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13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 FOREX EXPRESS CORP., d/b/a WIRECASH, a
Nevada Corporation,

17 Plaintiff,

18 vs.

19
20 INTER & CO. PAYMENTS, INC., f/k/a
PRONTO MONEY TRANSFER, INC., d/b/a
21 PONTUAL, a California corporation; ELIRAN
GRUSHKOWSKY, an individual; FERNANDO
22 FAYZANO, an individual; INTER & CO., Inc., a
foreign corporation; and DOES 1-10,

23 Defendants.
24

Case No. 22STCV38301

SECOND AMENDED COMPLAINT

[JURY TRIAL DEMANDED]

**PUBLIC—REDACTS MATERIALS FROM
SEALED RECORD**

25
26 Complaint Filed: December 8, 2022
Trial Date: None Set

1 **INTRODUCTION**

2 1. Forex Express Corp., which currently does business under the name WireCash
3 (“WireCash”), brings this action to recover at least \$280 million in damages arising from Defendants’
4 willful and malicious theft of trade secrets and confidential information primarily contained in
5 WireCash’s source code.

6 2. WireCash was engaged in the highly competitive online money transfer industry. A
7 primary obstacle to transferring money online is the high rate of fraudulent transactions. WireCash
8 developed an industry-leading proprietary online money transfer software platform that allows people
9 to quickly and securely transfer money to just about any country in the world, including countries with
10 extremely high rates of fraud such as Nigeria. WireCash’s proprietary system is able to virtually
11 eliminate fraudulent transactions and do it quickly and more cost effectively than its competitors.
12

13 3. Over a period of approximately 13 years, WireCash developed source code that contains
14 thousands of trade secret algorithms and proprietary logic that collectively work to implement
15 WireCash’s unique behavioral customer fraud profiling and fraud scoring (the “Trade Secrets”). The
16 Trade Secrets contained in WireCash’s proprietary source code form the backbone of WireCash’s
17 industry-leading anti-fraud technology that is used to safely and securely transfer money online
18 throughout the world.
19

20 4. It is beyond any colorable dispute that the thousands of algorithms and proprietary logic
21 contained in the source code constitute trade secrets. According to Defendant Eliran Grushkowsky
22 (“Grushkowsky”), the current COO and CTO of Defendant Inter & Co. Payments, Inc., and WireCash’s
23 former CEO and CTO, WireCash:
24

25 developed a state of the art anti-fraud consumer facing retail payment system.... The
26 [WireCash] system eliminates online payment fraud from check, credit card and debit
27 cards by leveraging technologies not commercially available in the marketplace. Using
28 proprietary intellectual property and ***thousands of trade secret algorithms***, [WireCash]
developed unique behavioral customer fraud profiling and fraud scoring for approving
transactions. (Emphasis added.)

1 5. Defendant Grushkowsky worked at WireCash for approximately 11 years as its CTO and
2 eventually its CTO and CEO. In the later years of his employment, Grushkowsky became increasingly
3 unhappy with the amount of equity he owned in WireCash and sought to increase his equity stake
4 through various fund raisings that would have diluted WireCash’s other shareholders.
5

6 6. In or about September of 2019, Grushkowsky proposed that WireCash merge with one
7 of its customers – Defendant Inter & Co. Payments, Inc. (formerly d/b/a as Pontual and hereafter referred
8 to as “Pontual”). Grushkowsky had a long-standing relationship with Pontual and Defendant Fernando
9 Fayzano (“Fayzano”), Pontual’s CEO.

10 7. According to Grushkowsky, Pontual had capital and banking relationships, but its online
11 money transfer product called “USEND” was not technologically competitive in the marketplace and
12 couldn’t compete with WireCash or any of the industry leaders. Without a competitive online product,
13 Pontual could not compete in the online money transfer business. Consequently, Pontual desperately
14 needed WireCash’s Trade Secrets and, with the help of Grushkowsky, orchestrated a scheme to steal
15 the Trade Secrets.
16

17 8. To this end, Pontual claimed that it was interested in merging with WireCash.
18 Grushkowsky, as WireCash’s CEO, entered into a Reciprocal Non-Disclosure Agreement with Pontual
19 (the “NDA”) purportedly to discuss the merger. Pursuant to the NDA, WireCash shared highly
20 confidential information (“Confidential Information” as defined in the NDA) with Pontual.
21

22 9. Unfortunately for WireCash and its shareholders, the proposed merger was a ruse
23 orchestrated by Grushkowsky and Fayzano. Under the pretense of a merger, Fayzano and Pontual made
24 WireCash an illusory non-cash offer to buy WireCash that they knew could not be accepted because
25 Fayzano, Grushkowsky, and Pontual refused and/or failed to provide WireCash and its shareholders
26 with information necessary to properly evaluate the non-cash offer.
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1 10. Indeed, when the WireCash shareholders advised Grushkowsky that they could not
2 possibly accept the offer without the information needed to properly evaluate the offer, Grushkowsky
3 resigned from WireCash and immediately began working for Pontual as its COO and CTO.

4 11. Approximately three weeks after resigning and beginning work at Pontual,
5 Grushkowsky, in his capacity as Pontual’s new COO and CTO, illegally accessed WireCash’s source
6 code and Trade Secrets. Specifically, on January 1, 2020, Grushkowsky, without permission, accessed
7 a WireCash laptop that he had not returned, then without permission, accessed WireCash’s Amazon
8 Web Services (“AWS”) server where its source code resided, and then copied WireCash’s entire source
9 code to the laptop from the WireCash AWS server. He then reviewed and analyzed the source code, and
10 upon information and belief, copied the source code to an external device.

11 12. Grushkowsky, on behalf of Pontual, stole the Trade Secrets and Confidential Information
12 before returning the laptop because he was well aware that he could not make the USEND product
13 competitive with products such as WireCash without stealing over 10 years of work and thousands of
14 Trade Secret algorithms.

15 13. Consequently, once Grushkowsky had stolen the source code and Trade Secrets on
16 January 1, 2020, he then began to revamp the USEND product using the stolen Trade Secrets and
17 Confidential Information.

18 14. Approximately 18 months after Grushkowsky, Fayzano, and Pontual stole the Trade
19 Secrets and Confidential Information, Pontual entered into an agreement to be sold to Defendant Inter
20 & Co. Inc. (“INTR”) for \$157 million. In fact, in an April 2022 document sent to its shareholders, INTR
21 stated that the primary reason for purchasing Pontual was to acquire the “proprietary solutions and
22 software developed by USend.” However, the proprietary solutions and software that INTR purchased
23 actually belonged to WireCash.
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1 15. Grushkowsky and Pontual copied WireCash’s source code on January 1, 2020 because
2 Grushkowsky, Fayzano, and Pontual knew Grushkowsky could not recreate 13 years of work and the
3 thousands of algorithms and logic without accessing and copying WireCash’s source code. So they took
4 a shortcut – they stole what didn’t belong to them and approximately 18 months later, sold it for \$157
5 million.
6

7 16. WireCash now seeks to be compensated for what the Defendants stole from WireCash.

8 **I. PARTIES AND JURISDICTION**

9 17. Plaintiff WireCash is a Nevada corporation with a principal place of business in Los
10 Angeles County, California.

11 18. Defendant Pontual is a California corporation with a principal place of business in
12 Manhattan Beach, California. Pontual is wholly owned by Defendant INTR.

