

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

V CARS, LLC,
(formerly VISIONARY VEHICLES, LLC),
a Delaware Limited Liability Company,

Case No.
Hon.

Plaintiff,

vs.

CHERY AUTOMOBILE CO., LTD,
a corporation organized under the laws of the People's Republic of China,
YIN TONGYAO, an individual Chinese national,
KAN LEI, an individual German citizen, residing in China,
CHERY QUANTUM AUTO COMPANY, a foreign corporation,
ISRAEL CORPORATION, a corporation organized under the laws of the State of Israel, and
QUANTUM, LLC, a Limited Liability Corporation.

Defendants.

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-and-

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COMPLAINT AND DEMAND FOR TRIAL BY JURY

NOW COMES Plaintiff, V CARS, LLC (formerly VISIONARY VEHICLES, LLC), by and through its attorneys, SOMMERS SCHWARTZ, P.C., and ADORNO & YOSS, LLP, for its Complaint against Defendants, CHERY AUTOMOBILE CO., LTD, YIN TONGYAO, KAN LEI, CHERY QUANTUM AUTO COMPANY, ISRAEL CORPORATION and QUANTUM LLC, says as follows:

INTRODUCTION

1. This is an action under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1961 *et seq.*, (“RICO”) and state law against Defendant Chery Automobile Company Ltd., (“CHERY”), a rogue Chinese automobile company. Since its illegal inception under Chinese law, CHERY’s operating modus has been to serially plunder Western technology and subvert employees of both partners and competitors to obtain valuable business information. Throughout its short history, CHERY and its top management and others working in concert with it, have systematically broken contractual obligations, stolen plans for vehicles, made cars designed by Western companies without paying for their rights, and made deals without the slightest intention of carrying them out, all to the detriment of virtually every Western automobile and automobile-related company that has crossed its path.

2. This case arises from a deal between Plaintiff V Cars, LLC (“VV”) and CHERY in late 2004. VV and CHERY agreed to form a Joint Venture in China for the production of vehicles. VV was named the exclusive importer and distributor in North America. Over the life of the agreement, VV would have made in excess of \$14 billion on that deal. In reliance on the deal, and the false representations of CHERY and its management that it would act in good faith to create the joint venture company, VV raised and spent in excess of \$26 million before realizing CHERY had no intention of performing its obligations. In reality, continuing a pattern of lies and deceit that had marked its previous involvement with Western companies, CHERY used the high profile attention that the announcement of the deal made in the Western and international press, and the plans and investments made by VV and its investors, as a means to cut out VV and secretly make two other deals for North America. Just as CHERY and VV’s agreement contemplated, CHERY set up a joint venture in China,

but with a new partner, on more favorable terms than those it made with VV. The new deal allowed CHERY to keep the North American distribution rights that it had negotiated away to VV in 2004.

3. As a result of CHERY's actions, VV has lost in excess of \$26 million it invested in reliance on the good faith of its supposed "partner," and billions in future profits. CHERY, in violation of federal RICO statutes, committed, and agreed and conspired to commit, dozens of acts of mail and wire fraud as detailed herein. CHERY and others engaged in such violations directly and as co-conspirators. The state law claims arise out of the same transactions or occurrences or series of transactions or occurrences that form the basis of the RICO cause of action.

4. The second of the deals that CHERY has made was with Defendant ISRAEL CORPORATION and its subsidiary QUANTUM, LLC. ("QUANTUM"). These Defendants were introduced to CHERY by VV. State law claims are asserted against these Defendants.

JURISDICTIONAL ALLEGATIONS

5. VV is a Delaware limited liability company, with its principal place of business in New York, New York.

6. CHERY is a corporation organized under the laws of the People's Republic of China, which at all relevant times has done business in the State of Michigan, United States.

7. CHERY QUANTUM AUTO CO. ("CHERY QUANTUM") is, upon information and belief, a joint venture corporation organized under the laws of the People's Republic of China. CHERY QUANTUM is believed to be a joint venture established by CHERY and QUANTUM. At all relevant times, CHERY QUANTUM has conducted business in the United States.

8. YIN TONGYAO ("YIN") is a Chinese national and Chief Executive Officer of CHERY. At all relevant times, YIN has conducted business in the United States.

9. KAN LEI (“KAN”) is a German national residing in China. At all relevant times, KAN has conducted business in the United States.

10. ISRAEL CORPORATION is a foreign corporation organized under the laws of Israel. It is 55% owned by the Ofer Group, an Israel-based investment company, which is in turn owned by the Ofer family in Israel. At all relevant times, ISRAEL CORPORATION has conducted business in the United States.

11. QUANTUM is a limited liability corporation located, upon information and belief, in Longmont, Colorado. QUANTUM is owned in whole or in part by ISRAEL CORPORATION. (Hereafter, unless specified otherwise, CHERY QUANTUM, ISRAEL CORPORATION and QUANTUM shall be referred to as “QUANTUM’.)

12. At all times relevant to this Complaint, each RICO Defendant named herein was and is a “person” as that term is defined in 18 U.S.C. § 1961 and used in 18 U.S.C. § 1962.

13. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction over the subject matter of this case because all or part of the claims arise from certain Defendants’ violations of the United States Code, including, *inter alia*, RICO. In addition, the amount in controversy is in excess of Seventy-Five Thousand (\$75,000.00) Dollars.

14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. Section 1331 and 1332.

15. Venue is proper in this judicial circuit pursuant to 28 U.S.C. Section 1991. Many of the acts complained of occurred within Oakland and Washtenaw Counties, within this judicial district.

COMMON ALLEGATIONS

A. V CARS /CHERY BACKGROUND

16. VV is a company formed to design, engineer, arrange for the manufacturing and homologation, importation, distribution and marketing of Chinese-manufactured automobiles into the North American market.

17. Malcolm Bricklin (“Bricklin”) was the driving force in forming VV. Bricklin had been a successful importer of cars dating back to the late 1960’s. His first venture resulted in the initial importation and subsequent ubiquity of Subaru automobiles in the United States. In the 1980’s, Bricklin successfully turned a rebranded Fiat made by an obscure Communist-owned car company in then-Yugoslavia into a household name through the importing and marketing of Yugo automobiles into the United States. The Yugo was the fastest selling European import in U.S. automotive history. Bricklin also successfully imported into the United States the Fiat X1/9 and 2000 Spyder, from Bertone and Pininfarina, after Fiat halted their manufacture in the early 1990’s. Bricklin thus brought to VV immense experience in homologation of vehicles unknown to Americans, setting up dealer networks, raising funds for support of new brands, and selling the United States consumer on cars he or she had never heard of through innovative and creative marketing and distribution campaigns.

18. The Chinese automobile industry is new. It largely, if not wholly, depends on re-branding of Western automobiles, partnerships with Western original equipment manufacturers (“OEM’s”), as well as several Asian brands, and other technological assistance to design and manufacture passenger vehicles. As of 2004 (and now), no Chinese-manufactured passenger car is sold in the United States or anywhere else in North America (although Chrysler intends to sell Chery-made cars in Mexico). The overwhelming perception among American car buyers of Chinese cars prior to the VV-CHERY deal was that they are unsafe and inadequate as transportation in the United States.

CHERY, a second-tier automobile manufacturer in China, was an unknown name in North America as of 2004.

19. In early 2004, Bricklin developed a plan for VV to partner with a Chinese automobile manufacturer. He believed that it would be commercially viable to import Chinese vehicles to North America and market the vehicles to consumers as not as entry-level basic transportation, but luxury vehicles which cost substantially less than the existing European and Asian luxury models such as BMW, Audi and Lexus. Due to his past public success in automobile importing ventures, Bricklin had the know-how, contacts, and credibility with investors and the US automobile and business press to create a successful brand and brand-awareness for the venture.

20. Bricklin met with CHERY in early 2004 and was impressed with the state of its plants. Becoming convinced that CHERY had the capacity to produce sufficient volume of passenger automobiles to populate an export business to North America, Bricklin saw a substantial potential opportunity in a CHERY-VV venture to design, homologate for the US, and import CHERY vehicles for sale in North America. VV's plan, subsequently agreed to by CHERY, was to oversee the distribution of these Chinese manufactured vehicles and to create a network of 250 dealers in the U.S. to sell and service them to consumers.

B. CHECKERED HISTORY OF CHERY AUTOMOBILE COMPANY

21. China is, and for all relevant times, has been a Communist, autocratic state in which the Communist Party has immense control over, and influence in the running of its heavy industry. Since at least the 1980's, it has been a directive of the Communist government that any Western car company that wishes to sell automobiles in China must "partner" with a Chinese company, with the Chinese partner owning at least 50% of the venture. By so doing, Chinese car companies were able to obtain

access to expensive Western technology and intellectual property rights without giving up control over local car manufacturing. This policy had led by the late 1990's to China favoring a small group of Chinese car companies, all of which had formed extensive ties with Western OEM's.

22. In 2004, there were five local automotive companies, each attached to or in partnership with a major Western OEM with sales about 500,000 units in China, including FAW (First Automotive Works), SAIC (Shanghai Automotive Industry Co.), BAIC (Beijing Automotive Industrial Co.), Changan Automobile Co. and Dongfeng Motor Company. The top five automotive groups sold nearly 60% of the total sales in China's 2004 entire automobile market. The remainder of the market was divided among a number of smaller companies.

23. CHERY originated from an automotive parts manufacturing project of the local government of Wuhu, a city in the Anhui province of China. Although close to Shanghai, Anhui province was one of the poorest provinces in China, with almost no major heavy industry. In the 1990's, the city governors were looking for opportunities to develop the local economy and catch up with the fast economic development of the whole country. The Wuhu local government set up a plan of developing the local automotive industry by turning existing small parts assemblers into a car manufacturer.

24. In March, 1997, CHERY's corporate predecessor, Anhui Automotive Part Industrial Company, was formally founded. It was incorporated by joining four companies owned by the Wuhu and Annui Provincial governments. The Wuhu automobile manufacturing project was forbidden by the Chinese central government, although it had the surreptitious support from the local and provincial governments.

25. CHERY thus began as an auto parts manufacturer in violation of the Chinese central government's rules and regulations for the establishment of auto manufacturers.

26. CHERY produced its first auto in 2000, and by 2003 was producing over 90,000 vehicles per year. By 2004, even though CHERY was committing to VV to build 250,000 vehicles in the first year, it only had the capacity to produce 300,000 cars per year.

27. Because CHERY initially lacked the auto engineering expertise and knowledge required to design and produce autos, and was unauthorized by the Chinese government to produce automobiles at all, through its management and with the blessing of the Wuhu and Annuì provincial governments, it engaged in a number of illegal practices to produce vehicles. Those practices included the following two significant events involving theft of Western technology and disregard for world-wide practices of intellectual property protection.

28. CHERY executives and engineers who had previously worked for FAW, a favored Chinese auto company in which Volkswagen is a joint venture partner, imitated the well-known Volkswagen Jetta in designing CHERY's first models. CHERY not only imitated the Jetta's copyrighted and trademarked design, but it bought components for its vehicle from FAW's exclusive suppliers and even left the VW logo on those components installed in the CHERY vehicles. After being confronted by Volkswagen, as a result of these intellectual property law violations, in 2003 CHERY paid VW millions of dollars in damages.

29. In May 2003, CHERY released a new model in China known as the QQ:



30. The QQ was a near-identical copy of the General Motors (“GM”) Chevrolet Spark, a model that a few months later, was to be produced and sold in China as the GM Matiz:



31. CHERY obtained the plans for the GM model by bribing or otherwise inducing a number of Daewoo engineers (Daewoo was the company which developed the model for GM and was subsequently acquired by GM) to leave Korea and take the vehicle’s blueprints and bring them to

China. GM alleged in a lawsuit against CHERY that in copying the Spark's design, CHERY had again engaged in intellectual property law violations.

32. The QQ became CHERY's biggest selling vehicle in China. The body structure, interior and exterior design of the CHERY QQ and many of its components were virtually identical to the GM Matiz. Many parts were in fact interchangeable between the two cars. GM filed suit against CHERY which was resolved in 2005 with the assistance of the Chinese government, which was concerned that China's image as an international IP pirate (already tarnished by well-publicized spats with Toyota, Microsoft and others) would be further damaged by the affair.

33. CHERY's criminal disregard of Western intellectual property laws and willingness to buy competitors' employees to obtain information and property which it would otherwise have to pay for was unknown to Bricklin and VV in 2004, when Bricklin and VV began discussions with CHERY.

34. Upon identifying CHERY as such a potential partner for VV, Bricklin, together with financial advisors Allen & Co., met repeatedly with CHERY executives, including its chief executive officer YIN (who holds the title of General Manager) and Zhou Biren (Vice President, head of Chery International), to discuss the terms of such an arrangement. Prior to joining CHERY, YIN worked for twelve years for FAW, from which CHERY subsequently purloined parts and designs for the Jetta. Upon information and belief, YIN's brother is the Secretary for the Chinese Communist Party, thus giving YIN substantial leverage in any venture which involves the blessings of the Chinese Communist Party.

C. DECEMBER 2004: VV AND CHERY AGREE TO CONTRIBUTE ASSETS TO FORM JOINT VENTURE COMPANY AND MAKE VV EXCLUSIVE NORTH AMERICAN IMPORTER AND DISTRIBUTOR

35. In December, 2004, CHERY and VV agreed to jointly undertake a business for profit. VV and CHERY made an enforceable agreement to (1) each contribute certain defined assets to form a Chinese-based joint venture company to manufacture CHERY vehicles in China, and (2) grant VV the exclusive import and distribution rights to the United States, Mexico, Canada, Puerto Rico and the Caribbean of vehicles and spare parts that the JOINT VENTURE Company would manufacture. The JOINT VENTURE was to have a term of thirty (30) years. Hereinafter, the business relationship shall be referred to as “JOINT VENTURE” and the company that was to be formed shall be referred to as “JOINT VENTURE Company.”

