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COOK INLET REGION, INC.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

COOK INLET REGION, INC.,

Plaintiff,

vs.

ROBERT W. RUDE and HAROLD F.  
RUDOLPH,

Defendants.

**COMPLAINT**

Case No. 3:09-CI-\_\_\_\_\_

Plaintiff Cook Inlet Region, Inc. (“CIRI”) states and alleges as follows:

**Parties**

1. CIRI is an Alaska Native Regional Corporation formed under the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. § 1601 *et seq.* (“ANCSA”).
2. Defendant Robert W. Rude (“Rude”) is an individual residing within the State of Alaska, a CIRI shareholder, and a former director of the CIRI Board.

3. Defendant Harold F. Rudolph (“Rudolph”) is an individual residing within the State of Alaska, a CIRI shareholder, and a former director of the CIRI Board. (Defendants Rude and Rudolph are collectively referred to as “Defendants.”)

### **Jurisdiction and Venue**

4. This Court has original jurisdiction over this civil action under 28 U.S.C. § 1331 because it arises under the laws of the United States (ANCSA, 43 U.S.C. § 1601 *et seq.*). This Court has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367 because these claims are so related to the federal claims in this action that they form part of the same case or controversy under Article III of the United States Constitution. This Court is authorized to issue the relief sought under 28 U.S.C. §§ 2201–2202.

5. The United States District Court for the District of Alaska has personal jurisdiction over all parties.

6. Venue is proper in the District of Alaska because CIRI is an Alaska corporation with its principal places of business located within Alaska and Defendants reside in Alaska.

### **Background Facts**

7. CIRI stock cannot be sold or otherwise transferred, with some limited exceptions, pursuant to Section 7(h) of ANCSA (43 U.S.C. § 1606(h)). These alienability restrictions may be terminated if an ANCSA corporation amends its articles of incorporation in accordance with Section 37 of ANCSA (43 U.S.C. § 1629c). Under

Section 36(c) of ANCSA (43 U.S.C. § 1629b(c)), the shareholders may petition an ANCSA corporation's board of directors to submit an amendment to terminate alienability restrictions to a vote of the shareholders.

8. Under Sections 36(b)(2)(A) and 37(b)(2) of ANCSA (43 U.S.C. §§ 1629b(b)(2)(A), 1629c(b)(2)), the language of a proposed amendment on terminating alienability restrictions must be provided in writing to the shareholders and specify the date of the termination of alienability restrictions.

9. Under Section 36(c) of ANCSA (43 U.S.C. § 1629b(c)), Alaska law relating to the solicitation of proxies governs solicitation of signatures for a petition to terminate alienability restrictions. The Alaska Securities Act (the "Act") and the regulations enacted under that Act govern the solicitation of proxies. *See* AS 45.55.010 *et seq.*; 3 AAC 08.300 *et seq.* Alaska Statute 45.55.160 prohibits a person from "mak[ing] or caus[ing] to be made an untrue statement of material fact or omit[ting] to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading."

10. In May 2009, the Alaska Superior Court declared that the proxies solicited by Defendant Rude and others for CIRI's 2008 annual shareholder meeting were void because their proxy solicitations contained numerous false and misleading statements. Rude subsequently lost his bid for re-election to CIRI's Board of Directors.

11. Defendants then embarked on a campaign to raise interest in and monetary support for terminating stock alienability restrictions and calling for one or more special

meetings regarding that issue and other shareholder resolutions. Defendants sent CIRI shareholders a series of four mailings containing materially false and misleading statements in violation of both ANCSA's requirements regarding the necessary language of a proposed amendment on terminating alienability restrictions and the Alaska proxy laws regarding the solicitation of proxies.

12. On or about July 24, 2009, Defendants distributed their first solicitation materials to CIRI's shareholders (the "First Mailer"). This First Mailer contains numerous false or misleading statements including but not limited to the following:

- (a) that CIRI has committed corporate waste;
- (b) that CIRI or CIRI management has engaged in improper, deceptive, or illegal conduct or has violated their fiduciary duties;
- (c) that CIRI improperly disposed of, or failed to properly account for, corporate assets, including its ANCSA lands;
- (d) that CIRI has sued its shareholders frivolously or without cause;
- (e) that CIRI shareholders have not received "full value" for their shares;
- (f) that CIRI has engaged in unfair, deceptive, or illegal election practices in its Board of Directors elections; and
- (g) that CIRI shareholders are improperly denied "participation in issues affecting [their] rights and stock values."

These statements are material misrepresentations.