13 19. Defendant INTR is a Cayman company that trades on the NASDAQ exchange under the
14 ticker symbol INTR. INTR is a holding company that owns 100% of Pontual. INTR is subject to
15 personal jurisdiction in California because it purposefully availed itself of California’s benefits, the
16 claims asserted against INTR are related to or arise out of INTR’s contacts with California, and
17 California’s exercise of personal jurisdiction over INTR comports with fair play and substantial justice.
18 INTR availed itself of the benefits of California by, directly or through its agents: conducting due
19 diligence of Pontual, a California corporation with its principal place of business in California, including
20 accessing, obtaining, and reviewing WireCash’s Trade Secrets and Confidential Information; hiring
21 California-licensed lawyers to conduct that due diligence and finalize INTR’s acquisition of Pontual
22 (and WireCash’s Trade Secrets and Confidential Information); obtaining regulatory approvals from
23 California authorities of INTR’s acquisition of Pontual (and WireCash’s Trade Secrets and Confidential
24 Information); communicating, negotiating, and entering into contracts with Pontual and Fayzano, a
25 California resident, relating to INTR’s acquisition of Pontual (and WireCash’s Trade Secrets and
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1 Confidential Information); creating a California corporation to effectuate INTR’s acquisition of Pontual
2 (and WireCash’s Trade Secrets and Confidential Information); and advertising to, communicating with,
3 and deriving revenue from California residents using Pontual’s services, including its USEND product,
4 which uses WireCash Trade Secrets and Confidential Information that Defendants misappropriated.
5 INTR’s numerous contacts with California relating to its acquisition of Pontual and INTR’s subsequent
6 and current use of the USEND product put INTR on notice that it would be fair to subject it to litigation
7 in California.
8

9 20. Upon information and belief, INTR utilizes all of its subsidiaries, including Pontual, to
10 operate its financial activities in the United States as well as to operate its digital Global Account
11 solution online offering. Pontual serves to further the business of the parent company, INTR.
12

13 21. Defendant Fernando Fayzano at all times herein was the CEO of Pontual and currently
14 is a Pontual director. Upon information and belief, Fayzano maintains offices and a residence in
15 California.
16

17 22. Upon information and belief, Defendant Eliran Grushkowsky is the current COO and
18 CTO of Pontual and is a Pontual director, and resides in Tarzana, California. When he was employed at
19 WireCash, Grushkowsky was initially its CTO and a WireCash director and later became WireCash’s
20 CEO.
21

22 23. Defendants Does 1-10 are, on information and belief, persons who participated in and/or
23 are otherwise liable for the tortious conduct alleged herein. On information and belief, Does 1-10 are
24 alter-egos of the other named defendants. WireCash will amend this Amended Complaint to identify
25 Does 1-10 when their names are discovered.
26

27 24. Grushkowsky, Fayzano, Pontual, INTR, and Does 1-10 are collectively referred to as the
28 “Defendants.”

1 25. Venue is proper in Los Angeles County pursuant to California Code of Civil Procedure
2 section 395(a).

3
4 **II. DISCOVERY OF THE MISAPPROPRIATION**

5 26. WireCash had no reason to suspect that Defendants had misappropriated its Trade
6 Secrets or utilized its Confidential Information until July of 2022 when WireCash found out that INTR
7 had announced it was purchasing Pontual for \$157M.

8 27. In December of 2019, when Grushkowsky announced his resignation and began work at
9 Pontual, he made a number of representations that he had not taken any of WireCash’s Trade Secrets or
10 Confidential Information.
11

12 28. For example, in his December 13, 2019 resignation letter he stated:

13 I have a WireCash laptop. I will not access it again.... I am confirming I have taken no
14 intellectual property from WireCash. I affirmatively represent and confirm that I will
15 refrain from disclosing any confidential, proprietary, and trade secrets of WireCash.... I
16 do not claim any interest or rights in/ to any of the inventions or works created by me or
17 for which I was responsible for while at WireCash.

18 29. And in an email dated January 1, 2020, Grushkowsky reaffirmed the representations he
19 made in the December 13, 2019 letter. Grushkowsky also offered to have the physical WireCash
20 property picked up at WireCash’s expense. The physical property consisted of documents, credit cards,
21 a printer and a WireCash laptop that Grushkowsky had used. As to the digital property, Grushkowsky
22 stated that “all electronic data and property of WireCash is stored in the cloud.” At no time did
23 Grushkowsky claim he made copies of anything or that he had accessed any of the WireCash intellectual
24 property since his December 13, 2019 resignation. In fact, he represented in his December 13, 2019
25 resignation letter that he would not access WireCash intellectual property.

26 30. On January 8, 2020, Jonathan Cooper advised Grushkowsky that he had scheduled a
27 courier service to pick up the WireCash laptop and documents from Grushkowsky’s home.
28

1 31. In an email dated January 9, 2020, Grushkowsky advised Mr. Cooper that a “gentlemen
2 came by last night and picked up all the hard copy intellectual property of WireCash I had in my
3 possession, as well as the laptop, credit cards, and office printer. *At this point, I am no longer in*
4 *possession of any Wire Cash intellectual property*” (emphasis added).
5

6 32. WireCash had no reason to believe that these representations were false. In reliance upon
7 these representations, WireCash believed that Mr. Grushkowsky had complied with his obligation not
8 to utilize any WireCash Trade Secrets or Confidential Information and had complied with his December
9 13, 2019 representation that he would not access WireCash intellectual property.

10 33. WireCash only had reason to suspect that these representations were false when, in July
11 of 2022, Mr. Cooper read articles stating that INTR had agreed to buy Pontual for \$157M. Upon
12 information and belief, an August 2021 article was the earliest public announcement of INTR’s
13 agreement to purchase Pontual.
14

15 34. INTR’s agreement to purchase Pontual was a mere 18 months after Grushkowsky had
16 resigned. In December of 2019, when Grushkowsky had resigned, Pontual had negative EBITDA,
17 negative cash flow, and as per Grushkowsky’s own analysis, no valuable intellectual property.

18 35. Upon reading the announcement that INTR was buying Pontual for \$157M, Mr. Cooper
19 began to suspect that Grushkowsky and Pontual had misappropriated WireCash’s Trade Secrets and
20 Confidential Information because it is extremely difficult, if not impossible, to create \$157M of value
21 (most of which is intellectual property value), in a mere 18 months. It was at this time – July of 2022 –
22 that WireCash was first on inquiry notice that Grushkowsky’s representations – namely, that he did not
23 possess, copy or access any WireCash intellectual property – were false.
24

25 36. WireCash then filed this lawsuit on December 8, 2022.
26
27
28

1 **III. GENERAL ALLEGATIONS**

2 **A. WireCash’s Industry Leading Proprietary Software Platform and Trade Secrets**

3 37. When Grushkowsky illegally copied WireCash’s source code in January of 2020,
4 WireCash’s software led the industry in terms of having a low fraud rate combined with high transaction
5 processing speeds and a low transaction cost.

6 38. In order to be successful in the online international money transfer business, a company
7 must be able to identify online fraudulent transactions with great speed and accuracy while keeping
8 processing costs low. WireCash’s proprietary anti-fraud technology achieved the “holy grail” of high
9 processing speed, accurate fraud detection, and low transaction cost through the use of the thousands of
10 algorithms and logic that Grushkowsky has stated numerous times constitute trade secrets.

11 39. For example, WireCash spent over 10 years designing and constantly updating an anti-
12 fraud risk decision engine (the “Risk Decision Engine”). A large portion of the Risk Decision Engine is
13 found in one of numerous source code files that Grushkowsky copied called “ServiceStrategy.java” (the
14 “Java File”). The Java File contains over 11,000 lines of source code. The algorithms and logic in this
15 file power the Risk Decision Engine. And that Risk Decision Engine automates the process of
16 identifying fraudulent transactions and, according to Grushkowsky, produces the lowest fraud rates in
17 the industry.

18 40. The Java File is the primary component of WireCash’s Risk Decision Engine (there are
19 other sections of the source code as well) that allows transactions to be processed, money to be sent,
20 and the proprietary SQL database to be updated with normalized data depending on what happens in
21 specific functions.

22 41. [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]. The goal of an anti-fraud program is to reduce manual checks as
4 much as possible because they are expensive and slow down customer transaction speed, resulting in a
5 poor customer experience.
6

7 42. [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED].