36. CHERY agreed to assign its intellectual property, tooling, designs, and other assets, including a plant capable of meeting the JOINT VENTURE Company’s demand, to the JOINT VENTURE. VV agreed to provide certain funding towards the JOINT VENTURE Company, but only after approval by the Chinese government of the JOINT VENTURE. Upon each side’s assignment of assets, CHERY was to own 60% and VV 40% of the JOINT VENTURE Company.

37. The agreement called for the JOINT VENTURE Company to initially supply 250,000 vehicles to VV (with a minimum of 50,000 vehicles), with a growth of supplied vehicles projected for several years. The five CHERY vehicle platforms exclusively designated to the JOINT VENTURE were the **S12**, **B14**, **B21**, **B22**, and **B23** vehicles then under development by CHERY. The **S12** was a subcompact platform, while the **B14** and **B21-23** series were mid-sized platforms for sedans and a SUV. The parties later added several other models and platforms to the JOINT VENTURE list.

38. With CHERY’s knowledge, the terms, obligations, and responsibilities of the deal were later described in a Private Placement Memorandum (“PPM”) distributed to potential investors. The

PPM called for the sale of equity participation in VV which, in turn, would own 40% of the JOINT VENTURE, to, among others, dealers in North America who would carry and sell the vehicles produced by the JOINT VENTURE.

D. VV PUTS CHERY ON THE MAP WITH COORDINATED AD/PR CAMPAIGN

39. Relying on the good faith of CHERY in effectuating the formation of the JOINT VENTURE Company, immediately after the agreement was reached, in January, 2005, VV began to raise substantial amounts of money from investors. The principal investors were dealers in North America who were offered the opportunity to purchase equity in VV which, in turn, would own 40% of the JOINT VENTURE Company.

40. Both VV and CHERY understood that the success of the announced partnership depended in large part on convincing the public, the automobile press and potential independent automobile dealers, and other Western investors, that CHERY was a credible automobile manufacturer, that it possessed sufficient resources it would bring to bear on the design and manufacture of quality automobiles, and that it would operate in a good-faith manner as a reputable and competent manufacturing company.

41. Because of Bricklin past experience, he was quickly able, at VV's expense, to generate an overwhelming amount of positive publicity in favor of the announced JOINT VENTURE. Within the first three months after the announcement of the deal, beginning with an exclusive front-page story in the *Detroit Free Press*, CHERY became a viable and visible Chinese automaker in the eyes of the Western media. The publicity generated and paid for by VV focused on several messages, including specifically that Chinese-made vehicles are coming to the US and that they need not be cheap junk aimed at competition with second-hand cars.

42. The news media coverage generated by VV in just the first few months following the announcement generated more than \$100 million in equivalent advertising coverage, over 100 TV/radio segments and 100's of print articles. International coverage helped push CHERY from number eight to number two in Chinese auto sales. By March 2005, Bricklin had been interviewed for major profiles by BusinessWeek, USA Today, INC Magazine, Forbes, Fortune and New Yorker Magazine. Media coverage included broadcast/cable outlets including: CNN, CNBC, FOX NEWS, WWOR, MSNBC, ASSOCIATED PRESS RADIO, NPR, CBC, BBC, TV ASAHI, BLOOMBERG TELEVISION, and many more.

43. The VV-purchased and funded PR propelled YIN to win China's Economic Person of the Year award for 2005. He also received a special prize honoring him for "Self-Development & Creation" as a result of the VV deal.

44. VV positioned CHERY as the best-qualified company to introduce Chinese-made vehicles into the North American market. To reinforce the idea that CHERY truly embodies “what’s next” in the auto industry, VV positioned CHERY as having state-of-the-art facilities and innovative senior management capable of surpassing both domestic car manufactures and other competitors from Asia. Messaging surrounding the announcement of the CHERY/VV emphasized CHERY’s ability to produce high-quality, well-designed vehicles at price points thirty percent below comparable models currently sold in the United States (“Redefining the Price of LuxurySM”). VV also positioned CHERY as the only Chinese manufacturer having the wherewithal to meet unmet demand for affordable beautifully designed vehicles, with the best warranty in the industry. In virtually every media session beginning through the first four weeks of press interviews, and continuing thereafter, Bricklin and other key VV executives underscored what they characterized as extraordinary capabilities and ambitions they found at CHERY.

45. As a result, many prior prejudices regarding the unknown abilities of Chinese automakers were successfully mitigated. Another result was that CHERY, which had sold fewer than 100,000 cars in 2004, became a Chinese company often mentioned as a major player in the Chinese auto industry.

E. CHERY GETS SECOND THOUGHTS ABOUT HAVING MADE THE DEAL WITH VV AND BEGINS STALLING COMPLETION OF THE DEAL

46. CHERY had two material duties to effectuate the creation of the JOINT VENTURE Company. First, in order to prove to investors that the Chinese government would not block or interfere with the JOINT VENTURE, CHERY (and CHERY alone) agreed to seek the formal approval of the Chinese government to the JOINT VENTURE Company. CHERY's obligation to VV to submit a request for approval to the Chinese government in a timely manner was fiduciary and material.

47. Second, CHERY had a fiduciary and material duty to provide information requested by VV's investors and investors to the JOINT VENTURE for their due diligence. As a result of numerous conversations concerning this subject prior to the agreement in December, 2004, CHERY, through YIN, knew and understood that in reliance on the agreement, VV began selling units in its Limited Liability Company and granting dealers exclusive sales territories in the United States. At a minimum, CHERY understood that Western investors needed its internal financial information and its vehicle manufacturing costs. YIN participated in these sales activities, even coming to New York to meet with prospective U.S. dealers for its cars. In addition, in April, 2005, a group of U.S. dealers visited CHERY in Wuhu. YIN and CHERY understood that it would be difficult if not impossible for VV to create the dealer network, which called for dealers investing a minimum of \$2 million in VV Units, and receiving a grant of an exclusive sales territory, without satisfying questions from independent business

people about CHERY's capacity to manufacture and build the number of vehicles that would support the network and net a sufficient return on investment.

48. In derogation of contractual and fiduciary duties, CHERY decided to breach the agreement with VV. After the successful press generated by VV, CHERY's management realized that the North American importation and distribution rights were now more valuable than they had believed a few months earlier. CHERY, through YIN, KAN and others, formulated a concerted plan to take back those rights from VV. YIN, and KAN knew that CHERY did not have the capacity to manufacture both vehicles which were to be made by the JOINT VENTURE Company and make separate deals with other parties. In derogation of their contractual and fiduciary duties, CHERY, YIN, and KAN decided they wanted to avoid committing the plant promised as an asset of the JOINT VENTURE.

49. CHERY, YIN and KAN decided to use VV as a valuable—and free—development source for its products in the U.S., and to leverage its publicly-announced partnership with VV as a stalking horse to obtain a better and more lucrative deal with someone else. CHERY, YIN and KAN, began stalling VV on carrying out the acts necessary to effectuate the creation of the JOINT VENTURE Company. The purpose of these actions was not only to position CHERY to regain control of the North American rights, but to co-opt VV's contacts, obtain detailed information about the US marketplace and product evaluations.

50. For the next many months, CHERY, YIN, KAN, and others committed a series of fraudulent and deceptive acts and acts of omission intended to use VV and its investors' money for their own ends, repudiate the deal made in 2004, and keep the valuable US importation and distribution rights for CHERY. Each of these acts was designed to maintain repeatedly repeated fiction that CHERY was intending to go through the deal with VV for as long as such fiction was useful to CHERY, YIN, and KAN.

51. CHERY's plan worked to VV's detriment. Using the VV deal as leverage and the information it obtained under false pretenses to its own advantage, CHERY (1) obtained free detailed plans and information about the U.S. automobile market, homologation, customer preferences, dealers, dealer relationships, and other highly valuable information useful to CHERY, and (2) was able to cut two new deals for selling and distributing cars in North America, one with Chrysler LLC, and the other with ISRAEL CORPORATION and QUANTUM. Through these new deals CHERY was able to better the terms reached with VV in 2004. In a joint venture with ISRAEL CORPORATION and QUANTUM, it got to keep the North American distribution rights for itself; with Chrysler it gained entry into the U.S. and other markets under Chrysler's name while at the same time keeping its own brand for other vehicles. VV, on the other hand, got stuck with a bill for at least \$26 million of free development work for CHERY and lost billions of dollars in potential future profits.

F. CHERY'S, YIN'S AND KAN'S FRAUDULENT AND WRONGFUL CONDUCT RELATING TO VV/CHERY PARTNERSHIP

1. January-May, 2005: Chery Refused To Submit The Request For Approval To The Chinese Government And Refused VV Basic Due Diligence Information

52. In early 2005, in reliance on the agreement and as part of its good faith performance, VV began preparing detailed feasibility studies on the vehicles that were set aside for the JOINT VENTURE Company. At the same time, VV sought CHERY's performance. In March, 2005, VV asked CHERY for technical and corporate information for its potential investors to review. In April, 2005, VV sent a due diligence checklist to CHERY, seeking information about its obligations, contracts, plant expansion capacities, vehicle pricing and other normal information necessary to allow investors in the planned equity to decide whether to lend to and/or invest money in the project. CHERY had a fiduciary duty to provide this information.

53. On April 25, 2005, Zhou Biren from CHERY represented that an asset valuation would be prepared by May 15 “per commitment.” That representation was false.

54. On May 6, 2005, CHERY wrote VV, “The asset evaluation... is in process. Target of the completion is May 15th.” That representation, as many others in this time period, was false. In reality, CHERY had no intention of giving VV the necessary information.

55. Throughout much of 2005, CHERY, YIN, and KAN maintained the fiction that the parties were fine-tuning the details of the JOINT VENTURE Company. To induce VV to continue raising money and working on CHERY’s vehicle homologation, in early 2005, drafts of a JOINT VENTURE Company agreement were drafted by CHERY. These were done to induce VV into further activity. VV reasonably believed when presented with papers that showed the creation of a JOINT VENTURE Company, that CHERY was acting in good faith:

Article 3: Establishment and Legal Form of the JV Company

- 3.1 The Parties hereby agree to establish the JV Company promptly after the Effective Date in accordance with the *Joint Venture Law*, the *Joint Venture Regulations*, other relevant laws and regulations and the provisions of this Contract.
- 3.2 The name of the JV Company shall be [奇瑞视野汽车有限公司]¹ in Chinese and [Chery Visionary Automobiles Co., Ltd.] in English.

56. The JOINT VENTURE Company draft agreement prepared by CHERY provided that VV was to contribute \$200 million within three months of the JOINT VENTURE establishment date. This comported with the funding terms reached in 2004 between Bricklin and YIN, and recognized the reality known to CHERY, YIN and Bricklin, that the JOINT VENTURE Company needed to be created, with CHERY’s assignment of assets including the plant, in advance of sizeable Western investment into its operation.

57. CHERY and YIN had no intention of executing the draft agreement in May, 2005, however, and numerous back-and-forth drafts between VV and CHERY were a fiction on their part designed to induce VV into continuing to invest into publicity and product design.

58. In reliance on what it believed to be the good faith of its erstwhile partner in fulfilling its duties in creating the JOINT VENTURE Company, in early 2005 VV continued to spend in excess of \$1 million/month to raise funding capital, evaluate CHERY's vehicles, establish the elements to support the North American distribution, sale and service of Chery manufactured vehicles, prepare the groundwork for marketing, advertising and promotion, and otherwise work towards the formation of the JOINT VENTURE Company. To show its good faith, VV provided CHERY, YIN and KAN with an executed escrow agreement with JP Morgan Bank for the moneys being invested by dealers in furtherance of the JOINT VENTURE. As part of its bargain, VV kept CHERY appraised of its U.S. activities in behalf of the JOINT VENTURE. CHERY thus knew that VV was acting in reliance of the agreement.

59. By mid-2005, VV had reviewed and prepared preliminary technical product plans, including the **S12**, and the **B21**, **B22**, **B23**, **B14**, and the **M** platform cars, including the **M11** and the **M14**. CHERY did not tell VV that it had no intention of going through with the JOINT VENTURE. Instead, CHERY, YIN, and KAN continued to pass drafts of the JOINT VENTURE Company agreement back and forth to VV.

60. But contrary to the obligation imposed by the agreement between VV and CHERY, CHERY stalled the submission of the request to the Chinese government for formal approval of the JOINT VENTURE. When confronted by VV's executives as to when the JOINT VENTURE would be submitted for approval, YIN, KAN, and other management of CHERY gave varying excuses as to why the approval was not being sought. None of those excuses was true.

61. Defendants' refusal to submit the JOINT VENTURE was deliberate: they believed if there were no approval by the Chinese government, the JOINT VENTURE with VV could not be formally launched as agreed, and CHERY would not need to assign the assets (including its valuable new plant) it had committed. CHERY would instead be free to continue to look around for a more lucrative deal and perhaps sell the North American rights to a new bidder.

2. In 2005, To Get Out Of The Deal, Chery Demanded That VV Provide \$200 Million Before The Chinese Government Approval

62. Sometime in 2005, as drafts of the JOINT VENTURE Company continued being exchanged by the parties, YIN materially changed the terms of the agreed deal. YIN told Bricklin that CHERY would not sign the a JOINT VENTURE Company agreement unless VV raised \$200 million towards the JOINT VENTURE *before* CHERY would seek Chinese governmental approval for the JOINT VENTURE. YIN and CHERY did this believing it would be virtually impossible for VV to raise \$200 million from investors without the security that the JOINT VENTURE had the seal of approval to go forward from the Communist central government.

