

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

DDK HOTELS, LLC, DDK/WE HOSPITALITY
PARTNERS, LLC, and DDK/WE HOTELS
MANAGEMENT, LLC,

Plaintiffs,

vs.

WILLIAMS-SONOMA, INC., and WILLIAMS-SONOMA
STORES, INC.,

Defendants.

**Case No. 1:19-CV-226
(ILG) (CLP)**

**FIRST AMENDED
COMPLAINT**

INTRODUCTION

1. Plaintiffs DDK Hotels, LLC, DDK/WE Hospitality Partners, LLC and DDK/WE Hotels Management, LLC (collectively, “DDK”), by and through their undersigned counsel, bring this action against defendants Williams-Sonoma, Inc. and Williams-Sonoma Stores, Inc. and assert causes of action for breach of contract, breach of the implied covenant of good faith and fair dealing, aiding and abetting breach of fiduciary duty, breach of fiduciary duty, and unjust enrichment.

PARTIES

2. Plaintiff DDK Hotels, LLC (“DDK Hotels”) is a Delaware limited liability company with a principal office in New York, New York. The managers of DDK Hotels are Kimberly Phoebus (“Phoebus”) and David Bowd (“Bowd”). David Wasserman (“Wasserman”) was a manager of DDK Hotels until February 4, 2019. At all times relevant hereto, Wasserman lived and worked in New York.

3. Plaintiff DDK/WE Hospitality Partners, LLC (“DDK/WE”) is a Delaware limited liability company with a principal office in New York, New York. The sole member of

DDK/WE is DDK Hotels. The managers of DDK/WE are Phoebus and Bowd. Wasserman was also a manager until February 4, 2019.

4. Plaintiff DDK/WE Hotels Management, LLC (“DDK Management”) is a Delaware limited liability company with a principal office in New York, New York. The sole member of DDK Management is DDK Hotels. The managers of DDK Management are Phoebus and Bowd. Wasserman was also a manager until February 4, 2019.

5. Defendant Williams-Sonoma, Inc. (“WSI”) is a Delaware corporation with a principal office in San Francisco, California.

6. Defendant Williams-Sonoma Stores, Inc. (“West Elm”) is a California corporation with a principal office and headquarters in Brooklyn, New York. West Elm is a wholly-owned subsidiary of WSI.

JURISDICTION AND VENUE

7. The Court has jurisdiction over this action and the parties pursuant to New York Civil Practice Law and Rules § 301 and § 302.

FACTS

8. WSI is a specialty retailer of high-quality products for the kitchen and home, including cookware, tools, electrics, cutlery, tabletop and bar, outdoor, furniture and cookbooks. WSI operates 36 company-owned retail stores in New York and derives substantial revenue from its transaction of business in New York. It also leases in excess of 200,000 square feet of corporate facilities in New York. WSI’s subsidiary, West Elm, sells consumer products under the “west elm” brand, including furniture, bedding, bathroom accessories, rugs, curtains, lighting, decorative accessories, dinnerware, kitchen essentials, and gifts.

9. WSI owns the rights in and to the trademark “WEST ELM” as well as several federal trademark registrations for that trademark and a federal trademark application for use of the trademark in connection with hotels and other related intellectual property in the trademark (collectively, the “West Elm Trademark”).

WSI and West Elm Select DDK Hotels to be their Joint Venture Partner

10. In 2014 and early 2015, WSI and West Elm were pursuing a potential strategy to expand WSI’s west elm brand into hotels, and more particularly boutique urban hotels. James Brett (“Brett”), then the President of West Elm and a “Named Executive Officer” of WSI, conceived the vision of west elm branded hotels (“west elm Hotel(s)”). At all times relevant hereto, Brett lived and worked in New York. WSI’s Board of Directors approved and supported the strategy to pursue west elm branded hotels with a qualified partner with experience in hotel management and operations. In pursuit of that strategy, Brett, and other representatives of West Elm and WSI interviewed several hotel companies and operators, including but not limited to, Marriott International, Starwood Capital, and DDK Hotels. During that process, senior executives of WSI, including WSI’s Chief Executive Officer, Laura Alber (“Alber”), and Foster F. Cope III (“Cope”), WSI’s Executive Vice President and Chief Real Estate & Development Officer, traveled to New York City to meet with and interview DDK Hotels. At that meeting, on February 18, 2015, which was also attended by Brett, the DDK Hotels representatives and senior executives of WSI discussed a joint venture to develop a west elm Hotels business to be based in Brooklyn.

11. In February 2015, WSI, West Elm, Alber, and Brett selected DDK Hotels to be their joint venture partner and the exclusive operator of the west elm Hotels that they would jointly develop. On February 19, 2015, Brett, on behalf of WSI and West Elm, sent an email to DDK Hotels in New York informing them of their selection.