12
13 43. The logic in the source code then determines the next set of fraud checks that should be
14 conducted.

15 44. [REDACTED]
16 [REDACTED].

17 45. There are additional fraud-checking algorithms that effectively assume that, if a customer
18 has passed certain checks, the customer can be added to WireCash's proprietary database. The
19 algorithms pull information from a myriad of services, including Experian and E-Funds, and perform
20 further bank verification checks.
21

22 46. The Risk Decision Engine also contains unique "special fields" functions for analyzing
23 the risk of certain sender/recipient combinations. It also contains unique algorithms or logic for checking
24 that credit cards are valid as well as a unique logic function that employs a large decision tree for
25 deciding whether to authorize a customer for credit card usage.

26 47. There are also algorithms and logic that decide how to conduct a transfer and how to
27 handle all the fields and data necessary to make a transaction.
28

1 48. Similarly, the Java File contains proprietary algorithms that process two factor
2 authentication data from an outside vendor that ties the data to geolocation data as well as other data in
3 a proprietary fashion.

4 49. In addition, WireCash developed algorithms and logic that allowed for real-time
5 transaction approval.

6 50. WireCash also developed algorithms and logic that supported an integrated, singular
7 interface of all data sources and customer interactions to allow for quick and accurate customer handling.

8 51. There are also unique algorithms and logic that were developed for WireCash's
9 Text2Send function, which allows customers to transfer money via SMS (*i.e.*, via text messages). This
10 is a function that Pontual's USEND product did not have prior to Grushkowsky stealing the source code.

11 52. WireCash's trade secret algorithms are also contained in a file called "Schema-backup-
12 2.2.17.sql" (the "Database File"). That Database File contains approximately 30,000 lines of source
13 code for the design of WireCash's proprietary SQL database and the functions that exist in that database.
14 The algorithms and logic in that file perform specific functions, such as adding and updating credit card
15 information for a customer. WireCash uses that proprietary database in conjunction with the source code
16 found in the Java File, as well as other files, to, among other things, build unique customer profiles to
17 identify and prevent fraud.

18 53. WireCash also uses proprietary algorithms and logic to normalize the data it pulls from
19 outside vendors to perform the fraud checks and uses the tremendous amount of proprietary data it has
20 collected from over 10 years' worth of transactions for itself and the money service businesses
21 ("MSBs") that use WireCash for their own online transactions, including Pontual.

22 54. Grushkowsky, while working at WireCash, repeatedly stated in numerous writings that
23 all of these algorithms, decision logic, normalization functions, and learning functions (he called it
24 artificial intelligence), constituted trade secrets.

1 **B. WireCash is a Trailblazer in the Money Transfer Industry and Starts Developing**
2 **Trade Secret Anti-Fraud Technology and Other Confidential Information in 2005**

3 55. Jonathan Cooper founded WireCash in 2005. On behalf of WireCash, Mr. Cooper hired
4 world-renowned anti-fraud experts Kevin Mitnick and David Montague to develop strategies and
5 procedures to detect online money fraud.
6

7 56. In 2008, Grushkowsky was hired by WireCash as its Chief Technical Officer. He was
8 hired primarily to develop the company's proprietary anti-fraud technology that would ensure low fraud
9 rates, high acceptance rates, and a high level of automation in online international money transfers.

10 57. Pursuant to his employment agreement, any technology developed by Grushkowsky
11 during his employment with WireCash was a work for hire and belonged to WireCash.
12

13 58. According to Grushkowsky, WireCash used "unique behavioral customer fraud profiling
14 and fraud scoring for approving transactions" by developing "proprietary intellectual property and
15 thousands of trade secret algorithms."

16 59. WireCash's trade secrets, including its source code and the logic behind the source code,
17 were valuable because, in Grushkowsky's own words, those trade secrets were "not commercially
18 available in the marketplace."
19

20 60. In addition to being the CTO of WireCash, Grushkowsky also later became the CEO and
21 a 13% shareholder of the company.

22 61. Prior to 2013, Wire Cash had operated as "ATM Cash" and had proven the effectiveness
23 of its proprietary anti-fraud technology by obtaining the lowest fraud rates, highest acceptance rates,
24 and highest level of automation in the industry. However, due to changes in U.S. law, ATM Cash could
25 no longer offer pre-paid debit cards.

26 62. As a result of the changes in U.S. law, the transactions had to be processed without use
27 of a pre-paid debit card. This required changes to the company's business model, trade secrets, and
28

1 software and the product was re-branded as “WireCash.” These changes in the law allowed WireCash
2 to further leverage its industry-leading anti-fraud technology.

3 63. From 2013 to 2016, the company transitioned from operating as ATM Cash to WireCash
4 which included continually improving its revolutionary anti-fraud technology and launching its new
5 online international money remittance service platform. The technology and service were always being
6 improved upon to be more automated, accurate, easier to use and administer.
7

8 **C. WireCash Protects its Trade Secrets and Confidential Information**

9 64. WireCash’s confidential, proprietary, and trade secret information gave it a competitive
10 edge over would-be competitors, due to the significant time, money, and resources that WireCash
11 invested in developing its anti-fraud technology.

12 65. Grushkowsky was the only WireCash employee who had access to WireCash’s trade
13 secrets. Grushkowsky alone possessed the passcodes to access WireCash’s source code and trade-secret
14 algorithms, including the algorithms that powered the Risk Decision Engine.
15

16 66. Grushkowsky prohibited any other WireCash employee from changing or updating
17 WireCash’s source code and trade-secret algorithms.

18 67. To protect its valuable information, WireCash adopted and implemented detailed
19 Security Policy and Procedures starting in 2008. Grushkowsky not only approved those policies and
20 procedures but also drafted many of them himself.
21

22 68. WireCash also protected its trade secrets and confidential information by requiring its
23 employees (including Grushkowsky) and consultants (including Kevin Mitnick and David Montague)
24 to sign contracts with confidentiality provisions. WireCash required Grushkowsky not to disclose
25 WireCash’s “Confidential Information” as defined in his employment agreement dated April 1, 2016
26 (the “Employment Agreement”). In addition, he agreed to a return of property provision, which required
27 that upon the termination of his employment, Grushkowsky would immediately deliver all WireCash
28

1 documents, records, and property, including all Confidential Information, in his possession back to
2 WireCash.

3 69. Grushkowsky’s Employment Agreement also required him to agree and acknowledge
4 that any “Work Product” was deemed a “work made for hire” that belonged to the company. The
5 Employment Agreement also provided that any right, title and interest Grushkowsky had in “Inventions”
6 belonged to WireCash.
7

8 70. Grushkowsky acknowledged all of the above in writing in a letter that he delivered to
9 WireCash when he resigned on December 13, 2019. In his resignation letter, he stated:

10 I am confirming I have taken no intellectual property from WireCash. I affirmatively
11 represent and confirm that I will refrain from disclosing any confidential, proprietary,
12 and trade secrets of WireCash.... I do not claim any interest or rights in/ to any of the
inventions or works created by me or for which I was responsible for while at WireCash.

13 **D. As CEO and CTO of WireCash, Grushkowsky Pursued His Self-Interest At the**
14 **Expense of the Interests of WireCash and Its Shareholders**

15 71. In 2016, pursuant to the Employment Agreement, Grushkowsky was given the added
16 title of WireCash CEO, while still serving as CTO and primary key software developer. Around this
17 time, Grushkowsky began to complain about his ownership interest in the company, believing that he
18 deserved a higher percentage than 15%. He proposed various changes to the company’s capitalization
19 table, all of which would increase his ownership stake while diluting the other shareholders.
20 Grushkowsky’s proposed changes were unacceptable to the other shareholders and were rejected.
21

22 72. In 2017, WireCash was in the process of scaling up its business by signing contracts with
23 MSBs and integrating them onto its platform, which took about one year per each client. During this
24 period the company needed cash to continue operations, so Grushkowsky began to try and raise outside
25 capital to fund the business.
26

27 73. In or around September 2018, Grushkowsky had several discussions with a very
28 successful financial technology investor who was interested in investing in WireCash. Under the terms

1 of the proposed deal, it would be a “down round” and all shareholders in WireCash would be diluted
2 except for Grushkowsky. After the deal fell through, Grushkowsky continued to search for deals that
3 would increase his ownership interest in WireCash.