63. The true motive behind the sudden unilateral change was that CHERY was hoping that VV would pull out of the JOINT VENTURE altogether so that CHERY could find a more lucrative business partner for its North American plans from the potential investors and other parties brought to CHERY by VV, and keep the North American distribution rights for itself.

64. CHERY continued to receive benefits from the work done by VV towards the homologation of its vehicles. CHERY continued, however, to refuse to provide detailed proposed pricing to VV for the vehicles, a key component from which VV could generate a reliable estimate for its dealer-investors of a return on investment, thus substantially interfering with VV's efforts towards setting up the dealer network in the U.S. CHERY's decision to withhold the vehicle pricing information

was deliberate. CHERY, YIN and KAN understood and agreed with the strategy decided in 2004 to offer CHERY vehicles in the U.S. at prices substantially lower than competitive vehicles. If dealer-investors had no assurance that the CHERY vehicles would in fact be priced 30% lower than established vehicles, they would not invest in the equity of VV. By failing to provide the pricing information, CHERY, YIN and KAN were sabotaging VV's efforts at raising capital.

65. At the same time, CHERY entered into a "secret" agreement with Globe Capital Partners LLC/Galaxaco China Group LLC ("GC-C"), a San Francisco and New York-based investment firm which had been retained by VV to assist VV in the JOINT VENTURE negotiations and to provide VV with fund raising support in furtherance of VV's participation the JOINT VENTURE with CHERY. CHERY hired away GC-C to raise funds directly for CHERY, separate from the JOINT VENTURE. This was in direct conflict with CG-C's obligations to VV and with the goal for Chery to further subvert the creation of the JOINT VENTURE.

66. After VV put significant pressure on CHERY to provide it with the most basic due diligence documents, and purporting to continue the carrying out of the JOINT VENTURE, in late December, 2005, CHERY sent VV a set of documents, in Chinese, with no translation, marked "Asset Evaluation - Confidential," purporting to satisfy their obligation. By then, CHERY had already insisted on modifying the deal, and the financials (which did not contain vehicle pricing information) and other due diligence documents were either never produced or were too late to have permitted VV to secure a considerable number of potential investors.

3. Chery Subverted VV's President of Engineering To Spy On Its Behalf

67. CHERY wanted to spy on VV to monitor the reaction of Bricklin to its machinations and to pass it confidential information about VV. It decided to use Dennis Gore ("Gore"), a man with

excellent connections inside VV and a deep desire to work an inside relationship with CHERY to his own personal advantage.

68. VV hired Gore to serve as a technological consultant, and with the intention that he would serve as President of Engineering, shortly after reaching a deal with CHERY. In early 2005, in reliance on the agreement, VV established an Ann Arbor, Michigan office, staffed with a number of full-time employees, who were tasked with the job of assisting with product development, and such technical issues as homologating the automobiles that were part of the JOINT VENTURE to meet U.S. safety and emissions standards, as well as supporting the styling of the vehicles to successfully meet U.S. consumer standards. Gore was in charge of the group. In April 2005, Gore became an employee of VV as President of Engineering, where he was a member of VV's senior management and reported directly to Bricklin.

69. Gore's duties included meeting with CHERY's senior management and vendors as well as performing technical due diligence regarding CHERY's manufacturing capabilities and those of CHERY's current and potential vendors both in the United States and China, as well as Italy, Austria and Japan. As such, Gore had a fiduciary obligation to VV. That fiduciary obligation was known to CHERY, YIN and KAN.

70. Bricklin and other VV executives discussed Gore's background and hiring with YIN and KAN. CHERY, YIN and KAN thus knew that VV depended heavily on Gore's specialized, technical knowledge regarding the automotive industry. Prior to joining VV, Gore had been employed in the auto industry for approximately 25 years. Immediately prior to going to VV, Gore had been involved in vehicle development for Mitsubishi in the U.S. and previously held senior engineering positions with Honda and Nissan in the U.S.

71. Beginning in 2005, with CHERY's, YIN's and KAN's knowledge and encouragement, Gore communicated directly with YIN on matters wholly outside his sphere of technical responsibility. To a significant extent, his primary contact at CHERY became KAN, who had previously been employed at Siemens, VDO, in China, and was fluent in English. KAN was hired by CHERY in May, 2005, and quickly became Gore's chief conduit for the unauthorized passage of confidential and proprietary information from VV to CHERY. KAN, in turn, became CHERY's chief negotiator with VV over the next sixteen months. KAN was therefore perfectly positioned to direct Gore and take suggestions from Gore on how to maneuver VV.

72. Because VV was not privy to Gore's actions, KAN was given a VV email account and even a VV-purchased Blackberry. To avoid detection, in 2005, Gore set up a private e-mail channel not monitored by VV through its business server, for passage of confidential information to YIN, KAN and other Chery management. Through that channel, and in telephone conversations and face to face meetings, for well over a year, Gore spied on VV on CHERY's behalf, provided Chery with VV's highly confidential proprietary information, and gave CHERY advice on how to manipulate its relationship with VV. Through Gore, YIN and KAN had a window into Bricklin's plans, reactions to their actions, and advance notice of VV's activities. VV did not discover the communications until 2007.

73. With CHERY's knowledge and approval, Gore passed CHERY reams of confidential and proprietary information concerning the business plans of Bricklin, Bricklin's investors, and others associated with VV's business. Gore also passed to CHERY VV's analyses of the viability of various CHERY automobiles in the North American market, dealer plans, a business plan for the planned JOINT VENTURE and other proprietary and highly confidential information. Because prior to the agreement CHERY had been a local car manufacturer in a provincial part of China, these plans and

analyses were invaluable to CHERY in teaching it about the North American, and in particular, the U.S. market.

74. Among other information passed by Gore in early 2006, was confidential information concerning the identity of various VV investors or potential investors to the CHERY plan to export to the U.S.

75. On or about March 15, 2006, even as Gore remained as VV's Chief Engineer and President of Engineering, he secretly began to formulate North American "Business Scenarios" for CHERY that involved CHERY entering into joint ventures with entities other than VV with the intention that Chery would strike a more advantageous deal with one or more of them.

76. On or about June 18 through June 28, 2006, Gore traveled to China and met with CHERY's senior management including YIN and KAN. At that time, while VV reasonably believed Gore was representing its interests, Gore presented a "Decision Making Matrix: Chery Business Scenarios for North America" to CHERY's senior management. Gore made this presentation despite the fact that he was a member of VV senior management and despite the fact that VV was engaged in exclusive negotiations to finalize it and CHERY's JOINT VENTURE at that time. The plans concocted by Gore did not include VV as part of the "business scenario" for the U.S. CHERY, YIN and KAN, at the same time, were meeting in face-to-face discussions with Bricklin and VV, and omitted to tell VV that its chief engineer was working on plans to replace VV in a North American joint venture.

77. Between at least January and November, 2006, CHERY and Gore mutually conspired to breach the agreement and cause VV harm. Gore presented CHERY with various scenarios for the North American market that not only did not include VV, but explicitly suggested cutting VV out of the proposed joint venture. Unbeknownst to VV, Gore and CHERY actively conspired and explored

various opportunities pursuant to which CHERY could enter the U.S. auto market without VV. Gore did this with the understanding, encouraged by CHERY and KAN, that he would be able to create a research and design center (which he would manage), and secure a senior management position with CHERY and/or one its related entities and would receive other valuable consideration, as CHERY formulated and executed its plan to enter the U.S. market without VV.

4. While VV Spends Money To Finalize The Deal, Chery Secretly Shops North American Rights To Chrysler And Has Gore Do Work For Chery's Potential Deal With Chrysler On VV's Dime

78. Although it was publicly telling VV that the agreement was intact, and was obtaining the benefits of free publicity and VV's Ann Arbor office and staff's homologation and product development and evaluation efforts, contrary to the exclusivity granted VV for North America, CHERY began talking with Chrysler Corporation, now Chrysler LLC ("Chrysler") about a possible deal between the two concerning North America. At the time, Chrysler was part of the ill-fated DaimlerChrysler merger. Its product line was short of inexpensive small cars, and it was actively looking for a partner with which to do a deal to produce a small car sold under the Chrysler badge.

79. Upon information and belief, in their secret discussions, CHERY, YIN, and KAN assured Chrysler that there was no deal with VV. CHERY induced Chrysler to make CHERY an offer to develop at least one of the five models exclusively promised to VV in 2004, the **S12** (a subcompact), and produce it for the Mexican market. This happened although CHERY knew that the **S12**, as well as other models in its lineup, were part of the exclusive deal with VV and that CHERY had no right to shop the rights to these cars to other potential partners. YIN and KAN were part of the discussions with Chrysler and knew and understood that in so doing they were in breach of both contractual and fiduciary duties they owed VV.

80. During these discussions, while continuing to pretend to VV that it was still going ahead with the JOINT VENTURE, upon information and belief, CHERY offered Chrysler its own “exclusive” distribution deal, independent of the “exclusive” distribution deal it had reached with VV in 2004.

81. YIN and KAN believed that they could get a better deal with Chrysler as its entrance way into North America. Since VV still believed that the JOINT VENTURE was going forward, Gore and his staff were continuing to be paid to work on CHERY vehicle information.

82. Beginning in January, 2006, in derogation of its fiduciary duties, CHERY had Gore and his staff secretly perform work in the Ann Arbor “virtual” technical center funded by VV towards a feasibility study of the sale of the S12 platform by Chrysler. CHERY, through KAN, continued to use Gore to perform analyses of various aspects of its automobiles in connection with the Chrysler deal it was secretly trying to work out throughout the spring and summer of 2006. Thus, while at the same time as it was telling VV that the JOINT VENTURE was still ongoing, CHERY was using VV’s funds and staff to pay for market and technical studies of its vehicles for use by Chrysler in Mexico, and possibly elsewhere.

5. When VV Was Able To Meet Chery’s New Demand For \$200 Million Upfront, Chery Refused To Cooperate In Providing Due Diligence So That The Deal Would Be Scotched

83. Believing that it had a deal with Chrysler, in early 2006 CHERY continued to stall VV towards providing outstanding due diligence information while at the same time insisting that VV find \$200 million (contrary to its agreement in 2004) before any JOINT VENTURE Company agreement was signed. This had the intended effect of attempting to ensure that VV would be unable to meet the

new “obligation” imposed by CHERY in 2005, the raising of the \$200 million before Chinese governmental approval.

84. In April, 2006, even without the due diligence information being provided, VV was able to secure an investor to place the \$200 million demanded by CHERY into an escrow. This put pressure on CHERY, YIN and KAN, as they knew that their separate negotiation with Chrysler would at some point come out publicly, and that they would have to explain to VV why they had sold or attempted to sell for a second time some “exclusive” North American rights.

85. In meetings and emails, YIN and KAN pretended to tell VV that they and CHERY were committed to the JOINT VENTURE, and encouraged VV to have the new investor put the \$200 million into escrow. In reliance on those representations, VV went ahead, and the escrow was funded in April, 2006.

86. In May, 2006, just a one week later, news leaked out in the press that CHERY and Chrysler had in fact engaged in discussions. On May 7, 2006, Bricklin, Gore, and YIN, KAN and Lin Zhang, President of Chery International, met to discuss the \$200 million and the plans for the JOINT VENTURE. CHERY’s representatives falsely assured VV that the Chrysler discussion was a non-event:

Chery advised of their discussions with Chrysler, which is in a very preliminary stage. Chery reassured VV that it would take no steps in North America that would damage VV’s position in the marketplace.

87. Following the leak and its officers’ misrepresentation to VV, CHERY continued the pretense that it would go ahead with the VV deal. In late May 2006, Gore and KAN, met in Michigan with Ken Grant, an experienced auto designer, to discuss Grant becoming CHERY’s chief designer in a U.S. design studio for CHERY. CHERY appointed a U.S. agent, an attorney in Jackson, Michigan, and met with Grant to discuss the establishment of a studio in Michigan. VV understood these acts to

mean that CHERY remained committed to completing the paperwork for the JOINT VENTURE Company.

88. Contrary to its fiduciary and contractual duties to VV, throughout the spring, summer and the fall of 2006, CHERY secretly continued to have Gore direct his staff in Ann Arbor (funded by VV) to perform various analyses of its vehicles for suitability with Chrysler and its needs. This included work on vehicles that were specifically mentioned in its discussions with Chrysler and which were not included in the 2004 agreement with VV. At CHERY's direction, Gore hid this work from Bricklin, other top VV executives and VV's board members.

89. During the summer of 2006, Gore acting for CHERY, had ongoing direct and private communications with the investor who had committed the \$200 million in April, 2006. Upon information and belief, Gore, acting on CHERY's behalf or with its knowing encouragement, was highly critical of VV and Bricklin and advised the investor of CHERY's preference to enter the North American auto market by way of Chrysler instead of VV. KAN and YIN knew of these conversations but did not tell VV.

90. Even though VV had located the \$200 million demanded by CHERY, and was continuing to expend time and effort towards completing the deal, KAN and YIN were committed to not telling VV their true plans. Instead, they met in May and early July, 2006, on three occasions for face to face discussions about the JOINT VENTURE. At these meetings, YIN and KAN, and other CHERY representatives, pressed VV for details concerning work that had to be done on the cars promised to the JOINT VENTURE to make them pass U.S. emissions and safety regulations.

