to purchase, including but not limited to: (1) an Enterprise E filming model
9 from First Contact (the “Enterprise E Model”); (2) a Deep Space Nine filming model; and (3) a
10 Romulan Warbird model from The Next Generation era.

11 17. Specific to the purchases from Mr. Schneider, Counterdefendants agreed to split
12 their commission with Propworx, Inc., with Propworx, Inc. to receive one-third (1/3) of the
13 commission received by Counterdefendants as a “finder’s fee” should Propworx, Inc. locate a
14 seller and/or provide services that result in a purchase by Counterdefendants or their client (the
15 “Agreement”).

16 18. Even though Mr. Peters knows Mr. Schneider, Mr. Peters engaged his colleague,
17 Jarrod Hunt (“Mr. Hunt”), to assist in brokering the purchases of desired Star Trek items from Mr.
18 Schneider due to Mr. Hunt’s close relationship with Mr. Schneider.

19 19. Mr. Peters specifically told Ms. Armstrong that Mr. Hunt would be assisting him
20 in brokering Mr. Stieglitz’s negotiations and purchases of desired Star Trek items with Mr.
21 Schneider.

22 20. Over the next several weeks, Mr. Peters and Ms. Armstrong exchanged hundreds
23 of messages and spoke on the phone dozens of times in an effort to obtain desired Star Trek items
24 from Mr. Schneider.

25 21. Mr. Schneider continued to entertain offers, but desired a higher price for pieces
26 within his collection, including but not limited to the Enterprise E Model.

27 22. Ms. Armstrong and Mr. Peters, in an attempt to negotiate the purchase of the
28 Enterprise E Model, offered to package the Enterprise E Model with other pieces from Mr.

1 Schneider's collection for a higher collective price.

2 23. Mr. Peters, through Mr. Hunt, engaged in consistent negotiations with Mr.
3 Schneider to purchase desired Star Trek items for Mr. Stieglitz.

4 24. Mr. Peters informed Ms. Armstrong that Mr. Schneider "keeps changing his mind"
5 on whether to sell pieces of his collection, but continued to work with Mr. Hunt in an effort to
6 obtain Ms. Armstrong's desired Star Trek items.

7 25. Much to Mr. Peters' dismay, he discovered that Ms. Armstrong had circumvented
8 Propworx, Inc. to communicate directly with Mr. Hunt, in an effort to cut Propworx, Inc. out of
9 any of its earned commission based on the purchase of desired Star Trek items from Mr. Schneider.

10 26. Upon information and belief, Counterdefendants made two (2) purchases from Mr.
11 Schneider, resulting in commissions in excess of \$500,000.00.

12 27. Counterdefendants' purchases from Mr. Schneider directly resulted from Mr.
13 Peters' efforts.

14 28. Upon information and belief, pursuant to the Agreement, Counterdefendants owe
15 Counterclaimants in excess of \$165,000.00.

16 29. On or about October 20, 2017, Ms. Armstrong contacted Propworx, Inc. to purchase
17 an Orb of the Prophets from Deep Space Nine, another Star Trek memorabilia item, for Mr.
18 Stieglitz.

19 30. On or about November 3, 2017, Ms. Armstrong, on behalf of Mr. Stieglitz, paid
20 Propworx, Inc. a purchase price of \$8,000.00.

21 31. Propworx, Inc. later discovered, through direct communication with Mr. Stieglitz,
22 that Ms. Armstrong charged Mr. Stieglitz \$20,000.00 for the Orb of the Prophets.

23 32. Mr. Peters thus discovered that Ms. Armstrong's representation to Propworx, Inc.
24 that she never charges a client more than twenty percent (20%) of an offering because it is "a
25 karma thing" was false.

26 33. Upon information and belief, Ms. Peters has charged in excess of twenty percent
27 (20%) commission on multiple items sold or processed through Propworx, Inc. in an attempt to
28 retain higher commissions and diminish Propworx, Inc.'s commissions or purchase prices,

1 including but not limited to the following purchases:

- 2 (a) A Hero Klingon Assassin Rifle sold on or about October 11, 2017 for
- 3 \$9,000.00 (Propworx, Inc. Invoice No. 101);
- 4 (b) A Hero Cardassian Rifle sold on or about October 11, 2017 for \$8,500.00
- 5 (Propworx, Inc. Invoice No. 101);
- 6 (c) A Star Trek TMP Klingon Disruptor with holster sold on or about
- 7 November 30, 2017 for \$8,000.00 (Propworx, Inc. Invoice No. 102);
- 8 (d) A Star Trek TNG Klingon Disruptor with holster sold on or about
- 9 November 30, 2017 for \$5,000.00 (Propworx, Inc. Invoice No. 102);
- 10 (e) A Star Trek TNG PADD sold on or about November 30, 2017 for
- 11 \$1,500.00 (Propworx, Inc. Invoice No. 102);
- 12 (f) A USS Enterprise Model sold on or about November 30, 2017 for
- 13 \$235,000.00 (Propworx, Inc. Invoice No. 104);
- 14 (g) Shipping of USS Enterprise Model to Creative Models in Hicksville, NY
- 15 on or about November 30, 2017 for \$1,870.00 (Propworx, Inc. Invoice No.
- 16 103); and
- 17 (h) A Star Trek Voyager Compression Rifle sold on or about November 30,
- 18 2017 for \$8,000.00 (Propworx, Inc. Invoice No. 103).

19 34. Upon information and belief, Mr. Peters discovered that Ms. Armstrong had sold
20 multiple stolen objects and obtained commissions therefrom, including but not limited to objects
21 from Marvel Studios and Warner Brothers. Once Ms. Armstrong became aware of Mr. Peters'
22 knowledge of her previous sales, she attempted to exclude him from all pending transactions.

23 **III.**

24 **CLAIMS FOR RELIEF**

25 **FIRST CLAIM FOR RELIEF**

26 **(Breach of Contract)**

27 35. Counterclaimants repeat, re-allege and incorporate the allegations set forth in the
28 preceding paragraphs of this Counterclaim as if fully set forth herein.

1 36. Counterclaimants and Counterdefendants entered into a valid and existing contract
2 through which Counterdefendants agreed to pay Counterclaimants a commission should they
3 locate a seller and/or provide services that result in a purchase by Counterdefendants or their client.

4 37. Counterclaimants performed their obligations under the Agreement.

5 38. Counterclaimants' services directly resulted in multiple purchases by
6 Counterdefendants and/or their client, resulting in commissions in excess of \$500,000.00.

7 39. Counterdefendants breached their obligations under the Agreement by failing to
8 pay Counterclaimants for their services.

9 40. As a direct and proximate result of Counterdefendants' breach of contract,
10 Counterclaimants have sustained damages in excess of \$165,000.00.

11 41. As a direct and proximate result of Counterdefendants' breach of contract,
12 Counterclaimants have been required to retain the services of an attorney to prosecute this claim
13 and are entitled to be compensated for any costs incurred in the prosecution of this action, including
14 without limitation, any and all costs and attorney's fees.

15 **SECOND CLAIM FOR RELIEF**

16 **(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing)**

17 42. Counterclaimants repeat, re-allege and incorporate the allegations set forth in the
18 preceding paragraphs of this Counterclaim as if fully set forth herein.

19 43. In connection with the Agreement as identified herein, Counterdefendants have
20 breached the implied covenant of good faith and fair dealing in that they have acted in bad faith,
21 dealt unfairly, and deliberately contravened the intent and spirit of said Agreement thereby denying
22 Counterclaimants of their justified expectations under said Agreement.

23 44. As a direct and proximate result of Counterdefendants' breach of the implied
24 covenant of good faith and fair dealing, Counterclaimants have sustained damages in excess of
25 \$165,000.00.

26 45. As a direct and proximate result of Counterdefendants' breach of the implied
27 covenant of good faith and fair dealing, Counterclaimants have been required to retain the services
28 of an attorney to prosecute this claim and are entitled to be compensated for any costs incurred in

1 the prosecution of this action, including without limitation, any and all costs and attorney's fees.

2 **THIRD CLAIM FOR RELIEF**
3 **(Unjust Enrichment)**

4 46. Counterclaimants repeat, re-allege and incorporate the allegations set forth in the
5 preceding paragraphs of this Counterclaim as if fully set forth herein.

6 47. Counterdefendants have unjustly received the benefit of Counterclaimants' services
7 for their own benefit and have damaged Counterclaimants as a result.

8 48. Permitting Counterdefendants to retain the commissions owed to Counterclaimants
9 would be against fundamental principles of justice or equity and good conscience.

10 49. As a direct and proximate result of Counterdefendants' unjust enrichment,
11 Counterclaimants have sustained damages in excess of \$165,000.00.

12 50. As a direct and proximate result of Counterdefendants' unjust enrichment,
13 Counterclaimants have been required to retain the services of an attorney to prosecute this claim
14 and are entitled to be compensated for any costs incurred in the prosecution of this action, including
15 without limitation, any and all costs and attorney's fees.

16 **FOURTH CLAIM FOR RELIEF**
17 **(Conversion)**

18 51. Counterclaimants repeat, re-allege and incorporate the allegations set forth in the
19 preceding paragraphs of this Counterclaim as if fully set forth herein.