4 74. Those 2018 and 2019 deals were rejected as not being in the best interest of WireCash
5 because they were “down rounds” and always involved Grushkowsky gaining a larger interest in the
6 company at the expense of WireCash’s other shareholders.

7
8 **E. Grushkowsky, Fayzano, and Pontual Conspire to Make an Illusory Offer to Acquire**
9 **WireCash and Then Steal WireCash’s Trade Secrets and Confidential Information**

10 75. By 2019, Grushkowsky was extremely frustrated with his inability to increase his equity
11 stake in WireCash.

12 76. Upon information and belief, Grushkowsky conspired with Pontual and his friend
13 Fayzano to steal WireCash. Grushkowsky and Pontual decided that they would make an illusory offer
14 to purchase WireCash, which they knew would be rejected because of its illusory nature, and then steal
15 WireCash by hiring Grushkowsky and having him misappropriate WireCash’s trade secrets.

16 77. Indeed, Grushkowsky had a long working relationship with Pontual, a privately-held
17 MSB. Pontual had been a customer of WireCash for many years and Grushkowsky had worked closely
18 with the Pontual team, including Pontual’s CEO Fayzano. Pontual differed from WireCash in that it
19 focused primarily on the offline transfer of money between the U.S. and Brazil.

20 78. On or about August 27, 2019, WireCash and Pontual entered into the NDA under which
21 the two companies agreed to share “Confidential Information” in connection with a proposed merger of
22 the two companies. The NDA defined “Confidential Information” to include “all data and information
23 relating to the business and management of the Parties, including proprietary and trade secret
24 technology....”
25
26
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1 79. At that time, Pontual had an online money remittance service called USEND. But
2 Grushkowsky and Fayzano knew that WireCash’s platform and anti-fraud technology was far superior
3 to the technology used by Pontual’s USEND. In fact, in or about November of 2019, Grushkowsky had
4 prepared an entire presentation identifying all of the USEND deficiencies, including its inability to
5 reduce fraudulent transactions to a competitive and low cost rate. Grushkowsky concluded that “the
6 high costs associated with fraud prevent USEND from being able to compete in the big leagues.”
7

8 80. On or about October 31, 2019, Fayzano, on behalf of Pontual, provided WireCash with
9 a written offer to purchase WireCash’s assets for \$20 million of Pontual stock. However, the offer was
10 illusory.

11 81. The offer was illusory because it failed to provide an enterprise value for Pontual; failed
12 to state how many Pontual shares and which class of Pontual shares were being offered to WireCash;
13 failed to advise how many outstanding shares existed in Pontual; failed to provide a “cap” table for
14 Pontual showing all classes of stock; and failed to provide other information that was material and
15 necessary to evaluate the offer.
16

17 82. Mr. Cooper, the only other WireCash board member, and certain shareholders asked
18 Grushkowsky and WireCash’s outside counsel at the time – Michael Murphy of the law firm Ervin
19 Cohen & Jessup (“ECJ”) – to provide this information, but they never did.
20

21 83. ECJ and Mr. Murphy represented WireCash and provided WireCash advice regarding
22 Pontual’s non-cash offer.

23 84. Upon information and belief, Grushkowsky and Mr. Murphy refused to provide the
24 information necessary to properly evaluate the offer because it would reveal that: (i) Grushkowsky had
25 negotiated himself a deal to obtain more Pontual shares/stock options than the rest of the WireCash
26 shareholders combined; (ii) the offer was almost worthless given the large number of outstanding
27 Pontual shares and stock options; and (iii) the offer was almost worthless because Pontual had additional
28

1 classes of stock and had the power to create additional classes of stock to dilute the WireCash
2 shareholders.

3 85. Upon information and belief, Grushkowsky and Mr. Murphy also refused to provide Mr.
4 Cooper and other WireCash shareholders with critical details about Pontual's offer because Pontual's
5 offer was a bad deal for WireCash and its shareholders.
6

7 86. Grushkowsky also instructed Mr. Cooper not to speak to Pontual and prohibited any
8 dialogue between Pontual and Mr. Cooper. Consequently, there was no way to evaluate the offer.

9 87. In addition to failing to provide the aforementioned information necessary to evaluate
10 the offer, Grushkowsky gave the WireCash shareholders an ultimatum: either agree to the sale of
11 WireCash's assets as per the terms of the illusory offer, or he would leave WireCash. He advised that
12 WireCash could not continue without him, so according to Grushkowsky, the WireCash shareholders
13 really had no choice but to accept the illusory Pontual offer.
14

15 88. On November 25, 2019, a WireCash Board meeting was initiated at ECJ's office to
16 discuss, among other items, Pontual's non-cash offer to purchase WireCash. Mr. Murphy attended the
17 November 25, 2019 WireCash Board meeting.

18 89. ECJ and Mr. Murphy currently are counsel of record for Grushkowsky and Fayzano in
19 this action.
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1 **F. Grushkowsky Starts to Work at Pontual – a WireCash Competitor – and Secretly**
2 **Steals WireCash’s Trade Secrets and Confidential Information**

3 90. Although there was no official shareholder vote regarding the proposed Pontual
4 purchase, Grushkowsky decided that the purchase would not be approved and decided to leave
5 WireCash and work for Pontual.

6 91. On December 13, 2019, Grushkowsky resigned from WireCash and began immediately
7 working as Pontual’s COO and CTO. Grushkowsky and Pontual then immediately hired two of the
8 remaining three employees at WireCash, effectively bringing WireCash to a standstill.

9 92. In his December 13, 2019 resignation letter to WireCash, Grushkowsky wrote: “I have a
10 WireCash laptop. I will not access it again.” That laptop contained WireCash’s valuable Trade Secrets,
11 including the algorithms in WireCash’s source code and the design and functions contained in
12 WireCash’s proprietary SQL database, and other WireCash confidential information.

13 93. Although Grushkowsky’s Employment Agreement required him to deliver the laptop to
14 WireCash upon his resignation, he kept the laptop until January 9, 2020.

15 94. On December 2, 2019, ECJ and Mr. Murphy conducted a shareholder meeting, which
16 Mr. Murphy virtually hosted at ECJ’s offices, on behalf of WireCash, during which three directors were
17 elected. Mr. Murphy was present during the shareholder meeting.

18 95. On December 19, 2019, WireCash investor and director John Makoff noticed a WireCash
19 shareholder meeting for December 26, 2019 to elect a new Board of Directors for WireCash. Although
20 Grushkowsky had already resigned from WireCash, ECJ, and Mr. Murphy continued to represent
21 WireCash and communicated with, at the very least, Mr. Makoff.

22 96. On December 31, 2019, WireCash director Mr. Cooper requested that Mr. Murphy
23 promptly deliver to him WireCash’s client files, including all communications, relating to WireCash.
24 Mr. Murphy responded the same day, stating that he viewed the email as “a termination of representation
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1 of [ECJ] as counsel for WireCash,” effective that day. But Mr. Murphy did not send the file to Mr.
2 Cooper as requested.