91. In response, on July 6, 2006, VV gave KAN a detailed highly confidential North American Product Plan concerning the CHERY vehicles; plans for distribution; U.S. styling treatment; U.S. product specifications, and other proprietary information with value to CHERY. The North

American Product Plan was marked “Secret Proprietary;” and represented a substantial amount of work by VV. The plans, as well as other information given to CHERY pursuant to the agreement reached in 2004, was given in confidence and on the basis of an understanding held by VV and encouraged by YIN and KAN, that it was disclosed for CHERY and VV’s mutual interest in the JOINT VENTURE.

92. Throughout the spring and summer of 2006, based on discussions with Bricklin and other VV management, CHERY, YIN and KAN understood that before the \$200 million could be released out of escrow and used to assign to the JOINT VENTURE, CHERY had to supply the due diligence that had been outstanding since early 2005. Among other items that were necessary, CHERY was asked to provide documentation that included:

- Detailed vehicle pricing information;
- Contracts or agreements that could subject any assets, facilities, properties or technologies to be contributed by Chery to the JOINT VENTURE, to encumbrances or disputes;
- Contracts or agreements, memoranda of understanding and letters of intent, with respect to establishment of joint ventures or other business vehicles which may compete with the JOINT VENTURE; and
- Contracts, agreements or other documents relating to the distribution of CHERY products in North America and Europe.

93. Throughout the spring and May, June and July of 2006, CHERY refused to give VV documentation responsive to these questions. Among other reasons for their failure, in order to honestly respond, CHERY would have had to admit that it had either already signed contracts with Chrysler or was about to, and was busy negotiating for more deals. This would have disclosed CHERY’s breach of its contractual and fiduciary duties.

94. In a meeting between YIN, KAN and Bricklin, as well as other VV executives, on July 18, 2006, YIN and KAN told VV’s executives they were intent on moving forward with the JOINT VENTURE, and that the **B14**, **B21**, **B22**, **B23** and the M platform starting with the **M14** would be part

of the venture along with a new **F** luxury platform and additional iterations of the previous models. The **S12** was also understood to be part of the JOINT VENTURE models. YIN and KAN's representations were false. At the meeting VV gave YIN and KAN a second copy of the detailed highly confidential North American Product Plan concerning the CHERY vehicles; plans for distribution; U.S. styling treatment; U.S. product specifications, and other valuable, proprietary information. The Product Plan was marked "Secret Proprietary." Both KAN and YIN had signed Non-Disclosure Agreements with VV. The handover of the report was done on the assumption fostered by CHERY, YIN and KAN, that the parties were still moving ahead in good faith towards a JOINT VENTURE.

95. The plan contained a projection of the profit that VV expected the JOINT VENTURE to achieve in five years of operation, beginning in 2009. That profit totaled \$2.7 billion. YIN and KAN agreed that the numbers appeared to be accurate. VV's projected profit from this in the first five years of operations was 40%, or \$1.2 billion.

96. VV also projected that the North American rights to importation/distribution would be worth \$14.4 billion over thirty years. YIN and KAN were privy to this assessment and did not disagree with it.

97. In the July 18th, 2006 meeting in China among VV, CHERY and the investor who had put the \$200 million in escrow, the parties all agreed to move forward, subject to the investor receiving the due diligence information. CHERY refused to participate in any real due diligence with that investor. Shortly after the investor returned to the U.S., Gore held a secret meeting with the investor. Following that meeting, on July 27, 2006, the investor advised VV that it was walking away from the deal. CHERY, through YIN and KAN and others, with Gore's assistance, encouraged and directed by CHERY deliberately sabotaged the deal in order to have VV abandon its rights.

98. Upon information and belief, one reason why the deal was scotched by CHERY was that it secretly signed another agreement with Chrysler days after meeting with VV and the investor on July 18th.

G. CHERY's AND QUANTUMS' WRONGFUL CONDUCT

1. VV Introduces Chery To Ofer Group And Chery/Ofer Group Do A Deal Behind Its Back

99. Still unaware that CHERY had in fact negotiated a deal with Chrysler in the summer, in August, 2006 VV advised CHERY of another potential JOINT VENTURE investor known as the Ofer Group, which controls and operates ISRAEL CORPORATION.

100. VV first identified and entered into negotiations with Ofer Group in early 2006 in connection with making an investment in VV. VV advised the Ofer Group that it had the exclusive importation and distribution rights for North America and that it had a stake in the JOINT VENTURE agreed to in 2004.

101. In August of 2006, on the basis of YIN and KAN's representations, VV resumed negotiations with the Ofer Group for the purpose of inviting it to invest \$200 million in the JOINT VENTURE with CHERY as a replacement for the investor who walked away. The CHERY-VV deal proposed to Ofer was put together by one of VV's equity investors and Co-Chairman of VV's management board, Per Arneberg.

102. Arneberg, on VV's behalf, told CHERY that Ofer Group could contribute the \$200 million towards the JOINT VENTURE Company. YIN and KAN knew at the latest in August, 2006, that VV had the means to invest \$200 million.

103. In the course of the negotiations, VV provided the Ofer Group with confidential and proprietary information about its plans to enter into the JOINT VENTURE with CHERY and the details of how it would import and distribute vehicles in the U.S. In October, 2006, OFER's

representatives, Nil Gilad, President and CEO of ISRAEL CORPORATION and Volker Steinwascher, a former Volkswagen executive, signed Non-Disclosure Agreements at VV's New York offices before being shown VV's business plans for the proposed JOINT VENTURE. Gilad and Steinwascher understood that the reports had cost VV millions of dollars of investment to prepare, and that they laid out a unified plan of marketing specific CHERY vehicles in North America. Steinwascher spent two months being educated about the deal and VV's plans.

104. Ofer Group (and consequently QUANTUM) had never previously invested in an automotive venture.

105. While VV was meeting and providing confidential information to the Ofer Group and its representatives, upon information and belief KAN and Gore were conspiring to block VV's effort. KAN wanted to delay the meeting with Ofer, criticize Bricklin and VV's management and VV's business plan to Ofer Group, arrange for a private meeting with only Arneberg, Steinwascher and Gilad and Idan Ofer, tell them that CHERY's written commitments to Bricklin have expired, and tell Arneberg, a shipping magnate and a principal with VV that CHERY would like him to have the shipping rights even if Chery did not go forward with VV.

106. YIN and KAN knew the exact status of VV's fiscal situation, because Gore was telling them in secret about it. YIN, KAN and CHERY planned to have VV walk away, and executed a plan to continue the delay in dealing with Ofer Group until VV ran out of money.

107. By October 16, 2006, CHERY hosted a plant tour for VV and Ofer Group. During that tour CHERY followed the tactics that CHERY, KAN and Gore established.

108. ISRAEL CORPORATION knew it was approached on the basis that it was an investor to the VV deal. On October 20, 2006, VV told Ofer Group "Any approach to Chery must be as Visionary Vehicles and not Ofer separately." On October 22, 2006, Steinwascher, a representative of

the Ofer Group, replied, “I understand your comment in the first bullet point that the meeting with Chery was confusing especially in respect to the cooperation between Israel Corp and Visionary Vehicles. And that must of course not be repeated.” Steinwaser was lying to VV when he made that response, as Ofer Group had, unbeknownst to VV, already written directly to Chery and had decided to cut out VV and deal directly with CHERY.

109. On October 25, 2006, ISRAEL CORPORATION (QUANTUM’s parent) said in a letter to CHERY:

Dear Mr. Yin,

I am pleased to confirm that we have developed a solution with Visionary Vehicles to the full satisfaction of both parties. In return for the investment in the Joint Venture the Israel Corp will hold full ownership in the Joint Venture as partner of Chery and will have control in Visionary Vehicles.

We will together with Visionary Vehicles use the existing resources in Visionary Vehicles to the extent possible including their excellent relationships with the dealers in the US.

The letter was false, as by then, ISRAEL CORPORATION had already decided and begun to act on cutting out VV.

110. The Ofer Group advised VV that it was prepared to make a \$200 million investment. Subsequently, VV informed CHERY that it was again prepared to move forward with the JOINT VENTURE. However, because the Ofer Group had already reached a verbal agreement with CHERY, the conditions for equity and profit sharing were now completely dictated by the Ofer Group. Continuing the pretense that VV still had the deal, Steinwaser informed VV that “Chery has clearly indicated that they do not have any binding commitment with VV anymore but that Israel Corp and myself are very much interested in cooperation with VV.”

111. In the meantime, VV was keeping Gore advised as to its status with the Ofer Group proposal to CHERY. Unknown to VV, YIN and KAN were planning on dumping VV as a partner in the deal and using information obtained from a VV fiduciary (Gore) to their advantage.

112. On November 7, 2006, Idan Ofer, Chairman of the Board of ISRAEL CORPORATION, wrote to KAN confirming a telephone conversation that night “I sincerely hope that Israel Corp will indeed be Chery’s new partner.” VV was deliberately not copied on the communication.

113. On November 8, 2006, YIN wrote Idan Ofer that CHERY’s Board “is of the opinion that the timing of our cooperation is somewhat premature. We have to postpone our discussion sometime the first quarter 2007.” VV was deliberately not copied on this communication. CHERY failed to advise VV because it understood that it still had a deal with VV for North American rights, and was hoping that by further delaying, they would force VV to pull out.

114. In mid-November, 2006, Steinwaser traveled alone to Beijing to meet with CHERY. When confronted by VV as to Ofer Group’s plans with respect to CHERY, Steinwaser lied to VV about the discussions: “Volker asserts that he has no knowledge of any direct attempts by Ofer and he’s told Ofer that he, Volker, would not pursue this venture without Visionary to manage North America.”

115. Contrary to Steinwaser’s representations, CHERY had already begun direct communications with the Ofer Group. CHERY intentionally sought to exclude VV from any involvement in its long term plan to import vehicles to the U.S. by way of the Ofer Group.

116. Subsequently, CHERY entered into direct negotiations with the Ofer Group in connection with the import and sale of its vehicles in the U.S. When VV learned of the direct communications and after CHERY told VV that the discussion would have to be put off until first quarter of 2007, on November 22, 2006, VV advised Ofer Group that Ofer Group was not authorized to continue the negotiations toward a North American deal:

Dear Mr. Ofer:

After much consideration, we have decided that a cooperation with you in a joint venture with Chery and distribution in North America would not be in the best interest of all parties concerned. As such, please consider this our official notice that we do not intend to continue discussions with you in regard to this structure...

Given that we met this week in Beijing with Dr. Kan and are currently negotiating with Chery, we respectfully ask that you withdraw from any further contact with Chery.

117. Contrary to VV's instructions, the ISRAEL CORPORATION continued to work towards a deal independent of VV.

118. As of November 2006, VV by way of its investors, had spent at least \$26 million to establish everything that was required to create the JOINT VENTURE Company. Upon information and belief, CHERY, YIN and KAN knew through Gore that VV had essentially run out of money and was unable to keep its staff.

119. In December, 2006, CHERY and Ofer Group established an escrow separate and apart from VV. QUANTUM is a subsidiary of ISRAEL CORPORATION. Upon information and belief, in February 2007 CHERY and QUANTUM established CHERY QUANTUM. Its purpose is manufacturing and importing CHERY vehicles for the U.S. and elsewhere.

120. The new venture with QUANTUM was based on the identical strategy that VV had established, to build and import luxury vehicles which would sell for a price much lower than those luxury vehicles produced by European and other Asian auto manufacturers. As reported in the press releases by Defendants, "The Chery-Quantum venture aims to make a model similar to Toyota's Lexus luxury cars, according to a comment May 2 by ISRAEL CORPORATION's chairman, Idan Ofer, who has no experience making cars. The venture will have the capacity to make 150,000 vehicles a year." "The carmaker must go upmarket to enable it to use better materials in interiors, enhance the electronic

components and improve our emission standards' to compete with larger vehicles that can be sold at higher prices, [CHERY's] Jin said in an interview last week in eastern China's Wuhu City.”

121. The new joint venture intends to build and sell some of the very same vehicles agreed to by CHERY to be in the JOINT VENTURE.

122. QUANTUM together with CHERY, have used and continue to use VV's confidential and proprietary information to establish their venture of importing CHERY vehicles into North America, and for the rest of the world.

123. Upon information and belief, CHERY and Chrysler are using the **S12** as the platform for a vehicle in Mexico, and the **B21** was planned to be the so-called “Hornet” to be sold in North America.

2. Chery Conspires With Gore To Set Up His Own Company And Hires Gore To Work Chery Vehicles For Quantum and Chrysler

124. In the fall of 2006, while he was still employed by VV, and while CHERY and VV were discussing the investment by Ofer Group towards the VV-CHERY JOINT VENTURE, Gore formed a company that would directly provide design and engineering services to CHERY and for entities other than VV., This conflicted with the JOINT VENTURE. The name of Gore's registered company was “Pharos Engineering and Design” (“Pharos”). CHERY, through YIN and KAN, knew about and encouraged Gore to set up the company.

125. On September 19, 2006, Gore emailed the former creative director for an Italian automobile design studio who had opened his own design studio and indicated that “Chery and I are planning a lot of new vehicle projects for both the North American market as well as other international markets.”

126. Gore is currently being compensated by CHERY and/or its agents, to provide it with design, engineering and related services to CHERY for the purpose of importing its vehicles to the U.S. and North America, and elsewhere.

127. Just as it did with GM's Daewoo engineers, CHERY hired Gore and his staff to trade on the knowledge he and they obtained while in VV's employ. The arrangement was a payoff promised Gore for his successful spying on VV.