20 52. Counterdefendants took funds belonging to Counterclaimants without
21 Counterclaimants' consent.

22 53. All of the funds are particular and identifiable.

23 54. By refusing to return Counterclaimants' funds, Counterdefendants have interfered
24 with Counterclaimants' possessory interest in their property.

25 55. Counterclaimants are entitled to return of the entirety of the funds that
26 Counterdefendants took from them.

27 56. Counterdefendants wrongfully exerted a distinct act of dominion over
28 Counterclaimants' interest in their funds, in denial of, or inconsistent with, Counterclaimants'

1 rights therein or in derogation, exclusion, or defiance of such rights.

2 57. As a direct and proximate result of Counterdefendants' actions of converting
3 Counterclaimants' funds, Counterclaimants are entitled to damages in an amount to be proven at
4 trial in excess of \$165,000.00, plus pre- and post-judgment interest.

5 58. As a direct and proximate result of Counterdefendants' actions, which were wanton,
6 willful, malicious and oppressive, and done with intent to injure, Counterclaimants are entitled to
7 exemplary and punitive damages.

8 59. As a direct and proximate result of Counterdefendants' actions, Counterclaimants
9 have been required to retain the services of an attorney to prosecute this claim and are entitled to
10 be compensated for any costs incurred in the prosecution of this action, including without
11 limitation, any and all costs and attorney's fees.

12 **FIFTH CLAIM FOR RELIEF**
13 **(Fraudulent Misrepresentation)**

14 60. Counterclaimants repeat, re-allege and incorporate the allegations set forth in the
15 preceding paragraphs of this Counterclaim as if fully set forth herein.

16 61. Counterdefendants deliberately, intentionally and fraudulently deceived
17 Counterclaimants into accepting commissions and/or prices on objects based on a represented
18 maximum of twenty percent (20%) commission on all objects sold by or processed through
19 Propworx, Inc.

20 62. Counterdefendants knew that the representation that they only charge at most
21 twenty percent (20%) of an offering was false when made and done with the intention of
22 Counterclaimants receiving less funds.

23 63. By making such misrepresentations, Counterdefendants induced Counterclaimants
24 under false pretenses into providing objects and services at less than the full price they should have
25 received based upon the amount received by Counterdefendants.

26 64. Counterclaimants justifiably relied upon the representations.

27 65. As a direct and proximate result of Counterdefendants' misrepresentations,
28 Counterclaimants have been damaged in an amount to be proven at trial in excess of \$15,000.00,

1 plus pre- and post-judgment interest.

2 66. As a direct and proximate result of Counterdefendants' actions, which were wanton,
3 willful, malicious and oppressive, and done with intent to injure, Counterclaimants are entitled to
4 exemplary and punitive damages.

5 67. As a direct and proximate result of Counterdefendants' actions, Counterclaimants
6 have been required to retain the services of an attorney to prosecute this claim and is entitled to be
7 compensated for any costs incurred in the prosecution of this action, including without limitation,
8 any and all costs and attorney's fees.

9 **IV.**

10 **PRAYER FOR RELIEF**

11
12 WHEREFORE, based upon the foregoing, Counterclaimants respectfully request that
13 judgment be entered in their favor and against Counterdefendants as follows:

- 14 1. For actual and compensatory damages in excess of \$165,000.00, plus pre- and post-
15 judgment interest.
- 16 2. For attorney's fees and costs of suit;
- 17 3. For an award of exemplary and punitive damages in an amount in excess of
18 \$15,000.00, with a specific amount to be proven at the time of trial;
- 19 4. For such other and further relief as the Court deems appropriate in the
20 circumstances.

21 Dated this 7th day of November, 2018.

22
23 LARSON ZIRZOW & KAPLAN

24 /s/ Kory L. Kaplan

25 KORY L. KAPLAN

26 Nevada Bar No. 13164

27 850 E. Bonneville Ave.

28 Las Vegas, Nevada 89101

Attorney for Defendants/Counterclaimants

LARSON ZIRZOW & KAPLAN
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Tel: (702) 382-1170 Fax: (702) 382-1169

CERTIFICATE OF SERVICE

I hereby certify that the *Defendants' Answer to Amended Complaint for Declaratory Relief and Damages and Counterclaim* was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 7th day of November, 2018. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows¹:

Plaintiffs

Jill Berghammer jberghammer@smithshapiro.com
Jennifer A. Bidwell jbidwell@smithshapiro.com
Vanessa Cohen vcohen@smithshapiro.com
Michael D. Rawlins mrawlins@smithshapiro.com

/s/ Carey Shurtliff

Carey Shurtliff, An employee of
Larson Zirzow & Kaplan, LLC

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).