13. On or about August 31, 2009, Defendants distributed their second solicitation materials to CIRC's shareholders (the "Second Mailer"). This Second Mailer contains numerous false or misleading statements including but not limited to the following:

- (a) that CIRC has committed corporate waste;
- (b) that CIRC or CIRC management has engaged in improper, deceptive, or illegal conduct or has violated their fiduciary duties;
- (c) that CIRC improperly disposed of, or failed to properly account for, corporate assets, including its ANCSA lands;
- (d) that CIRC has sued its shareholders frivolously or without cause;
- (e) that CIRC shareholders have not received "full value" for their shares;
- (f) that CIRC has engaged in unfair, deceptive, or illegal election practices in its Board of Directors elections;
- (g) that CIRC shareholders are improperly denied "participation in issues affecting [their] rights and stock values;" and
- (h) that CIRC stock is "diluted" when shareholders "pass away."

These statements are material misrepresentations. This Second Mailer also mentions calling a special meeting and instructs CIRC shareholders to watch for Defendants' next mailing.

14. On or about November 6, 2009, Defendants distributed their third solicitation materials to CIRC shareholders (the "Third Mailer"). This Third Mailer

contains numerous false or misleading statements including but not limited to the following:

- (a) that CIRI has committed corporate waste;
- (b) that CIRI or CIRI management has engaged in improper, deceptive, or illegal conduct or has violated their fiduciary duties;
- (c) that CIRI improperly disposed of, or failed to properly account for, corporate assets, including its ANCSA lands;
- (d) that CIRI has sued its shareholders frivolously or without cause;
- (e) that CIRI has engaged in unfair, deceptive, or illegal election practices in its Board of Directors elections;
- (f) that CIRI or CIRI management made or encouraged death threats or attempts to murder or physically harm Rude, Rudolph, or others;
- (g) that CIRI has a plan to conduct a “takeover” or “buyout” of Cook Inlet Village corporations;
- (h) that CIRI has deprived shareholders of “7(i) sharing rights;”
- (i) that CIRI has deprived shareholders of constitutional rights;
- (j) that CIRI denies to shareholders “the right to vote on any legislation that affect[s] [their] rights and stock values;” and
- (k) that shareholders will receive “fair value” for their shares if stock restrictions are terminated, and similar misrepresentations about the effect of terminating restrictions.

These statements are material misrepresentations.

15. This Third Mailer also contains a petition for a special meeting to vote on the termination of stock alienability restrictions and a petition for a special meeting to vote on six resolutions. Both of these petitions request at least thirty days for proxy solicitation before the special meeting. The petition for a special meeting to vote on the termination of stock alienability restrictions fails to provide language of the proposed amendment or to state a date for the proposed termination of the alienability restrictions in violation of Sections 36(b)(2)(A) and 37(b)(2) of ANCSA (43 U.S.C. §§ 1629b(b)(2)(A), 1629c(b)(2)).

16. The Third Mailer made the purpose of these mailings clear. Defendants were soliciting signatures from shareholders for a petition to call one or more special meetings to vote on terminating stock alienability restrictions and on six other resolutions regarding dividends, elections, financial reporting, voting rights, and compensation of senior managers. Based on numerous materially false and misleading statements, Defendants have solicited petitions based on an argument to shareholders that CIRI shareholders have been unfairly denied the full value of their stock because of (a) the stock restrictions, (b) CIRI's failure to appraise all of its assets, (c) CIRI's misappropriation of shareholder money at the expense of dividends, and (d) CIRI's unfair elections.

17. On or about December 22, 2009, Defendants distributed their fourth solicitation materials to CIRI shareholders (the "Fourth Mailer," and together with the

First, Second, and Third Mailers, the “Mailers”). Like its predecessor, the Fourth Mailer contains a petition for a special meeting to vote on the termination of stock alienability restrictions, but fails to provide language of the proposed amendment or to state a date for the proposed termination of the alienability restrictions in violation of Sections 36(b)(2)(A) and 37(b)(2) of ANCSA (43 U.S.C. §§ 1629b(b)(2)(A), 1629c(b)(2)).

18. The Mailers distributed by Defendants to CIRI’s shareholders contain numerous materially false and misleading statements intended to mislead shareholders regarding fundamental matters affecting CIRI’s business and management. Moreover, a number of the materially false and misleading statements in the Mailers are substantially the same as statements made by Defendants in prior solicitations during past elections for CIRI’s Board of Directors that have repeatedly been found by the Alaska Superior Court to be materially false and misleading.

19. As directors, Defendants executed confidentiality agreements in which they agreed to keep all of CIRI’s confidential information made available to them private and confidential as well as to not use such confidential information other than in furtherance of performing their duties as directors. Defendants’ confidentiality agreements are attached as Exhibits 1 and 2.

20. In addition to materially false and misleading statements, the Mailers also contain confidential information, including but not limited to non-public financial tax and asset-valuation information and information protected by CIRI’s attorney–client or work-



product privileges, in breach of Defendants' confidentiality agreements and their fiduciary duties under state law.

FIRST CLAIM FOR RELIEF  
(False and Misleading Solicitations of Petition Signatures – 43 U.S.C. § 1629b(c))

21. CIRI incorporates herein by reference, as though fully set forth, each and every allegation in paragraphs 1 through 20 above.