H. DAMAGES

128. As a direct and proximate result of Defendants' conduct, VV was injured in its business and property and continues to suffer injuries and will continue to suffer injuries. Specifically, VV incurred the following general categories of monetary damages:

- a. Loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE Company, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of-pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above;
- b. The opportunity to make future profits of approximately \$1.1 billion out of VV's negotiated share of the JOINT VENTURE in the first five years of operation; and
- c. Billions of dollars in future lost profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts over the life of the agreement under the exclusive rights it negotiated in 2004.

129. Defendants have obtained under false pretenses, in breach of their fiduciary duties, and as a result of material misrepresentations and omissions substantial benefits that must be disgorged under law and equity. These include:

- a. The value of the North American plans, know-how, contacts, investments, trade secrets, proprietary information and confidential information improperly and illegally obtained from VV;
- b. The value of the North American distribution rights; and

- c. The value of the CHERY/ISRAEL CORPORATION-QUANTUM joint venture.

COUNT I
RICO (1962(c))
(against CHERY, YIN and KAN)

130. The allegations of paragraphs 1 through 129 are incorporated by reference as though fully set forth herein.

A. Association-in-fact enterprise

131. At all times relevant to the Complaint, CHERY, YIN, and KAN, along with non-party Gore, constituted an association-in-fact enterprise as that term is defined in 18 U.S.C. § 1961(4) and used in 18 U.S.C. § 1962 (hereinafter the “Chery Enterprise”). CHERY is a “person” as that term is defined in 18 U.S.C. § 1961(3). The “CHERY Enterprise” is governed by an overarching structure which engages in a pattern of activity that differs from the usual and daily activities of CHERY corporation. The CHERY Enterprise oversees and coordinates the commission of several different predicate offenses and other activities (both legitimate and illegitimate) on an ongoing basis. CHERY and YIN and KAN are entities separate from the CHERY Enterprise. CHERY, YIN, KAN and non-parties Gore and others are members of the CHERY Enterprise and the perpetrators of the alleged racketeering activity.

132. Defendants CHERY both separate from, and as a part of the CHERY Enterprise, and Defendants YIN and KAN conducted legitimate business activities, including building legitimate vehicles under legitimate technology licenses and selling same within China and elsewhere.

B. Pattern of Racketeering Activity/Predicate Acts

133. CHERY, together with YIN, KAN, Gore and others, through the CHERY Enterprise, engaged in a pattern of racketeering activity which included the commission of mail and wire fraud to induce participation in and investment by VV for a period of eighteen months in the CHERY-VV JOINT VENTURE. Prior to the activity that was directed at VV, these Defendants (without KAN and Gore) directed racketeering activities at Volkswagen and General Motors Corporation through the deliberate misappropriation of tools, parts, and designs towards automobiles, as described above. These activities took place at least as far back as 2000, and continued through 2004.

134. The enterprise and the pattern of racketeering activity are separate and distinct. CHERY, YIN and KAN, and Gore who are associated with the enterprise, conducted or participated in the conduct of the enterprise's affairs through a pattern of racketeering activity, including the predicate acts described below.

135. CHERY, through YIN and KAN, engaged in the drafting and execution of various agreements, through which it directed and conducted the affairs of the CHERY Enterprise. The alleged agreements and conduct include the May-November, 2005 drafts of the JOINT VENTURE Company, confidentiality agreements, and the asset valuation sent to VV in December, 2005. In addition, CHERY, YIN and KAN, together with Gore, exchanged in multiple emails between January, 2006 and November, 2006, on an email channel outside VV's authorized business server, containing information and instructions as set forth above. In addition, between January, 2006 and fall, 2006, CHERY, KAN, YIN and Gore sent or caused to be sent numerous emails between Gore and Gore's staff to YIN and/or KAN concerning work done in connection with Chrysler projects, all paid for by VV without VV's knowledge. In addition, CHERY, YIN and KAN, drafted and sent numerous emails in the period of December, 2005 to April, 2006, regarding the investment of \$200 million into the JOINT VENTURE.

Finally, between September, 2006 and November, 2006, CHERY, KAN and YIN, together with Gore, sent and received numerous emails concerning the successful effort to cut out VV from the Ofer Group investment and establishment of Gore's new company. These documents and Defendant's conduct with respect to these documents reflect the overall structure of the enterprise, and an available mechanism for decision-making and direction of the affairs of the enterprise.

136. As a whole, CHERY, with Gore, YIN and KAN, and others, acted in concert, with specific, well-defined roles in the CHERY Enterprise, to achieve the common goal of defrauding prospective partners in the business of Chinese automobile distribution into investing into a proposed venture. YIN, KAN and Gore participated in the operation or management of the enterprise itself. For example, CHERY had no intention of going through the agreement that negotiated to VV an exclusive importation and distribution right, but purported to do so in 2005 and 2006. As late as April, 2006, CHERY, through YIN and KAN, again signed or caused to sign an agreement that VV had an exclusive right to the importation and distribution in North America of its vehicles, but within two weeks, without disclosing they had signed that agreement, purported to convey exclusive rights to certain of the same vehicles in North America to Chrysler.

137. In addition, CHERY, with Gore, YIN, KAN and others, acted in concert, with specific, well-defined roles in the CHERY Enterprise, to achieve the common goal of inducing VV to invest millions of dollars towards the publicity and vehicle development effort, and to continue to invest additional moneys, and to provide confidential information and introductions well after CHERY decided it would not do business with VV, in order to prevent and/or delay Plaintiff's discovery of the fact that CHERY was actively courting other partners and conveying exclusive rights to the North American territory to others. Further, Defendants' concerted actions were designed to and did lull VV

into continuing to invest money in the belief that CHERY, through its management and Gore were continuing to act in good faith.

138. The behavior of the CHERY, YIN, and KAN, together with Gore is coordinated between and amongst themselves so that they function as a continuing unit. KAN is now officially not an employee of CHERY, although he is now employed by a company associated with CHERY. And, upon information and belief, Gore is now employed by CHERY, with a role substantially identical to that he held while employed by VV. YIN oversees that activity of the new joint venture, supported by Gore.

139. These parties (except for Gore) acted in concert to decide amongst themselves how to approach VV. These parties (with Gore) continued to misrepresent to VV the actual status of the JOINT VENTURE and CHERY's desire to act in good faith.

140. This consensual decision-making structure is evidenced by the manner and method of communications amongst CHERY and YIN, KAN and Gore. Shortly after Gore began to spy on VV on YIN, KAN, and CHERY's behalf, the parties set up an alternate email channel to communicate amongst each other. That channel was used for a period of many months. There exists an identifiable chain of command, from YIN to KAN to Gore in connection with the CHERY Enterprise.

141. By agreement, YIN and KAN acted as an intermediary between CHERY and VV and, assisted in the cover-up.

142. Defendants' predicate acts are "related" by a common purpose to fraudulently obtain millions of dollars from VV and from other Western automobile OEM's or businesses in the automobile supply chain, and to injure VV in its property and business. Each predicate act had this same purpose. Each predicate act had the intended result: to advance the scheme to fraudulently obtain and/or retain benefits from VV and from other Western automobile OEM's or businesses in the

automobile supply chain and to injure VV and other Western automobile-related businesses in their property and business. Each predicate act had the same participants and several victims. Finally, Defendant’s predicate acts are not isolated events but, rather, are their regular way of conducting their affairs.

143. Virtually all of the predicate acts comprising the pattern of racketeering are mail and wire statements in furtherance of a scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises among CHERY, YIN, KAN and Gore, on the one hand, and VV on the other for the purpose of executing the fraudulent scheme, all in violation of Title 18 of the United States Code, Sections 1341 and 1343. In addition to the particular communications set forth in this Complaint, a sample of these particular mail and wire communications, made in connection with the scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, and concerning the issues set forth above, together with time and place are detailed as follows. The scheme directed against VV contained many more mail and email communications, and additional mail and wire communications, currently unknown, were exchanged by CHERY Enterprise with respect to VW and GM:

Ex.	Date	To:	From:	CC:	Type of Document
1	4/1/05	Ron Warnicke	Lin Zhang		e-mail re JV application
2	4/29/05	Alan Himmelfarb	Chery		e-mail re commitment of AnHui Nat'l Trust for asset valuation
3	5/6/05	Alan Himmelfarb	Sunguo Cheng, Chery		e-mail re asset valuation
4	5/7/05	Alan Himmelfarb	Lin Zhang	Biren Zhou, others	e-mail re completing JV project
5	5/12/05	VV	Lin Zhang, Chery	Malcolm Bricklin	e-mail re JV Company
6	5/12/05	VV	Lin Zhang, Chery	Malcolm Bricklin	e-mail re JV Company
7	7/8/05	VV	Chery		Draft JV Company agreement
8	7/12/05	VV	Chery		Draft JV Company agreement
9	5/11/05	VV	Chery		Draft JV Company agreement
10	12/7/05	Alan Himmelfarb	Kan Lei	Malcolm Bricklin	e-mail

				Paul Lambert	
11	12/19/05	Alan Himmelfarb	Kan Lei		e-mail
12	1/22/06	Dennis Gore	Kan Lei		e-mail
13	1/22/06	Malcolm Bricklin	Kan Lei		e-mail re investor
14	2/1/06	Chery	Gore team		e-mail and attachment communication concerning Mexican standards for Chrysler
15	2/8/06 et seq	Gore	Powell (Gore team member)		e-mail re S12 for Chrysler
16	2/8/06	Lydell Powell	Gore		e-mail re S12 for Chrysler
17	2/10/06	Lydell Powell	Dennis Gore	Peter Oppelt Susan Smith John Kobylarz	e-mail re S12 for Chrysler
18	2/16/06	Dennis Gore	Lydell Powell		e-mail
19	2/16/06	Gore	Powell		e-mail re S12
20	3/15/06 (no date contained w/in body of document)	Chery	Dennis Gore		e-mail attachment re work for Chrysler
21	3/24/06	Dennis Gore	Kan Lei		e-mail
22	4/1/06	Bricklin	Kan Lei		Letter
23	4/6/06	Bricklin	Kan Lei		Letter
24	4/9/06	Alan Himmelfarb	Kan Lei	Yin, Tongyao Malcolm Bricklin Lydia Li Changpo Yang (IBD)	e-mail
25	5/10/06	Alan Himmelfarb	Kan Lei		e-mail
26	5/11/06	Alan Himmelfarb	Kan Lei		e-mail
27	5/12/06	Alan Himmelfarb	Kan Lei		
28	5/17/06	Malcolm Bricklin Alan Himmelfarb	Kan Lei		
29	6/17/06	Dennis Gore	Smith	John Kobylarz Lydell Powell Peter Oppelt	e-mail re NA decision-making matrix for Chrysler
30	6/10/06	Kan Lei	Gore		e-mail
31	6/20/06	Smith	Gore		e-mail
32	6/22/06	Malcolm Bricklin	Kan Lei	Dennis Gore Alan Himmelfarb	e-mail
33	7/3/06	Dennis Gore	Kan Lei		e-mail
34	7/5/06	Dennis Gore	Dennis Gore		e-mail re secret e-mail account
35	7/12/2006	Bricklin	Dennis Gore		e-mail
36	7/26/06 – 11/06		Gore Group		e-mail attachment re NA product plan not for VV
37	8/16/06	Huang Jun	Dennis Gore	Peter Oppelt Lydell Powell	e-mail re QQ vehicle, for Chrysler or other party
38	8/24/06	Dennis Gore	Huang jun		e-mail
39	9/6/06	Smith (gore team)	Kobylarz (Gore Team)		e-mail re S12 for Chrysler
40	9/11/06	Powell	Kobylarz		e-mail re S12
41	9/18/06	Per Arneberg	Kan Lei		e-mail
42	9/22/06	Ken Grant	Denis Gore		e-mail re Gore “agent for Chery” in connection with Grant
43	10/25/06	Dennis Gore	Henry Wang		e-mail re Chery/DCX

144. In addition, members of the criminal enterprise without KAN and Gore violated Title 18 of the United States Code Section 2320, which is an act of Racketeering Activity as set forth in Title 18 of the United States Code Section 1961, in connection with the scheme involving VW. In addition to the acts in violation of 18 U.S.C. § 1341 and 1343, the above-mentioned members of the criminal enterprise committed numerous criminal thefts of trade secrets in violation Title 18 of the United States Code Section 1832, which do not constitute acts of Racketeering Activity as set forth in Title 18 of the United States Code Section 1961 but are none the less evidence of the criminal nature of the Enterprise.

145. The predicate acts alleged by VV constitute a “pattern of racketeering activity” as that term is defined in 18 USC § 1961(5) of RICO. All of the predicate acts occurred after October 15, 1970 and within the prescribed ten (10) year period. All of the acts alleged have occurred over the course of approximately the last six (6) years.

146. These acts of CHERY, YIN and KAN, including the conduct of the affairs of the CHERY Enterprise through a pattern of racketeering activity, took place over a period of at least six (6) years, and included multiple acts of mail and wire fraud in violation of 18 U.S.C. § 1962(c).

147. Defendants’ predicate acts constitute a threat of long-term continuous criminal activity. The alleged predicate acts of racketeering activity predates those directed at VV, with CHERY Enterprise’s theft of VW’s parts and designs and its theft of GM’s designs, as well as its subversion of engineering and management employees of these companies. YIN continues to be a CEO of CHERY. KAN is purportedly no longer associated with CHERY; however, it is believed that he is a senior executive with a German-Chinese auto parts manufacturer that, upon information and belief, is in a Chinese business relationship with CHERY. Gore is a paid consultant to CHERY or its employee. This scheme continues to the present, with the imminent threat of continuation into the future.

148. There is nothing inherently finite about Defendants' scheme, which has no natural ending point. Defendant has been and remains capable of repeating its schemes indefinitely into the future. In the alternative, the dozens of related predicate acts that have been alleged in this Complaint and that have occurred over the past six (6) years establish a close-ended pattern.