3 97. At that time, Mr. Cooper had a pending books and records lawsuit against WireCash,
4 which ECJ and Mr. Murphy were defending as counsel of record for WireCash. Although Mr. Murphy
5 had written that he viewed ECJ’s representation of WireCash as having been terminated, he did not
6 move to be relieved as WireCash’s counsel of record in that lawsuit.
7

8 98. That same day, December 31, 2019, Mr. Cooper emailed Grushkowsky – who was
9 already working for WireCash’s competitor Pontual – and demanded that Grushkowsky immediately
10 deliver all WireCash materials and intellectual property, including the laptop, to Mr. Cooper’s residence.
11 Mr. Cooper also demanded that Grushkowsky refrain from accessing any WireCash proprietary
12 information that resided on any device in Grushkowsky’s possession.
13

14 99. In a January 1, 2020 email to Mr. Cooper, Grushkowsky confirmed that he had
15 WireCash’s property in his possession, including the laptop, and offered to schedule a time to have the
16 laptop and documents picked up from his house at WireCash’s expense. Grushkowsky also reaffirmed
17 the representations made in his December 13, 2019 resignation letter that he did not possess any copies
18 of WireCash Trade Secrets or Confidential Information and that once he returned the laptop and
19 documents, he would not have possession of any WireCash Trade Secrets or Confidential Information.
20 Grushkowsky also reaffirmed his representation that he would not access WireCash intellectual
21 property.
22

23 100. However, these representations were false. After performing a detailed forensic review
24 of the laptop in 2023, WireCash confirmed what it had suspected since Mr. Cooper reviewed the
25 announcement of the purchase of Pontual – Grushkowsky’s representations were false, and he had in
26 fact copied WireCash’s Trade Secrets and Confidential Information while working for Pontual.
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1 101. The 2023 forensic review of the laptop revealed that between December 31, 2019 and
2 January 2, 2020, Grushkowsky, without permission, accessed 42,748 files on the laptop.

3 102. As soon as he turned on the laptop, Grushkowsky ran a Windows virtual machine,
4 opened a terminal window, and ran the command “git pull.” That command retrieved and downloaded
5 the latest version of WireCash’s proprietary source code from a remote AWS repository to the laptop.
6

7 103. Grushkowsky illegally opened and accessed the laptop and WireCash’s Trade Secrets in
8 his capacity as Pontual’s COO and CTO. Thus, as soon as Grushkowsky downloaded WireCash’s source
9 code to the laptop or accessed WireCash’s source code already on the laptop, Pontual misappropriated
10 WireCash’s Trade Secrets.

11 104. After retrieving WireCash’s source code, Grushkowsky then launched his integrated
12 development environment (“IDE”) on the laptop. An IDE is a software application used by developers
13 to run and edit code. The IDE Grushkowsky used was called JetBrains.
14

15 105. By opening his IDE, Grushkowsky also automatically downloaded multiple source code
16 libraries required to run WireCash’s source code. Those libraries were downloaded in the exact sequence
17 required to execute WireCash’s source code.

18 106. Either through the IDE or on his own accord, Grushkowsky then accessed several
19 thousand code files, including files that related to WireCash’s use of third-party services to help it detect
20 fraud, source code that related to the deployment of WireCash’s application, source code related to
21 WireCash’s security features, and files relating to WireCash’s proprietary database, all of which
22 contained WireCash’s trade secret algorithms and logic.
23

24 107. In addition to the source code files, Grushkowsky accessed files relating to WireCash’s
25 finances, compliance documents, and policies. Grushkowsky also viewed or accessed employee
26 agreements and resumes.
27
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1 108. Upon information and belief, Grushkowsky then improperly copied or transferred
2 WireCash’s trade secret algorithms and the logic contained in the source code to another device and
3 used those Trade Secrets and logic to improve Pontual’s USEND product.

4 109. After he stole WireCash’s Trade Secrets and Confidential Information, Grushkowsky did
5 not need WireCash’s laptop anymore and made arrangements to return it.

6
7 **G. Grushkowsky and Pontual Use WireCash’s Stolen Trade Secrets and Confidential**
8 **Information to Build a Competing Money Remittance Business**

9 110. Grushkowsky then began to use WireCash’s Trade Secrets and confidential information
10 to modify and update Pontual’s USEND product. Pontual went from being a customer of WireCash to
11 its largest competitor, offering the same services and anti-fraud technology as WireCash.

12 111. In December of 2019 when Grushkowsky joined Pontual, it was a struggling company.
13 Pontual had negative EBITDA, negative net income, negative operating income, and was burning
14 through cash. Nor did it have competitive technology.

15 112. According to Pontual’s financials, in 2018, it lost \$761,593 and was projected to lose
16 \$57,034 in 2019. In 2019, Pontual was still burning through hundreds of thousands of dollars of cash
17 per month and had burned through over \$13 million since its inception.

18 113. At this time, Pontual was a brick-and-mortar money remittance company for transactions
19 primarily between the U.S. and Brazil. Pontual’s money remittance product was called USEND. It was
20 not a competitive product as evidenced by the fact that Pontual was a customer of WireCash and the
21 USEND product needed to use WireCash in order to reduce fraud rates and increase transaction
22 processing speed. Pontual did not have the personnel or resources to develop anti-fraud technology that
23 could compete with WireCash. Indeed, according to Grushkowsky, USEND was technologically
24 obsolete and couldn’t compete “in the big leagues.”
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1 114. Strangely, despite Pontual losing money and not having a competitive product,
2 Grushkowsky advocated for a sale of WireCash to Pontual for nothing more than an illusory offer of
3 \$20 million of Pontual stock, with no enterprise value or information to determine the true value of \$20
4 million of Pontual stock.

5
6 115. To this end, Grushkowsky put together a “Confidential” PowerPoint slide deck dated
7 November 2019. The slide deck was provided to WireCash shareholders and stated the problems with
8 Pontual’s USEND product and how WireCash’s Trade Secrets and confidential information would solve
9 all the USEND problems and enable Pontual to scale to a multi-billion dollar company.

10 116. For example, according to Grushkowsky’s PowerPoint presentation, Pontual’s USEND
11 product had a “high fraud loss rate. It is especially high when considering that most volume goes to
12 Brazil, which is relatively low risk....”

13
14 117. Grushkowsky advised that the “high costs associated with fraud prevent USEND from
15 being able to compete in the big leagues.”

16 118. Grushkowsky then advised that he had the “Solution” for Pontual:

17 Solution:

18 [REDACTED]
19 [REDACTED] *Those results*
20 *would allow USEND to offer superior pricing to any other company in the market due*
21 *to the effectiveness and price advantages.* [REDACTED].
(Emphasis added.)

22 119. Grushkowsky also advised that USEND relied upon Identity Mind – a third party service
23 – to screen for suspicious activities. Grushkowsky stated that Identity Mind’s rule-based engine was not
24 configured correctly in the USEND product resulting in high costs for USEND transactions.

25
26 120. Grushkowsky stated that the “solution” was to utilize “WireCash’s proprietary system”
27 that would eliminate high third-party transaction costs. Grushkowsky explained that, unlike Identity
28 Mind, [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED].

7 121. Grushkowsky also advised that the USEND product had numerous other deficiencies
8 that made it unable to compete with WireCash or any other industry leaders.

9 122. For example, USEND’s system architecture “makes it hard to automatically detect
10 anomalies, slowing transactional process down and hindering database performances by storing
11 unnecessary data, not searchable data.” But WireCash’s Trade Secrets provided a “Solution.”

12 123. Grushkowsky then set forth how WireCash’s Trade Secrets would solve the problems
13 with the architecture of USEND’s system. In fact, the slide states “Future USEND’s architecture using
14 WireCash:” and then sets forth how WireCash’s Trade Secrets would be used in the USEND
15 architecture.
16

17 124. USEND was also vulnerable to account takeovers. Conversely, WireCash’s product uses
18 security protocols that prevent hacking and social engineering.

19 125. Grushkowsky also advised that Pontual’s USEND was using an outdated scripting
20 language called ColdFusion “that is inefficient, suffers from security issues and unmaintained third-
21 party libraries.” His solution was to use WireCash’s Java programming or, in other words, use
22 WireCash’s proprietary software that it had spent millions of dollars to develop over approximately 13
23 years.
24

25 126. Grushkowsky also noted that Pontual could benefit from WireCash’s Text2Send feature.
26 “WireCash developed a first-of-its-kind technology that enables customers to send money via text
27
28

1 message or IM messages like whatsapp. This system allows customers to send money without logging
2 into the system, reducing speed and costs associated with sending money.”