12. WSI, West Elm and DDK Hotels proceeded to negotiate a term sheet for the joint venture. Those negotiations included, among a multitude of telephone conferences and emails to New York, five face to face meetings in New York between representatives of WSI, West Elm and DDK Hotels. In March of 2015, DDK Hotels and WSI entered into a Term Sheet (the “Term Sheet”) setting forth their agreements concerning the west elm Hotels joint venture between DDK Hotels and WSI, and its subsidiary, West Elm, with respect to the creation of a hotel brand using the “west elm” name and certain related west elm brand elements. Brett executed the Term Sheet on behalf of WSI in New York and delivered it to DDK Hotels in New York.

13. In their Term Sheet, DDK Hotels and WSI agreed that the scope of their joint venture, which they referred to as the “Project,” included the following:

The Project encompasses the creation of a hotel brand using the Brand Elements that would be used by Branded Hotels under hotel management agreements with one or more hospitality management companies formed and controlled by DDK [Hotels] (a “Hotel Manager”). The Project would take advantage of the respective strengths, contacts, and businesses of the Parties and the recognized value of the Brand Elements.

DDK [Hotels] and [WSI-]West Elm will collaborate to create the brand strategy, brand, design, amenity standards and intellectual property for the Branded Hotel that are in keeping with the Brand Elements (the “Brand Standards”), including the management strategy and strategic plan for each type of hotel to be developed. The Parties expect hotel amenities to include restaurants, bars, [WSI-]West Elm Markets, and related facilities, all in keeping with the Brand Standards.

The Parties intend to pursue hotel management agreements (each, an “HMA”) on mutually acceptable terms between Hotel Manager and developers and owners (“Developers”) of hotels in the market segment for, initially, urban hotels, and potentially roadside and extended stay hotels (each, a “Market Segment”). The HMA is expected to have embedded in it a license to use the Brand Elements in accordance with the Brand Standards. The Hotel

Manager and Developer would also be expected to enter into a technical services agreement (“TSA”) on mutually acceptable terms to assure planning and design in accordance with the Brand Standards in advance of opening of a hotel.

14. In their Term Sheet, DDK Hotels and WSI agreed that DDK Hotels would have overall responsibility for all hotel operations and management pursuant to the HMAs, and would provide financial reporting, audit support and supervision of hotel employees, subject to the terms of each of the applicable HMAs and TSAs entered into with each Developer.

15. In their Term Sheet, DDK Hotels and WSI agreed that they expected to allocate fees anticipated to be generated under agreements with the Developers as follows: (i) licensing and branding fees would be allocable and payable to WSI; and (ii) hotel management fees would be allocable and payable to DDK Hotels. This foundational principle of the joint venture has never changed.

**WSI, West Elm and DDK Hotels Work, Principally in
New York To Launch and Develop the west elm Hotels Joint Venture**

16. From March to October of 2015, representatives of DDK Hotels, WSI and West Elm negotiated and reached agreements to implement their west elm Hotels joint venture. DDK Hotels, WSI and West Elm agreed that: (1) DDK Hotels would organize a wholly-owned subsidiary, DDK/WE, to be the member of a limited liability company organized to implement certain aspects of the joint venture; (2) WSI’s subsidiary, West Elm, would be the other member to that limited liability company; (3) DDK Hotels would organize a second wholly-owned subsidiary, DDK Management, to serve as the Hotel Manager, which would own special purpose entities that would enter into the HMAs and TSAs with the Developers; and (4) the west elm Hotels joint venture would be headquartered and operated from Brooklyn, New York. Those arrangements were consistent with the agreements memorialized in DDK Hotels and WSI’s Term Sheet.

17. On May 14, 2015, Alber traveled to West Elm's Brooklyn headquarters for a presentation from, and discussion with, DDK Hotels and West Elm about the progress of their work on the west elm Hotels joint venture.

18. On or about July 7, 2015, DDK Hotels organized DDK/WE and DDK Management as wholly-owned subsidiaries of DDK Hotels for purposes of implementing certain aspects of the west elm Hotels joint venture. DDK Hotels, DDK/WE, and DDK Management are collectively referred to herein as "DDK."

19. On or about October 2, 2015, DDK/WE and West Elm entered into a LIMITED LIABILITY COMPANY AGREEMENT OF WEST ELM HOTELS, LLC (the "JV Agreement").¹ Pursuant to the JV Agreement, DDK/WE and West Elm are the two members of West Elm Hotels, LLC (the "Company")² and each owns a fifty (50%) percent interest and voting percentage in the Company. DDK/WE and West Elm each appoint three directors to the Company's six member Board of Directors.

20. The Company has no managers. Rather, its "business, affairs, property and interests of the Company shall be managed by the [two] Members." *JV Agreement*, § 7(i). The Directors appointed by each member of the Company "vote together as a bloc at all times." *Id.*, § 7(g). As such, Wasserman had no apparent or actual authority to act on behalf of the Company or on behalf of DDK/WE with respect to matters concerning the Company.

21. On February 10, 2016, Alber traveled to West Elm's Brooklyn headquarters in New York for another presentation from, and discussion with, DDK Hotels and West Elm about the progress of the west elm Hotels joint venture. Brett also participated in that meeting.