149. Defendants' pattern of racketeering activity, including acts of mail fraud, and wire fraud, have occurred within the relevant time periods of 18 U.S.C. § 1961(5).

150. Through their conduct of the CHERY Enterprise, Defendants have made or caused to be made or distributed communications by United States mail as well as by interstate wire which included misrepresentations of material fact regarding the status of the CHERY-VV JOINT VENTURE and/or the importation and distribution agreement opportunities. Defendants have made or caused to be made interstate wire transfers communicating such misrepresentations.

151. By virtue of these and similar communications occurring over at least the past six (6) years, Defendants have engaged in, and are continuing to engage in, an uninterrupted series of predicate acts of mail fraud and wire fraud that were related to one another in furtherance of their fraudulent schemes.

152. The CHERY Enterprise has affected interstate commerce through the use of mails, wires, and other instrumentalities of interstate commerce, as well as through the active solicitation of funds throughout the U.S. Additionally, Defendants' predicate acts impact an industry, automobile manufacture and distribution that operates in interstate commerce.

153. As a direct and proximate result of Defendants' conduct as set forth herein, including Defendants' conduct of the affairs of and investment in the CHERY Enterprise, VV was injured in its business and property and continue to suffer injuries. Specifically, VV incurred a loss of in excess of \$26 million of funds invested in VV by innocent investors, and in loans to VV by innocent investors, in

reliance on and in furtherance of the agreement to start the JOINT VENTURE, the interest paid on loans obtained to make said equity investment, accounting expenses, and legal expenses, and other out-of-pocket expenses and increased administrative and other costs, all directly resulting from the predicate acts set forth above. In addition, VV has lost the opportunity to make \$1.1 billion in profits out of its share of the JOINT VENTURE, and billions of dollars in profits from sales of new vehicles and spare parts in North America.

154. Pursuant to 18 U.S.C. § 1964(a) and (c), VV is entitled to recover from these Defendants, jointly and severally, treble damages, their costs and reasonable attorney fees, as well as injunctive relief including but not limited to, disgorgement of profits and enjoinder of future U.S. activity.

COUNT II
RICO (1962(d))
(against CHERY, YIN and KAN)

155. The allegations of paragraphs 1 through 154 are incorporated by reference as though fully set forth herein.

156. CHERY, YIN, and KAN, and Gore and others, have engaged in a conspiracy to violate 1962(a) and 1962(c) of RICO.

157. CHERY, YIN, and KAN, and Gore and others, agreed to and pursued a common course of conduct, acted in concert and conspired with, and aided and abetted one another to accomplish the pattern of racketeering activity described above. Each was the agent of each of the others and was, at all relevant times, acting within the course and scope of the agency relationship. Defendants CHERY, YIN, and KAN are liable as a direct participant in, authorizer, ratifier, co-conspirator and aider and abetter of, the predicate acts set forth above in furtherance of the scheme described above.

158. Beginning from at least 2000 and continuing until at least mid-2006, YIN and CHERY, joined in 2005 by KAN and Gore, knowingly and willfully conspired and agreed to conduct the affairs of the CHERY Enterprise through a pattern of racketeering activity.

159. Among other things, the Defendants conspired to misappropriate Western technology, know-how, and proprietary business information through a pattern of racketeering.

160. Defendant knowingly agreed to the commission of at least two predicate acts.

161. The object of the conspiracy was to enrich the CHERY Enterprise.

162. Plaintiff was injured by the commission of the overt acts in furtherance of the conspiracy.

163. Pursuant to 18 U.S.C. § 1964 (a) and (e), VV is entitled to recover from Defendants, jointly and severally, treble damages, their costs and reasonable attorney fees, as well as injunctive relief including but not limited to, disgorgement of profits and enjoinder of North American activity.

COUNT III
BREACH OF CONTRACT
(against CHERY)

164. The allegations of Paragraphs 1 through 163 are incorporated by reference as if fully set forth here.

165. By December, 2004, VV and CHERY were parties to an enforceable contract to create a JOINT VENTURE and for CHERY to sell and VV to buy an ascertainable quantity of moveable goods. Under the contract, CHERY was also obliged to transfer certain assets to the JOINT VENTURE.

166. By May, 2005, CHERY breached the contract by failing to transfer said assets and fulfill its duty of good faith and fair dealing. CHERY subsequently committed additional material breaches of the agreement.

167. At all times VV performed all its obligations under the contract.
168. As a result of CHERY's breach, VV has been damaged and continues to be damaged.

COUNT IV
PROMISORY ESTOPPEL
(against CHERY and ISRAEL CORPORATION)

169. The allegations of Paragraphs 1 through 168 are incorporated by reference as if fully set forth here.

170. Beginning in September, 2006, ISRAEL CORPORATION repeatedly and intentionally made material promises to VV about not proceeding into a business arrangement with CHERY without VV.

171. Beginning in 2005, CHERY repeatedly and intentionally made material promises to VV about matters which included, but were not limited to, the following:

- a. CHERY would act on its promise to create the JOINT VENTURE Company;
- b. CHERY would submit the application to the Chinese government toward completion of the joint venture;
- c. CHERY would act in good faith towards VV;
- d. CHERY would supply VV with due diligence information;
- e. VV would be CHERY's exclusive distributor of its vehicles in North America;
- f. CHERY would not negotiate with or enter into other agreements with third parties to import and sell its vehicles in North America;
- g. CHERY would assign assets to the JOINT VENTURE Company;
- h. CHERY would take the necessary steps required to design and build vehicles intended for North America and specifically the U.S market, meeting all regulatory standards (i.e. emission and safety standards);
- i. CHERY and VV would be partners in the JOINT VENTURE if VV obtained financing from ISRAEL CORPORATION in October, 2006.

172. CHERY and ISRAEL CORPORATION expected that by way of its promises to VV, VV would be induced to act in a definite and substantial manner on its behalf.

173. VV spent more than \$26 million to do all that was required on its part to establish the organization, create a product development and homologation plan, establish warranty and service processes, and prepare detailed dealer development, marketing and media plans required for the JOINT VENTURE Company. VV supplied ISRAEL CORPORATION with confidential, proprietary, and valuable materials developed by VV in connection with the JOINT VENTURE.

174. CHERY and ISRAEL CORPORATION knew their promises were false when they made them or made recklessly, without any knowledge of their truth as positive assertions.

175. Acting in reliance upon CHERY and ISRAEL CORPORATION's promises, VV took definite and substantial actions which included, but were not limited to, the following: raising from investors and expending more than \$26 million to establish the ground work and organization required to fulfill its obligations in connection with the joint venture with CHERY; making numerous trips to China for the purpose of meeting with CHERY executives (including YIN) to establish the JOINT VENTURE Company; VV's executives (including, but not limited to, Bricklin) devoting numerous hours of time and much effort to do all that was required to establish the joint venture; and preparing detailed plans for the JOINT VENTURE including the importation of CHERY vehicles to the U.S., the distribution of the CHERY vehicles in the U.S. and the dealer sale of CHERY vehicles to consumers. VV also gave ISRAEL CORPORATION valuable materials in confidence.

176. CHERY and ISRAEL CORPORATION breached their promises to VV in ways which included, but were not limited to, the following:

- a. CHERY failed and refused to act on creating the JOINT VENTURE Company;
- b. CHERY materially changed the terms of the agreement under which VV entered into a business relationship with CHERY;

- c. CHERY interfered with VV's business, and economic and employment relationships with a key executive, co-opting him to disclose VV confidential and proprietary information and to otherwise derail VV's efforts and steps in establishing the JOINT VENTURE Company;
- d. CHERY failed and refused to submit the JOINT VENTURE to the Chinese government for approval;
- e. CHERY sought, negotiated and entered into agreements with other entities to distribute its vehicles in North America despite its promise to VV to be CHERY's exclusive distributor of vehicles in North America;
- f. CHERY failed and refused to contribute and invest assets to the JOINT VENTURE Company with VV;
- g. CHERY failed to provide information necessary for due diligence;
- h. CHERY failed and refused to take the necessary steps required to design and build vehicles intended for North America and specifically the U.S market, meeting all regulatory standards (i.e. emission and safety standards);
- i. CHERY cut VV out of the joint venture it entered into with ISRAEL CORPORATION; and
- j. ISRAEL CORPORATION made a deal with CHERY without VV's participation.

177. In order for injustice to VV to be avoided, Defendants' promises must be enforced.

178. As a direct and proximate result of CHERY and ISRAEL CORPORATION's breaches of promises, VV has been damaged and continues to be damaged in the following ways: loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above; loss of the opportunity to make \$1.1 billion in future profits out of VV's negotiated share of the JOINT VENTURE in the first five years of operation; and loss of the billions in profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts.

COUNT V
BREACH OF FIDUCIARY DUTY
(against CHERY, YIN, KAN, and ISRAEL CORPORATION)

179. The allegations of Paragraphs 1 through 178 are incorporated by reference as if fully set forth here.

180. CHERY and VV were partners within the meaning of the Michigan Uniform Partnership Act (“MUPA”), MCL 449.1 *et seq.*, and under common law as joint venturers. By virtue of their relationship, VV and CHERY were fiduciaries to one another, and owed one another, among other fiduciary duties, the duty of good faith and fair dealing, the duty not to usurp a partnership opportunity, a duty not to act adversely to the partnership’s interest, a duty not to enter into competition with the partnership, and a duty to disclose information material to the partnership.

181. Beginning in August, 2006, VV and ISRAEL CORPORATION were partners within the meaning of MUPA, MCL 449.1 *et seq.*, and under common law as joint venturers. By virtue of their relationship, VV and ISRAEL CORPORATION were fiduciaries to one another, and owed one another, among other fiduciary duties, the duty of good faith and fair dealing, the duty not to usurp a partnership opportunity, a duty not to act adversely to the partnership’s interest, a duty not to enter into competition with the partnership, and a duty to disclose information material to the partnership.

182. CHERY breached its fiduciary duty to VV by at least the following acts:

- a. By causing and/or withholding information from VV that a VV officer was passing information on its behalf;
- b. By causing and/or withholding information from VV that in 2006 a VV officer provided it with plans and analyses for projects it planned to carry out with Chrysler;
- c. By misappropriating and usurping an opportunity, the JOINT VENTURE, and entering into a joint venture with a third party on terms more favorable than those belonging to VV;
- d. By offering an “exclusive” right to North American distribution to third parties;

- e. By manipulating the due diligence processes to deliberately cause the JOINT VENTURE Company not to be created;
- f. By materially changing the terms of the JOINT VENTURE for its benefit and against the interest of VV;
- g. By deliberately failing to submit the JOINT VENTURE to the approval of the Chinese government for its own benefit and against the interest of VV;
- h. By demanding that VV put up \$200 million before moving ahead on the JOINT VENTURE Company;
- i. By co-opting and usurping the \$200 million put up by Ofer Group without compensation or participation by VV;
- j. By scheming to take back the North American rights granted VV;
- k. By failing to disclose it was directly negotiating with ISRAEL CORPORATION;
- l. By failing to disclose it was directly negotiating with Chrysler;
- m. By competing against VV in the North American market;
- n. By accepting VV's performance without compensation;
- o. By using the publicity generated by VV without compensation;
- p. By falsely fostering in VV the belief that the JOINT VENTURE Company was going forward; and
- q. By failing to assign the assets promised by CHERY to the JOINT VENTURE Company.

183. ISRAEL CORPORATION breached its fiduciary duty to VV by at least the following acts:

- a. By negotiating a separate deal with CHERY while in partnership with VV;
- b. By failing to tell VV, or misrepresenting to VV its intentions to make a separate deal with CHERY;
- c. By competing against VV in the North American market;
- d. By failing to disclose its discussions with CHERY in October, 2006;
- e. By usurping VV's business opportunity; and

- f. By obtaining VV's detailed plans to North American CHERY vehicle sales and co-opting same.

184. As a result of CHERY and ISRAEL CORPORATION'S breaches, VV has been damaged and continues to be damaged in the following ways: loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above; loss of the opportunity to make \$1.1 billion in future profits out of VV's negotiated share of the JOINT VENTURE in the first five years of operation; and loss of billions in profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts.

COUNT VI
FRAUD AND/OR INNOCENT MISREPRESENTATION AND/OR
FRAUDULENT INDUCEMENT
(against CHERY, YIN, KAN, and ISRAEL CORPORATION)

185. The allegations of Paragraphs 1 through 184 are incorporated by reference as if fully set forth here.

186. Beginning in January, 2005, CHERY and YIN, and beginning in May, 2005, KAN repeatedly made deliberate, innocent or negligent material representations, and/or fraudulently induced VV to act about matters (hereinafter in this Count, "CHERY" refers variously to CHERY's management, YIN and KAN). These representations occurred in the course of multiple personal meetings and by mail and email communications. The representations and/or material omissions included, but were not limited to, the following statements made at various times between January, 2005 and November, 2006, with the intent that they would be believed and relied upon by VV:

- a. That CHERY was timely acting with respect to creating the JOINT VENTURE Company;
 - b. That CHERY was going forward with preparing the necessary application to the Chinese government to approve the JOINT VENTURE Company;
 - c. That CHERY was in the process of preparing financial information, including vehicle pricing information, in a timely fashion so as to allow the JOINT VENTURE Company to be created and funded, including specifically representations made in May, 2005, December, 2005, March, 2006, and July, 2006;
 - d. That VV was CHERY's exclusive distributor of its vehicles in North America;
 - e. That CHERY was not negotiating with and/or entering into other agreements with third parties to import and sell its vehicles in North America;
 - f. That CHERY was working to assign assets to the JOINT VENTURE Company that it had committed to assign;
 - g. That CHERY was taking the necessary steps required to design and build vehicles intended for North America and specifically the U.S market., meeting all emission and safety standards;
 - h. That CHERY's acceptance of plans, specifications, and other information about the North American market was in furtherance of the JOINT VENTURE;
 - i. CHERY failed to tell VV that it was using the information prepared by VV in furtherance of the JOINT VENTURE for its own benefit, including specifically, but not limited to, the North American Product Plan obtained by YIN and KAN in July, 2006;
 - j. That CHERY was not negotiating with other parties;
 - k. That CHERY was not negotiating and/or selling North American rights to other parties;
 - l. That CHERY was not negotiating independently with the Ofer Group;
 - m. CHERY failed to tell VV that it was obtaining information from Gore;
 - n. CHERY failed to tell VV that it was asking Gore to provide CHERY with work for CHERY's Chrysler deal.
187. CHERY's representations and/or omissions were material and false.