3 127. But Pontual and Fayzano never made anything but an illusory offer to WireCash, having
4 already decided that they could steal WireCash’s Trade Secrets and confidential information by hiring
5 Grushkowsky and having him transfer the Trade Secrets and confidential information to Pontual.
6

7 **H. Only 18 Months After Grushkowsky Starts Working at Pontual, INTR Buys**
8 **Pontual and Its USEND Product for \$157 Million**

9 128. The value of the WireCash Trade Secrets and confidential information that Grushkowsky
10 transferred to Pontual is evidenced by the fact that Pontual was a money-losing operation with negative
11 cash flow, yet once it acquired WireCash’s Trade Secrets and confidential information, it was sold 18
12 months after Grushkowsky’s arrival for \$157 million.
13

14 129. Indeed, in September of 2021, approximately 18 months after Grushkowsky started
15 working at Pontual and created a competing product utilizing WireCash’s Trade Secrets, INTR
16 purchased Pontual for \$157 million. The purchase was clearly not done on a multiple of EBITDA basis
17 since Pontual had negative net income in 2019 (specifically, a loss of \$199,296) and, again, negative
18 net income in 2020 (specifically, a loss of \$402,315). Rather, INTR purchased the WireCash Trade
19 Secrets and confidential information that it deemed were worth at least \$140 million.
20

21 130. After INTR purchased Pontual, Pontual changed its name to Inter & Co Payments, Inc.
22 on or about August 2, 2022.

23 131. INTR currently offers USEND as part of its digital banking services. The USEND
24 product that INTR offers uses WireCash’s Trade Secrets and confidential information.

25 132. Pontual was sold to INTR for \$157 million because, despite having negative net income
26 in 2019 and 2020, Pontual had stolen Trade Secrets and confidential information from WireCash worth
27 at least \$140 million, as evidenced by the price INTR paid for a company with little to no earnings.
28

1 **FIRST CAUSE OF ACTION**

2 **Misappropriation of Trade Secrets under CUTSA, Civil Code § 3426 et seq.**

3 **(Against All Defendants)**

4 133. WireCash repeats and realleges the allegations in the foregoing paragraphs as if fully set
5 forth herein.

6 134. WireCash is the owner of certain Trade Secrets and confidential information, as alleged
7 in paragraphs 1 through 119, above.

8 135. On January 1, 2020, Pontual and Grushkowsky, who had already resigned from
9 WireCash and was working as Pontual's COO and CTO, acquired and misappropriated WireCash's
10 Trade Secrets by illegally accessing WireCash's laptop and WireCash's remote AWS repository without
11 WireCash's authorization and in violation of Grushkowsky's Employment Agreement and the
12 WireCash-Pontual NDA.

13 136. While Grushkowsky was Pontual's COO and CTO, Grushkowsky also disclosed to
14 Pontual and Fayzano WireCash's Trade Secrets and confidential information through the improper
15 means described above. On information and belief, at the time Pontual and Fayzano acquired and used
16 WireCash's Trade Secrets and confidential information, including by incorporating WireCash's
17 algorithms and the logic underlying those algorithms into Pontual's inferior USEND product, Pontual
18 and Fayzano knew or had reason to know that this information was acquired under circumstances giving
19 rise to a duty to maintain its secrecy or limit its use. In particular, Pontual and Fayzano knew or had
20 reasons to know that Grushkowsky had worked at WireCash for more than 10 years, had been the
21 primary developer of WireCash's industry-leading anti-fraud technology, and was prohibited from
22 disclosing, sharing, or using WireCash's Trade Secrets with or at Pontual.

23 137. Upon information and belief, during its due diligence of Pontual and at the time INTR
24 acquired Pontual, Pontual disclosed to INTR and INTR acquired and used WireCash's Trade Secrets.

1 At that time, INTR knew or had reason to know that the Trade Secrets were acquired by Grushkowsky,
2 Fayzano, and Pontual either through improper means or under circumstances giving rise to a duty to
3 maintain its secrecy or limit its use. In addition, after acquiring Pontual, INTR used and continues to
4 use WireCash's Trade Secrets. During that time, INTR knew or had reason to know that the Trade
5 Secrets were acquired by Grushkowsky, Fayzano, and Pontual either through improper means or under
6 circumstances giving rise to a duty to maintain its secrecy or limit its use.
7

8 138. At the time that the WireCash Trade Secrets were misappropriated, that information
9 constituted trade secrets and remains so to this day. WireCash's information derives independent
10 economic value from not being generally known to the public, as evidenced by, among other things,
11 INTR paying \$157 million for Pontual, a company that had little, if any, earnings.
12

13 139. On information and belief, Defendants have used and/or disclosed WireCash's trade
14 secret and confidential information to further Defendants' own interests, at the expense of WireCash's
15 interests.
16

17 140. WireCash took reasonable efforts to maintain the secrecy of its Trade Secrets, including,
18 but not limited to, requiring its employees and consultants to execute contracts that contained
19 confidentiality provisions, creating and implementing Security Policy and Procedures, limiting access
20 to its Trade Secrets, and using password-protected computer devices and systems. WireCash does not
21 and did not consent to the use of any of its Trade Secrets by Defendants.
22

23 141. As a result of Defendants' misappropriation of WireCash's Trade Secrets, WireCash is
24 entitled to recover damages for its actual losses, as well as any additional damages attributable to
25 Defendants' unjust enrichment or royalty payments in amounts to be proven at trial. In particular,
26 WireCash is entitled to an award of restitution or disgorgement of at least the \$140 million that Pontual
27 received when it sold WireCash's Trade Secrets to INTR. In addition, or alternatively, WireCash is
28

1 entitled to an award of restitution or disgorgement in an amount equal to the development costs and
2 expenses that Defendants saved as a result of their misappropriation of WireCash's Trade Secrets.

3 142. Defendants' misappropriation of WireCash's Trade Secrets was intentional, knowing,
4 willful, malicious, fraudulent and oppressive. Defendants have attempted to conceal their
5 misappropriation and obstruct WireCash's efforts to protect its trade secrets, warranting punitive
6 damages.
7

8 143. Based on Defendants' willful and malicious misappropriation of WireCash's trade
9 secrets and confidential information, WireCash demands an award of exemplary damages of at least
10 \$280 million, which is twice the amount by which Defendants were unjustly enriched by their
11 misappropriation.
12

13 144. Pursuant to Civil Code Section 3426.4, WireCash demands attorneys' fees and costs,
14 including expert witness fees, as a result of Defendants' willful and malicious misconduct.
15

16 **SECOND CAUSE OF ACTION**

17 **Breach of Contract**

18 **(Against Defendant Grushkowsky)**

19 145. WireCash repeats and realleges the allegations in the foregoing paragraphs as if fully set
20 forth herein.

21 146. On April 1, 2016, Grushkowsky entered into the Employment Agreement with
22 WireCash. In consideration for his employment, Grushkowsky agreed to Section 5(b) of the
23 Employment Agreement, entitled "Confidentiality," which states as follows:

24 Employee agrees that he shall hold the Confidential Information in strict confidence and
25 shall not at any time and under any circumstances disclose any Confidential Information
26 to any other person or entity or use any Confidential Information for any purpose
27 whatsoever except as necessary in connection with the performance of Employee's duties
28 as an employee of the Company and for the express benefit of the Company. Employee
agrees to promptly advise the Company of any unauthorized use of Confidential
Information of which Employee becomes aware.

1 147. Confidential Information is defined in Section 5(a) of the Employment Agreement
2 to include:

3 [C]onfidential, proprietary and secret information of the Company and its affiliates
4 which may include, without limitation, trade secrets, know-how, procedures and
5 techniques, sales and marketing plans, customer information, supplier lists, financial
6 information, business plans, pricing and cost information, computer programs and other
7 intellectual property, patents and services, research, development, ideas and inventions
8 regardless of form....