22. The solicitation materials distributed by Defendants in connection with the petition for a special meeting to vote on the termination of stock alienability restrictions contain numerous materially false and misleading statements in violation of ANCSA and state law.

23. CIRI is entitled to an Order (a) finding that the solicitation materials disseminated by Defendants in connection with the petition for a special meeting to vote on the termination of stock alienability restrictions are materially false and misleading in violation of ANCSA; (b) declaring that all of the petition signatures solicited by the Mailers are invalid and void; (c) requiring a corrective statement for all materially false and misleading statements made in the Mailers; (d) requiring prior review and approval by both the State of Alaska's Division of Banking and Securities and CIRI of Defendants' future solicitations to shareholders for a reasonable period of time; and (e) enjoining future solicitation of petition signatures for the termination of stock alienability restrictions based on additional materially false and misleading statements.

SECOND CLAIM FOR RELIEF

(ANCSA Requirements for Petitions – 43 U.S.C. §§ 1629b–1629c)

24. CIRI incorporates herein by reference, as though fully set forth, each and every allegation in paragraphs 1 through 23 above.

25. The petition for a special meeting to vote on the termination of stock alienability restrictions fails to meet the procedural and substantive requirements of ANCSA, which include but are not limited to the requirement that shareholders be given written notice of the language of the proposed amendment on terminating alienability restrictions and the requirement that the date of the termination of alienability restrictions is specified.

26. CIRI is entitled to an Order (a) finding that Defendants’ petition for a special meeting to vote on the termination of stock alienability restrictions fails to meet the procedural and substantive requirements of ANCSA; (b) declaring that all of the petition signatures for a special meeting to vote on the termination of stock alienability restrictions solicited by the Mailers are invalid and void; and (c) enjoining future solicitation of petition signatures for a special meeting to vote on the removal of stock alienability restrictions pending circulation of a corrective statement.

THIRD CLAIM FOR RELIEF

(False and Misleading Proxy Solicitations – AS 45.55.160)

27. CIRI incorporates herein by reference, as though fully set forth, each and every allegation in paragraphs 1 through 26 above.

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28. The proxy solicitation materials distributed by Defendants in connection with the petition for a special meeting to vote on six resolutions are materially false and misleading in violation of Alaska proxy law and regulations.

29. CIRI is entitled to an Order (a) finding that the solicitation materials disseminated by Defendants in connection with the petition for a special meeting to vote on six resolutions are materially false and misleading in violation of Alaska proxy law and regulations; (b) declaring that all of the proxies solicited by the Mailers are invalid and void; (c) requiring a corrective statement for all materially false and misleading statements made in the Mailers; (d) requiring prior review and approval by both the State of Alaska's Division of Banking and Securities and CIRI of Defendants' future solicitations to shareholders for a reasonable period of time; and (e) enjoining future solicitation of proxies that are based on additional materially false and misleading statements.

**FOURTH CLAIM FOR RELIEF**  
**(Breach of Confidentiality Agreement/Violation of AS 10.06.468(b))**

30. CIRI incorporates herein by reference, as though fully set forth, each and every allegation in paragraphs 1 through 29 above.

31. The solicitation materials distributed by Defendants disclose confidential information of CIRI in breach of Defendants' confidentiality agreements and in violation of Defendants' fiduciary duties as former board members under AS 10.06.468(b).

32. CIRI is entitled to an Order (a) finding that the solicitation materials distributed by Defendants disclose confidential information of CIRI in breach of

Defendants' confidentiality agreements and in violation of AS 10.06.468(b); and (b) enjoining Defendants from future disclosures of confidential information of CIRI.

**Prayer for Relief**

For the above stated reasons, CIRI respectfully requests that the Court provide the following relief:

- (1) An Order declaring that all of the petitions or proxies are invalid and void because Defendants made materially false and misleading statements in soliciting the petition signatures and proxies in violation of ANCSA and state law.
- (2) An Order requiring a corrective statement for all materially false and misleading statements in the Mailers.
- (3) An Order requiring prior review and approval by both the State of Alaska's Division of Banking and Securities and CIRI of Defendants' future solicitations to shareholders for a reasonable period of time.
- (4) An Order enjoining future solicitation of petition signatures or proxies based on materially false and misleading statements.
- (5) An Order declaring that all of the petition signatures for a special meeting to vote on the termination of stock alienability restrictions returned to Defendants are invalid and void due to Defendants' failure to satisfy the procedural and substantive requirements of ANCSA.

- (6) An Order enjoining Defendants from future disclosures of confidential information of CIRI.
- (7) An Order awarding CIRI its court costs and attorneys' fees.
- (8) An Order awarding CIRI such other and further relief as the Court deems just and proper.

DATED this 28th day of December, 2009, at Anchorage, Alaska.

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