188. Beginning in September, 2006, ISRAEL CORPORATION, through Steinwaser, Gilad, and Idan Ofer, made material misrepresentations and/or omissions to VV about matters.

189. The representations and/or material omissions included, but were not limited to, the following statements made at various times between September, 2006 and November, 2006, with the intent that they would be believed and relied upon by VV:

- a. That ISRAEL CORPORATION would not do business with CHERY without VV;
- b. That ISRAEL Corporation's acceptance of proprietary and confidential information concerning the North American products, dealers, and markets prepared by VV was for the purpose of working with VV to fund and create the JOINT VENTURE Company; and
- c. That ISRAEL CORPORATION was not negotiating with CHERY without VV's participation

190. These material representations and/or omissions were false.

191. Acting in reliance upon CHERY, YIN, KAN, and ISRAEL CORPORATION's representations and/or material omissions, VV took actions which included, but were not limited to, the following: raising from investors and expending approximately \$26 million to establish the ground work and organization required to fulfill its obligations in connection with the JOINT VENTURE Company; making numerous trips to China for the purpose of meeting with CHERY executives (including YIN) to establish the joint venture; VV's executives (including, but not limited to, Bricklin) devoting numerous hours of time and much effort to do all that was required to establish the joint venture; and preparing and giving to CHERY, YIN, KAN and ISRAEL CORPORATION detailed plans for the joint venture including the importation of CHERY vehicles to the U.S., the distribution of the CHERY vehicles in the U.S. and the dealer sale of CHERY vehicles to consumers.

192. CHERY, YIN, KAN and ISRAEL CORPORATION benefited directly from VV activities by obtaining VV's confidential and proprietary information, which included, but was not

limited to, the following: detailed information about the U.S. auto market; establishment of a dealer network; design and production of vehicles appealing to U.S. consumers; processes and procedures to import vehicles to the U.S.; processes and procedures for meeting U.S. safety and emission regulations and standards; marketing and public relations strategies; network of industry contacts, vendors and suppliers; and favorable publicity and advertising for CHERY in the U.S. and international auto world. CHERY also benefitted by obtaining money for a new joint venture through ISRAEL CORPORATION, to which it had been introduced by VV after making representations that it was going forward with the JOINT VENTURE as VV's partner.

193. CHERY, YIN, KAN and ISRAEL CORPORATION breached their representations to VV in ways which included, but were not limited to, the following:

- a. CHERY failed and refused to act on creating the JOINT VENTURE Company;
- b. CHERY interfered with VV business, economic and contractual relationships with investors who were committed to make the required financial contribution to establish the joint venture;
- c. CHERY interfered with VV business, economic and employment relationships with its key executives, co-opting them to disclose VV confidential and proprietary information and to otherwise derail VV's efforts and steps to meet its obligations in establishing the JOINT VENTURE;
- d. CHERY refused to submit the JOINT VENTURE to the Chinese government for approval;
- e. CHERY sought, negotiated and entered into agreements with other entities to distribute its vehicles in North America despite its promises to VV to be CHERY's exclusive distributor of vehicles in North America;
- f. CHERY failed and refused to contribute and invest assets in the JOINT VENTURE Company;
- g. CHERY failed and refused to take the necessary steps required to design and build vehicles intended for North America and specifically the U.S. market., meeting all regulatory standards (i.e. emission and safety standards) and being appealing to U.S. consumers;

- h. CHERY and ISRAEL CORPORATION negotiated and consummated a separate joint venture without VV and used materials and plans prepared by VV for their own ends.

194. As a direct and proximate result of CHERY, YIN, KAN, and ISRAEL CORPORATION's breaches of promises, VV suffered damages including, but not limited to: loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE Company in reliance on and in furtherance of the agreement to start the JOINT VENTURE, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above; loss of the opportunity to make \$1.1 billion in future profits out of VV's negotiated share of the JOINT VENTURE in the first five years of operation; and loss of billions in profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts.

COUNT VII
TORTIOUS INTERFERENCE WITH CONTRACT,
BUSINESS RELATIONSHIP AND EXPECTANTCY
(against CHERY)

195. The allegations of Paragraphs 1 through 194 are incorporated by reference as if set forth here.

196. As of August, 2006, VV had an ongoing and successful contract, business relationship and/or expectancy with the Ofer Group in connection with the funding of the JOINT VENTURE Company.

197. CHERY knew of and understood the significance of VV contracts, relationships and/or expectancies with the Ofer Group.

198. CHERY knowingly and intentionally engaged in an improper, unjustified and wrongful scheme to destroy VV's contracts, business relationships and/or expectancies with the Ofer Group in

ways which included, but were not limited to, the following: directing or inducing them to sever their relationships with VV; directing or inducing them ignore or violate their contractual, fiduciary and other duties to VV; making false and misleading statements about VV; and doing other things to sabotage VV's efforts to successfully create the JOINT VENTURE Company with CHERY through funding to be provided by the Ofer Group.

199. CHERY knew of and understood the significance of VV's contract, relationship and/or expectancy with the Ofer Group.

200. CHERY knowingly and intentionally engaged in an improper, unjustified and wrongful scheme to destroy VV's contracts, business relationships and/or expectancies with the Ofer Group.

201. As a direct and proximate result of CHERY's improper, unjustified and wrongful actions, VV has suffered damages that include, but are not limited to loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE Company, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above; loss of the opportunity to make \$1.1 billion in future profits out of VV's negotiated share of the JOINT VENTURE Company in the first five years of operation; and loss of billions of dollars in profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts.

COUNT VIII
TORTIOUS INTERFERENCE WITH CONTRACT,
BUSINESS RELATIONSHIP AND EXPECTANCY
(against QUANTUM, CHERY QUANTUM and ISRAEL CORPORATION)

202. The allegations of Paragraphs 1 through 201 are incorporated by reference as if set forth here.

203. Beginning at least as early as December, 2004, VV had an ongoing contract, business relationship and/or expectancy with CHERY in connection with the establishment of the JOINT VENTURE Company. Such business relationship and/or expectancy continued until the commission of wrongful acts by QUANTUM, CHERY QUANTUM and ISRAEL CORPORATION.

204. By virtue of extensive personal meetings between, among others, Bricklin, Arneberg, Gilad and Steinwascher beginning in August, 2006 and continuing until November, 2006, QUANTUM and ISRAEL CORPORATION knew of and understood the significance of VV's contracts, relationships and/or expectancies with CHERY.

205. QUANTUM and ISRAEL CORPORATION knew in October, 2006, that VV had no intention of giving up its exclusive rights in the North American market or in its share of the JOINT VENTURE.

206. QUANTUM and ISRAEL CORPORATION knowingly and intentionally engaged in an improper, unjustified and wrongful scheme to destroy VV's contracts, business relationships and/or expectancies with CHERY in ways which included, but were not limited to, the following: directing or inducing it to sever its relationships with VV; directing or inducing it to ignore or violate their contractual, fiduciary and other duties to VV; making false and misleading statements about VV; and doing other things to sabotage VV's efforts to successfully create the JOINT VENTURE Company.

207. QUANTUM and ISRAEL CORPORATION knowingly and intentionally engaged in an improper, unjustified and wrongful scheme to destroy VV's contracts, business relationships and/or expectancies with CHERY.

208. As a direct and proximate result of QUANTUM and ISRAEL CORPORATION's improper, unjustified and wrongful actions, VV has suffered damages that include, but are not limited to, loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE Company, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above; loss of the opportunity to make \$1.1 billion in future profits out of VV's negotiated share of the JOINT VENTURE in the first five years of operations; and loss of billions of dollars of profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts.

COUNT IX
MISAPPROPRIATION OF TRADE SECRETS, MCLA § 445.1901 *et seq.*
(against CHERY, YIN, KAN, QUANTUM and ISRAEL CORPORATION)

209. The allegations of Paragraphs 1 through 208 are incorporated by reference as if set forth here.

210. VV invested millions of dollars to develop an extensive amount of confidential and/or proprietary information and trade secrets relating to the effort to commercialize CHERY vehicles in the U.S. This included, but was not limited to, the following: detailed information about the U.S. auto market; establishment of a dealer network; design and production of vehicles appealing to U.S. consumers; processes and procedures to import vehicles to the U.S.; processes and procedures for

meeting U.S. safety and emission regulations and standards; marketing and public relations strategies; and network of industry contacts, vendors and suppliers.

211. In addition to the above, the North American Product Plan shared with YIN, KAN and later ISRAEL CORPORATION in July and October, 2006, was confidential, proprietary and a trade secret of VV.

212. VV made efforts that are reasonable under the circumstances to maintain the confidentiality of its confidential and proprietary information and trade secrets, including employee manual restrictions, and non-disclosure agreements with persons privy to its information. To the extent any of the information listed above was disclosed to CHERY and QUANTUM, such disclosure was made solely for, and with the understanding that it would be made only for the joint benefit and use of VV and the disclosed party.

213. VV's confidential and proprietary information and trade secrets constitute trade secrets within the meaning of the Michigan Uniform Trade Secrets Act, MCLA § 445.1901 *et seq.* ("MUTSA").

214. CHERY, QUANTUM and ISRAEL CORPORATION misappropriated VV's confidential and proprietary information and trade secrets in violation of the MUTSA, MCLA § 445.1902(b)(i), in acquiring them by improper means. Such means include, but are not limited to, obtaining VV information not meant for CHERY by and through Gore, and misrepresenting CHERY's and ISRAEL CORPORATION's intentions in obtaining the North American Product Plan.

215. CHERY, QUANTUM and ISRAEL CORPORATION misappropriated VV's confidential and proprietary information and trade secrets in violation of the MUTSA, MCLA § 445.1902(b)(ii), by using them without VV's consent when CHERY, QUANTUM and ISRAEL CORPORATION knew or had reason to know that they acquired VV's confidential and proprietary

information and trade secrets under circumstances under which they had a duty to maintain their secrecy and to limit their use to advance the legitimate business objectives of VV.

216. As a direct and proximate result of CHERY's, QUANTUM's and ISRAEL CORPORATION's illegal conduct, VV has suffered substantial economic injury, including loss of its valuable property and the economic value associated with it, the loss of its confidential and proprietary information and trade secrets, past and future lost profits, damage to its business reputation and goodwill, loss of its investment, and loss of the company's economic value.

COUNT X
CONVERSION, MCL § 600.2919a
(against CHERY, QUANTUM, and ISRAEL CORPORATION)

217. The allegations of Paragraphs 1 through 216 are incorporated by reference as if set forth here.

218. CHERY's, QUANTUM's and ISRAEL CORPORATION's wrongful dominion and control over its confidential and proprietary information constitutes conversion.

219. As a direct and proximate result of CHERY's, QUANTUM's and ISRAEL CORPORATION's conversion, VV has suffered substantial economic injury, including loss of its valuable property and the economic value associated with it, the loss of its confidential and proprietary information and trade secrets, past and future lost profits, damage to its business reputation and goodwill, loss of its investment, loss of the company's economic value and treble damages pursuant to MCL § 600.2919a.

COUNT XI
QUANTUM MERUIT
(against CHERY, CHERY QUANTUM, QUANTUM and ISRAEL CORPORATION)

220. The allegations of Paragraphs 1 through 219 are incorporated by reference as if set forth here.

221. In connection with the establishment of the JOINT VENTURE, VV took actions which included, but were not limited to, the following: raising from investors and expending approximately \$26 million to establish the ground work and organization required to fulfill its obligations in connection with the joint venture with CHERY; making numerous trips to China for the purpose of meeting with CHERY executives (including YIN) to establish the joint venture; VV's executives (including, but not limited to, Bricklin) devoting numerous hours of time and much effort to do all that was required to establish the JOINT VENTURE; and preparing detailed plans for the JOINT VENTURE including the importation of CHERY vehicles to the U.S., the distribution of the CHERY autos in the U.S. and the dealer sale of CHERY autos to consumers.

222. CHERY, CHERY QUANTUM, QUANTUM and ISRAEL CORPORATION accepted and used VV's confidential and proprietary information which included, but was not limited to, the following: detailed information about the U.S. auto market; establishment of a dealer network; design and production of vehicles appealing to U.S. consumers; processes and procedures to import vehicles to the U.S.; processes and procedures for meeting U.S. safety and emission regulations and standards; marketing and public relations strategies; network of industry contacts, vendors and suppliers; and favorable publicity and advertising for CHERY in the U.S. and international auto world.

223. CHERY, CHERY QUANTUM, QUANTUM and ISRAEL CORPORATION received and accepted all of the benefits of VV's confidential and proprietary information and work toward establishing the JOINT VENTURE Company.