9 148. Section 5(c) of the Employment Agreement provides:

10 Employee agrees that all Work Product created by Employee during his employment
11 with the Company shall be deemed “work made for hire.” “Work Product” shall mean
12 documentation, manuals, materials, creative works, know-how and other materials and
13 information created in whole or in part by Employee, whether or not patentable,
14 copyrightable or otherwise protectable.

15 149. Section 4 of the Employment Agreement provides:

16 All documents, records, books, notes, drawings, prints and other property of the Company
17 and its affiliates, whether or not containing Confidential Information, including any and all
18 copies thereof, shall remain the property of the Company, shall be held by Employee in
19 trust solely for the benefit of the Company and shall be delivered to the Company by
20 Employee upon termination of Employee’s employment under this Agreement.

21 150. WireCash performed all of its contractual obligations owed to Grushkowsky under the
22 terms of his Employment Agreement.

23 151. Despite the express terms of his Employment Agreement, Grushkowsky unjustifiably
24 and inexcusably breached the Employment Agreement by, *inter alia*, (a) accessing and using, without
25 WireCash’s written permission, confidential, proprietary and trade-secret information for unauthorized
26 purposes, (b) transferring without consent WireCash’s Trade Secrets and other confidential information
27 to non-WireCash devices and accounts, (c) failing to return WireCash’s Trade Secrets and other
28 confidential information upon his departure on December 13, 2019, and (d) accessing, disclosing, and
using WireCash’s Trade Secrets and other confidential information without WireCash’s permission.

152. As a direct and proximate result of Grushkowsky’s breaches of the Employment
Agreement, WireCash has been injured, including the loss of value of its Trade Secrets and other

1 confidential information. WireCash is also entitled to recover its reasonable attorneys' fees under the
2 Employment Agreement, as well as monetary damages, including, but not limited to, direct and
3 consequential damages in the form of lost profits.

4
5 **THIRD CAUSE OF ACTION**

6 **Breach of Contract**

7 **(Against Defendant Pontual)**

8 153. WireCash repeats and realleges the allegations in the foregoing paragraphs as if fully set
9 forth herein.

10 154. On or about August 27, 2019, WireCash and Pontual entered into the NDA under which
11 the two companies agreed to share "Confidential Information." The NDA defined "Confidential
12 Information" to include "all data and information relating to the business and management of the Parties,
13 including proprietary and trade secret technology...."

14
15 155. WireCash's Confidential Information included WireCash's proprietary algorithms and
16 logic found in its source code – its Trade Secrets.

17 156. In Section 3 of the NDA, Pontual agreed that it would "not disclose" WireCash's
18 "Confidential Information."

19 157. In Section 4 of the NDA, Pontual agreed that it would not use WireCash's Confidential
20 Information "for any purpose which might be directly or indirectly detrimental to the Parties...."

21
22 158. In Section 10 of the NDA, Pontual also agreed not to "retain any copies of [WireCash's]
23 information," "destroy or have destroyed all memoranda, notes, reports and other works based on or
24 derived from [Pontual's] review of the confidential information," and "provide a certificate to
25 [WireCash] that such materials have been destroyed or returned...."

26 159. WireCash performed all of its contractual obligations owed to Pontual under the terms
27 of the NDA.
28

1 160. Despite the express terms of the NDA, Pontual unjustifiably and inexcusably breached
2 the NDA when, on January 1, 2020, Grushkowsky, in his capacity as Pontual's COO and CTO,
3 improperly accessed, downloaded, or viewed WireCash's Confidential Information for the benefit of
4 Pontual.

5 161. Pontual also unjustifiably and inexcusably breached the NDA by, *inter alia*: (a) retaining
6 and using, without WireCash's permission, WireCash's Confidential Information to create and develop
7 a competing money transfer business, including by using WireCash's Confidential Information to
8 modify and update Pontual's inferior USEND product; (b) disclosing and providing WireCash's
9 Confidential Information to INTR prior to, during, and after INTR's \$157 million purchase of Pontual
10 in September of 2021; and (c) retaining and failing to destroy or return all works based on or derived
11 from WireCash's Confidential Information and failing to provide WireCash a certificate that such
12 information had been destroyed or returned.

13 162. As a direct and proximate result of Pontual's breaches of the NDA, WireCash has been
14 injured, including the loss of value of its Confidential Information. WireCash is also entitled to recover
15 monetary damages, including, but not limited to, direct and consequential damages in the form of lost
16 profits.

17 163. Pontual was also unjustly enriched at WireCash's expense from Pontual's breaches of
18 the NDA. WireCash is, therefore, entitled to an award of restitution or disgorgement in an amount equal
19 to Pontual's unjust enrichment.

20 164. Pontual was unjustly enriched by at least \$140 million when INTR purchased Pontual
21 because that was the value that the parties placed on the Confidential Information that Pontual stole
22 from WireCash. WireCash is, therefore, entitled to an award of restitution or disgorgement in an amount
23 equal to Pontual's unjust enrichment, which includes, *inter alia*, the \$140 million that Pontual obtained
24 when it was sold to INTR.

1 transaction history; and the portions of WireCash’s source code that do not constitute Trade Secrets
2 because they do not involve the WireCash proprietary algorithms and logic.

3 169. In Section 3 of the NDA, Pontual agreed that it would “not disclose” WireCash’s
4 “Confidential Information.”

5 170. In Section 4 of the NDA, Pontual agreed that it would not use WireCash’s Confidential
6 Information “for any purpose which might be directly or indirectly detrimental to the Parties....”

7 171. In Section 10 of the NDA, Pontual also agreed not to “retain any copies of [WireCash’s]
8 information,” “destroy or have destroyed all memoranda, notes, reports and other works based on or
9 derived from [Pontual’s] review of the confidential information,” and “provide a certificate to
10 [WireCash] that such materials have been destroyed or returned....”

11 172. WireCash performed all of its contractual obligations owed to Pontual under the terms
12 of the NDA.

13 173. Pursuant to the NDA, WireCash, through or at the direction of its CEO Grushkowsky,
14 provided Pontual with WireCash Confidential Information.

15 174. After he resigned from WireCash, Grushkowsky, as Pontual’s COO and CTO, also stole,
16 downloaded, copied, or transferred WireCash Confidential Information for the benefit of and to Pontual.

17 175. Despite the express terms of the NDA, Pontual unjustifiably and inexcusably breached
18 the NDA by, *inter alia*: (a) retaining and using, without WireCash’s permission, WireCash’s
19 Confidential Information to create and develop a competing money transfer business, including by using
20 WireCash’s Confidential Information to modify and update Pontual’s inferior USEND product; (b)
21 disclosing and providing WireCash’s Confidential Information to INTR prior to, during, and after
22 INTR’s \$157 million purchase of Pontual in September of 2021; and (c) retaining and failing to destroy
23 or return all works based on or derived from WireCash’s Confidential Information and failing to provide
24 WireCash a certificate that such information had been destroyed or returned.
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1 the duty of undivided loyalty and duty of confidentiality. Among other things, these duties mandate that
2 a senior executive of an entity with management authority refrain from knowingly acting against the
3 interests of the entity, particularly for the benefit of an adverse party or competitor or out of self-interest,
4 and refrain from disclosing or using confidential information entrusted to him for the benefit of himself
5 or another.
6

7 182. As alleged in more detail above, Grushkowsky breached his fiduciary duties to WireCash
8 and its shareholders. Among other things, Grushkowsky consistently put his own personal interests
9 above those of WireCash and its shareholders. He tried to force the company's other shareholders to
10 accept multiple investment deals with terms that were favorable to him (by, among other things,
11 increasing his ownership interest in WireCash) but were detrimental to the company's other
12 shareholders and to the company itself.
13