224. CHERY, CHERY QUANTUM, QUANTUM and ISRAEL CORPORATION failed and refused to compensate VV for the value of all of its confidential and proprietary information and work toward establishing the JOINT VENTURE Company.

225. As a direct and proximate result of CHERY's, CHERY QUANTUM's, QUANTUM's and ISRAEL CORPORATION's improper, unjustified and wrongful actions, VV has suffered damages that include, but are not limited to, loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE Company, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above.

COUNT XII
CIVIL CONSPIRACY
(against CHERY, YIN, KAN, and ISRAEL CORPORATION)

226. The allegations of Paragraphs 1 through 225 are incorporated by reference as if set forth here.

227. Beginning in October, 2006, and at least as early as September, 2006, CHERY, YIN, KAN, and ISRAEL CORPORATION communicated and conspired with each other to obtain VV's confidential and proprietary information and to otherwise destroy its ability to create the JOINT VENTURE Company, import CHERY vehicles to the U.S. and distribute and market those vehicles to consumers. Said actions were a combination of two or more persons, by some concerted action, to accomplish a criminal or unlawful purpose or to accomplish a lawful purpose by criminal or unlawful means.

228. CHERY, YIN, KAN, and ISRAEL CORPORATION determined that they would enter into a separate relationship without VV which would implement VV's plan to develop CHERY vehicles for the U.S., import CHERY vehicles to the U.S. and distribute and market those vehicles to consumers.

229. CHERY, YIN, KAN, and ISRAEL CORPORATION agreed to commit each of the wrongful and tortious acts specified above and devised a plan to accomplish their ends.

230. As a direct and proximate result of the conspiracy, VV suffered damages including, but not limited to: loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE Company, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above; loss of the opportunity to make \$1.1 billion in future profits out of VV's negotiated share of the JOINT VENTURE in the first five years of operation; and loss of billions of dollars in profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts under its exclusive rights.

COUNT XIII
CIVIL CONSPIRACY
(against CHERY, YIN and KAN)

231. The allegations of Paragraphs 1 through 230 are incorporated by reference as if set forth here.

232. Beginning in January, 2005, CHERY and YIN, and beginning in May, 2005, KAN, YIN and CHERY communicated and conspired with one another to obtain VV's confidential and proprietary information, and to prevent it from creating the JOINT VENTURE Company or import CHERY vehicles into North America. Said actions were a combination of two or more persons, by some concerted action, to accomplish a criminal or unlawful purpose or to accomplish a lawful purpose by criminal or unlawful activity.

233. CHERY, YIN and KAN determined they would obtain VV's information, benefits from VV's investment, and not go through with the JOINT VENTURE.

234. CHERY, YIN and KAN agreed to commit each of the wrongful and tortious acts specified above and devised a plan to accomplish their ends.

235. As a direct and proximate result of the conspiracy, VV suffered damages including, but not limited to: loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE Company, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above; loss of the opportunity to make \$1.1 billion in future profits out of VV's negotiated share of the JOINT VENTURE in the first five years of operation; and loss of billions of dollars in profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts.

COUNT XIV
UNJUST ENRICHMENT
(against CHERY, QUANTUM, CHERY QUANTUM and ISRAEL CORPORATION)

236. The allegations of Paragraphs 1 through 235 are incorporated by reference as if set forth here.

237. Continuing through November, 2006, VV generated valuable, confidential, technical, and proprietary information which included, but was not limited to, the following: detailed information about the U.S. auto market; establishment of a dealer network; design and production of vehicles appealing to U.S. consumers; processes and procedures to import vehicles to the U.S.; processes and procedures for meeting U.S. safety and emissions regulations and standards; marketing and public

relations strategies; network of industry contacts, vendors and suppliers; and favorable publicity for CHERY in the U.S. and international auto world.

238. This information was shared with CHERY and ISRAEL CORPORATION in circumstances which imposed a duty on these Defendants not to use the information without compensation to VV, and has otherwise conferred a benefit in favor of CHERY and ISRAEL CORPORATION. Upon information and belief, all such information has been in turn passed to QUANTUM and CHERY QUANTUM.

239. It would be inequitable for CHERY, QUANTUM, CHERY QUANTUM and ISRAEL CORPORATION to keep the benefits under the circumstances.

240. As a direct and proximate result of CHERY's, QUANTUM's, CHERY QUANTUM'S and ISRAEL CORPORATION's appropriation of the benefits conferred upon them, these Defendants have obtained substantial economic benefits that must be disgorged.

COUNT XV
SPECIFIC PERFORMANCE
(against CHERY)

241. The allegations of Paragraphs 1 through 240 are incorporated by reference as if set forth here.

242. CHERY promised and granted VV an exclusive right to the North American market for importation and distribution of CHERY vehicles and spare parts of at least the following models: **S12, B14, B21, B22, B23**, the **M** platform including the **M11** and **M14** and **F Series**.

243. Through the acts complained of in this Complaint, CHERY has refused to export, or transfer the right to import, these platforms to VV, and has otherwise retained that right in its deals with Chrysler and CHERY, QUANTUM and ISRAEL CORPORATION to manufacture, sell, import (and

export from China) CHERY-sourced vehicles into North America all of which, including world-wide distribution, VV should have obtained for the benefit of the JOINT VENTURE.

244. Under principles of equity, VV is entitled to enforce CHERY's promise.

245. Legal remedies are not alone adequate and VV requires the equitable remedy of specific performance to compel the transfer judicial declaration that rights to import and distribute at least the **S12, B14, B21, B22, B23**, the **M** platform including the **M11** and **M14** and **F Series** platforms lie exclusively with VV, and that CHERY's transfer or purported transfer of such rights to Chrysler, CHERY QUANTUM, QUANTUM, ISREAL CORPORATION or other parties is null and void.

COUNT XVI
CONSTRUCTIVE TRUST
(against all Defendants)

246. The allegations of Paragraphs 1 through 245 are incorporated by reference as if set forth here.

247. As a result of the creation of the joint venture among VV and CHERY, VV and CHERY formed a partnership ("JOINT VENTURE partnership"), the term of which was thirty (30) years. CHERY owed a fiduciary duty and a duty to account to VV for any and all sales, commissions, income, fees, gains, profits, properties, monies, contracts, accounts receivable, notes receivable, or other receipts or assets (all of which are hereinafter called the "partnership assets") which CHERY derived or acquired or which came into its possession as a result of any transactions or dealings that it conducted with third parties beginning January, 2005 concerning CHERY's contracts, negotiations, options, joint ventures, or other deals relating to the marketing, import (and export from China), sales, or distribution of CHERY-sourced vehicles into North America (including Mexico, Canada, Puerto Rico, and the Caribbean) all of which VV should have obtained for the benefit of the JOINT VENTURE.

248. VV is entitled to the imposition of a constructive trust with respect to all JOINT VENTURE partnership assets made by and among all Defendants as a result of activities in North America relating to the sale of CHERY-sourced vehicles.

COUNT XVII
ACCOUNTING
(against CHERY, QUANTUM and ISRAEL CORPORATION)

249. The allegations of Paragraphs 1 through 248 are incorporated by reference as if set forth here.

250. As a result of the creation of the JOINT VENTURE partnership among VV and CHERY, CHERY owed a fiduciary duty and a duty to account to VV for any and all sales, commissions, income, fees, gains, profits, properties, monies, contracts, accounts receivable, notes receivable, or other receipts or assets (all of which are hereinafter called the “partnership assets”) which CHERY derived or acquired or which came into its possession as a result of any transactions or dealings that it conducted with third parties beginning January, 2005 concerning CHERY’s contracts, negotiations, options, joint ventures, or other deals relating to the marketing, import (and export from China), sales, or distribution of CHERY-sourced vehicles into North America (including Mexico, Canada, Puerto Rico, and the Caribbean) all of which VV should have obtained for the benefit of the JOINT VENTURE.

251. CHERY, at all relevant times, in willful breach of its fiduciary duties and JOINT VENTURE partnership obligations, proceeded on its own, and with other parties, to set up a venture in North America for the marketing, import (and export from China), sales, or distribution of CHERY-sourced vehicles into North America. In complete derogation of its obligations to VV, CHERY took the proceeds of its dealings with Chrysler and QUANTUM and applied them to its own benefit and use or

to that of the joint venture with CHERY QUANTUM, QUANTUM and/or ISRAEL CORPORATION, all in willful violation of its strict duty to account to VV as its partner.

252. CHERY QUANTUM was formed by CHERY and ISRAEL CORPORATION, is owned and/or controlled by CHERY and ISRAEL CORPORATION, and at all pertinent times acted with CHERY in carrying out the unlawful scheme which CHERY, through YIN and KAN and others contrived: (i) to violate its fiduciary duties; (ii) to violate its partnership obligations; (iii) to defraud VV; and (iii) to divert the partnership assets to CHERY and entities it owned and/or controlled, notwithstanding the fact that each of them at all times knew of VV's rights in the partnership assets. Notwithstanding their knowledge and upon demand, Defendants have refused to return the partnership assets to the Plaintiffs.

253. CHERY, with the aid of QUANTUM and ISRAEL COPRPORATION, has retained all of the JOINT VENTURE partnership assets to its own use, has precluded VV from possessing, controlling or participating in the use or benefit of those assets, and has by its conduct violated the partnership agreement, their fiduciary duties, and Sections 20 and 21(1) of MUPA (MCL Section 449.20 and 449.21[1]).

254. A true and equitable settlement of the assets and accounts belonging to VV is required, and the use of this Court's equitable powers is needed in order to compel CHERY, CHERY QUANTUM, QUANTUM and ISRAEL CORPORATION to account to VV for all JOINT VENTURE partnership assets that have come to their possession or to the possession of any other person on their behalf, together with all of the avails of said partnership assets, interest earned or accumulated thereon, and any profits which they have realized by dealing in the partnership assets from the beginning of the partnership to the date of such accounting.

255. As part of the accounting that is required, it is or it may become necessary to provide for the tracing of assets to determine if any assets have been dissipated, or removed or lost, and to provide for the imposition of a constructive trust on JOINT VENTURE partnership assets, or an equitable lien to the end that a full, accurate and complete accounting of all of the assets, income and liabilities and net worth of the QUANTUM venture or the Chrysler venture is determined and rendered by the Court.

256. Legal remedies are not alone adequate and VV requires the equitable remedy of accounting, injunctive relief, an equitable lien, and a constructive trust in order to obtain full and complete relief.

COUNT XVIII
UNFAIR COMPETITION
(against CHERY, CHERY QUANTUM, QUANTUM and ISRAEL CORPORATION)

257. The allegations of Paragraphs 1 through 256 are incorporated by reference as if set forth here.

258. The acts complained of constitute common law unfair competition. These acts are unethical trade practices and harmful to the general public and to VV.

259. As a consequence, VV has been damaged in the following ways: loss in excess of \$26 million in funds invested in VV by innocent investors, and in loans to VV by innocent investors, spent for the benefit of the JOINT VENTURE in reliance on and in furtherance of the agreement to start the JOINT VENTURE Company, the interest paid on loans obtained to make said investment, accounting expenses, and legal expenses, and other out-of pocket expenses and increased administrative and other costs, all directly resulting from the acts set forth above; loss of the opportunity to make \$1.1 billion in future profits out of VV's negotiated share of the JOINT VENTURE in the first five years of operation; and loss of billions of dollars in profits it expected to make as an importer and distributor of the CHERY vehicles and spare parts.

WHEREFORE, VV requests that this Court grant it relief as against Defendants or any of them in the following:

A. A money judgment as determined by the Court or Jury pursuant to 18 U.S.C. Sections 1964 (a) and (e) jointly and severally against CHERY, YIN and KAN, and pursuant to common law against CHERY, CHERY QUANTUM, YIN and KAN, QUANTUM and ISRAEL CORPORATION, jointly and severally; said amount trebled as provided by law.

B. Compensation to for its actual costs and attorney fees incurred in connection with prosecuting this case.

C. Injunctive relief enforcing VV's right to exclusive distribution of CHERY's vehicles in North America and elsewhere, and enjoining CHERY, YIN, KAN, and others acting for and on their behalf, and CHERY QUANTUM, QUANTUM and ISRAEL CORPORATION from using its confidential and proprietary information and trade secrets.

D. Injunctive relief against Defendants restraining them by the order and injunction of this Court from collecting or receiving any further accounts or indebtedness due or owing to the partnership, and from using or applying the partnership assets or the funds of the partnership or any part thereof, for their own use.

E. An accounting under the direction of this Court, of each and every partnership transaction conducted by said Defendants with respect to VV, including all of the income, disbursements, partnership assets, partnership liabilities, net worth, and capital accounts, and that such accounting be fully adjusted in order to ascertain the respective rights of the Plaintiff and of said Defendants with respect to all of the assets, liabilities, accounts and net worth of CHERY's North American and elsewhere activities from December, 2004 to the present.

F. That CHERY be ordered to pay over to Plaintiff whatever sum may be found due from said Defendant to VV according to the accounting taken by the Court. Plaintiff hereby states that it hereby offers to pay over to Defendant whatever partnership assets, sums, income, profit or other monies as may be determined by said accounting to be due to said Defendant from VV.

G. That this Court, if necessary, provide by its Order for the tracing of assets, the imposition of an equitable lien upon the partnership assets, or for the creation of a constructive trust upon all partnership assets, to the end that a full accounting of the business, affairs, income, disbursements, assets, liabilities, accounts, capital accounts and net worth of the joint venture between CHERY and QUANTUM and CHERY and Chrysler can be determined.

H. Exemplary damages.

I. Such other relief as may be just and necessary, so as to make VV whole.

PLAINTIFF DEMANDS TRIAL BY JURY

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Dated: July 20, 2008