14 183. Grushkowsky also breached his fiduciary duties to WireCash and its shareholders by
15 transferring his loyalty away from WireCash and in favor of Pontual, a WireCash competitor.
16

17 184. While he was WireCash's CEO and CTO and a WireCash director, Grushkowsky
18 conspired with Fayzano – Pontual's CEO and his long-time friend – to build a competing business at
19 Pontual and undermine WireCash's business. Grushkowsky took concrete steps in furtherance of the
20 conspiracy by, among other things, attempting to force through the illusory Pontual offer (which would
21 have personally benefitted Grushkowsky at the expense of WireCash and its shareholders), agreeing to
22 leave WireCash so that he would personally benefit from an executive position and compensation
23 package that included Pontual stock and options, recruiting WireCash's key employees to work for
24 Pontual (including by offering them stock in Pontual), encouraging those key employees to fail to
25 develop WireCash's business, and soliciting certain WireCash shareholders to invest in Pontual.
26

27 185. At the same time, Grushkowsky damaged WireCash's business by, among other things,
28 undermining WireCash's relationship with its MSBs, refusing to provide information about WireCash's

1 business to WireCash director and shareholder Mr. Cooper, firing the company’s longtime bookkeeper,
2 accumulating and concealing over \$3 million in unexplained liabilities against WireCash, which led to
3 multiple lawsuits being filed against WireCash, and recruiting away WireCash’s key employees so that
4 WireCash would not have the resources to compete with Pontual after Grushkowsky left.

5 186. As a result of Grushkowsky’s conduct, WireCash has suffered monetary damages.

6 187. WireCash further alleges that Grushkowsky acted willfully and with malice, fraud, and
7 oppression, entitling WireCash to an award of exemplary damages.
8

9 **SIXTH CAUSE OF ACTION**

10 **Aiding and Abetting Breach of Fiduciary Duty**

11 **(Against Pontual, Fayzano, and Doe Defendants)**

12 188. WireCash repeats and realleges the allegations in the foregoing paragraphs as if fully set
13 forth herein.
14

15 189. Grushkowsky breached his fiduciary duties to WireCash and its shareholders by putting
16 his personal interests ahead of the interests of WireCash and its shareholders and by transferring his
17 loyalty from WireCash to Pontual, as set forth above.

18 190. Pontual and Fayzano knew that Grushkowsky was WireCash’s CEO and a WireCash
19 director and, thus, owed fiduciary duties to act in the best interest of WireCash and its shareholders.
20

21 191. Grushkowsky conspired with Pontual, including his friend Fayzano, who was Pontual’s
22 CEO. Pontual and Fayzano knowingly and intentionally provided substantial assistance to Grushkowsky
23 in his breaches of fiduciary duties by, among other things, encouraging Grushkowsky to force through
24 the illusory Pontual offer and undermine WireCash’s business. In particular, Pontual and Fayzano
25 encouraged Grushkowsky and WireCash’s key employees to fail to develop WireCash’s business,
26 offered Grushkowsky an executive position at Pontual and Pontual stock and options, recruited
27 WireCash’s key employees to work for Pontual, offered WireCash’s key employees Pontual stock,
28

1 encouraged some of WireCash's shareholders to become Pontual shareholders, and agreed with
2 Grushkowsky to delay enforcing certain debts against WireCash until after Grushkowsky left WireCash.
3 Pontual and Fayzano provided this assistance and encouragement so that the business of their competitor
4 WireCash would be undermined and, at the same time, Pontual and Fayzano would benefit from
5 Grushkowsky and WireCash's other key employees starting a competing business at Pontual.
6

7 192. Pontual and Fayzano benefitted, at WireCash's expense, from aiding Grushkowsky in
8 his breaches of fiduciary duty, because as a result of Grushkowsky's breaches, Pontual built a competing
9 money remittance business that Pontual eventually sold for \$157 million to INTR.

10 193. As a result of Pontual's and Fayzano aiding and abetting Grushkowsky's breaches of his
11 fiduciary duties to WireCash, WireCash has suffered monetary damages.

12 194. WireCash further alleges that Pontual and Fayzano acted willfully and with malice, fraud
13 and oppression, entitling WireCash to an award of exemplary damages.
14

15 **SEVENTH CAUSE OF ACTION**

16 **Violation of California Computer Fraud and Abuse Act; Cal. Pen. Code §§ 502(c)(2) & (7)**

17 **(Against Grushkowsky and Pontual)**

18 195. WireCash repeats and realleges the allegations in the foregoing paragraphs as if fully set
19 forth herein.

20 196. As alleged in more detail above, Grushkowsky and Pontual knowingly and without
21 permission gained access to WireCash's computers, computer system, or computer network, including
22 on January 1, 2020, and, knowingly and without permission, took, copied, or made use of data residing
23 on WireCash's computers, computer system, or computer network in violation of California Penal Code
24 § 502(c)(2).
25
26
27
28

1
2 **DEMAND FOR JURY TRIAL**

3 WireCash hereby demands a trial by jury for the causes of action and claims asserted herein.

4
5 Dated: October 16, 2023

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
Travis Anderson

6
7 SADIS & GOLDBERG, LLP
8 Douglas R. Hirsch (admitted Pro Hac Vice)
9 Samuel J. Lieberman (admitted Pro Hac Vice)
10 James Ancone (admitted Pro Hac Vice)
11 Kathleen D. Reilly (admitted Pro Hac Vice)

12 By: /s/Douglas R. Hirsch
13 Douglas R. Hirsch

14
15 Attorneys for Plaintiff
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1 **PROOF OF SERVICE**

2 STATE OF NEW YORK, COUNTY OF NEW YORK

3 I am employed in the County of New York, State of New York. I am over the age of 18 and not a
4 party to the within action; my business address is 551 Fifth Avenue, 21st Floor, New York, NY 10176.

5 On December 21, 2023, I served the foregoing document described as **PLAINTIFF FOREX**
6 **EXPRESS CORP.'S REVISED REDACTED SECOND AMENDED COMPLAINT** on the following
7 person(s) in the manner indicated:

7 **SEE ATTACHED SERVICE LIST**

8 (BY ELECTRONIC SERVICE) I am causing the document(s) to be served on the Filing User(s)
9 through the Court's Electronic Filing System.

10 (BY MAIL) I am familiar with the practice of Sadis & Goldberg for collection and processing of
11 correspondence for mailing with the United States Postal Service. Correspondence so collected and
12 processed is deposited with the United States Postal Service that same day in the ordinary course of
13 business. On this date, a copy of said document was placed in a sealed envelope, with postage fully
14 prepaid, addressed as set forth herein, and such envelope was placed for collection and mailing at Sadis &
15 Goldberg, New York, New York, following ordinary business practices.

16 (BY FEDEX) I am familiar with the practice of Sadis & Goldberg for collection and processing of
17 correspondence for delivery by overnight courier. Correspondence so collected and processed is deposited
18 in a box or other facility regularly maintained by FedEx that same day in the ordinary course of business.
19 On this date, a copy of said document was placed in a sealed envelope designated by FedEx with delivery
20 fees paid or provided for, addressed as set forth herein, and such envelope was placed for delivery by
21 FedEx at Sadis & Goldberg, New York, New York, following ordinary business practices.

22 (BY ELECTRONIC TRANSMISSION) I served electronically from the electronic notification
23 address of emcnelis@sadis.com the document described above and a copy of this declaration to the person
24 and at the electronic notification address set forth herein. The electronic transmission was reported as
25 complete and without error.

26 (BY PERSONAL DELIVERY) I caused such envelope to be delivered by hand to the offices of the
27 addressee.

28 I declare under penalty of perjury under the laws of the State of New York that the foregoing is true
and correct, and that this declaration was executed on December 21, 2023, at New York, New York.

/s/ Edward McNelis
Edward McNelis

SERVICE LIST

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