¹ The JV Agreement is governed by Delaware Law.

² The Company was originally named WE DDK BRAND COMPANY, LLC.

22. From 2015 through 2018, DDK invested and continues to invest significant time, effort and financial resources to establish, publicize, promote and expand the west elm Hotels brand. Among other things, DDK has been the spokesperson for the west elm Hotels brand, created and promoted the brand's vision, story and talking points, educated the market on the strengths and capabilities of WSI and West Elm, worked relentlessly to establish and foster relationships with existing and potential development partners, set up operational and technological standards and SOPs, managed the relationship with Developers from site selection to legal documentation, taught West Elm how to build and design hotels, created awareness and media buzz about the west elm Hotels brand, and carried the vision of WSI and West Elm having a hotel brand into reality.

WSI and West Elm Publicly Tout Their Joint Venture Partnership with DDK

23. On September 26, 2016, West Elm and DDK issued a press release that began "Today West Elm announced the expansion of its signature new modern aesthetic into the travel and hospitality industry with the launch of West Elm HOTELS (www.westelmhotels.com), a partnership with hospitality management and development company DDK [Hotels]." The press release described WSI, West Elm and DDK Hotel's shared vision of boutique urban hotels. In it, Brett was quoted, "By adapting the framework design of each hotel to reflect the mood and identity of its host city, we will continue to engage the adventurous spirit of our customers as they follow us to our next level of hospitality." The press release also stated:

West Elm HOTELS revolves around three key tenets:

- Wholehearted hospitality: Great service, personalized attention, regional knowledge and community connections will help guests feel like a local and at home.
- Distinctive, thoughtful design: Each property will have its own design point of view, from the exterior architecture to

custom installations, such as locally crafted art and bespoke furnishings.

- Community connection: Communal spaces and one-of-a-kind experiences will bring guests and neighbors together in a relaxed, collective setting.

A true and accurate copy of that September 26, 2016 press release is attached hereto as **Exhibit**

A.

24. WSI maintains a copyrighted website with the domain <https://westelmhotels.com> (the “westelmhotels.com site”). The Terms + Conditions page of that website states:

Welcome to westelmhotels.com (“Web Site”)! We are part of “Williams-Sonoma, Inc.”

25. The westelmhotels.com site has a page titled “THE PARTNERSHIP,” which states the following:

west elm Hotels is a partnership between lifestyle retailer west elm and leading hospitality management team DDK.

With a rich background of combined experience in design, hospitality, investment, and management, we are a true collaboration focused on delivering the best in design, community, and service.

west elm got its start in Brooklyn — and we’ve never forgotten our roots. For over 13 years, we’ve been connecting with community-minded, design-focused consumers in markets around the world. With 100+ global stores, we’re the fastest-growing brand in Williams Sonoma, Inc.

DDK has over 60 years of combined hospitality and investment experience and has spearheaded the development, launch, and day-to-day management of some of the world’s strongest new hospitality brands.

Together, we’re building a first-class management organization to exclusively service the properties in our collection. Our vision is for a truly modern hotel: one that brings together design, technology, and community to create spaces that make everyone feel like they belong. Our top priority is consistent, high-quality service and a locally-driven guest experience.

26. On March 9, 2017, Brett gave a televised interview on CNN about west elm Hotels and the west elm Hotels joint venture. During the course of that interview, Brett stated as follows:

Interviewer: And it's interesting because it does make business sense because any hotel guest who stays in one of the west elm Hotels will be able to buy the furniture that's surrounding them you know if you sleep in a bed you find it comfortable you can buy the bed if you want to.

Brett: Exactly.

Interviewer: Same thing with the drawer, same thing with the desk. Is that what you hope to happen?

Brett: Absolutely and you know it's provided an interesting source of inspiration for our design team to create new products for our line *because each hotel is going to be completely different and be in total celebration of the locale because that's what we think modern travelers want now is to really experience the place where they are.*

Interviewer: So what's the biggest challenge do you think for a furnishing company to go and develop its own line of hotels what's the biggest challenge do you think?

Brett: Well, you know we're really good at designing obviously products and experiences and that's really what we're focused on. *The operations of the hotel we developed a joint venture partnership with some incredible operators that will exclusively be operating west elm Hotels.* So, I'm not trying to figure out how to deliver room service. Um, you know, I'm focused on and my team is focused on what we do best which is designing the experience. And, then the third leg of the stool is

(Emphasis added).

New York is the Center of Gravity of the west elm Hotels Joint Venture

27. In addition to WSI's pervasive activities in New York in furtherance of its interests in the west elm Hotels joint venture alleged above, WSI extensively transacted other business in New York in connection with its west elm Hotels joint venture with DDK Hotels.

28. In late Summer of 2016, west elm Hotels moved into West Elm's new headquarters at 55 Water Street in Brooklyn in office space leased by WSI. From then on, the west elm Hotels joint venture ran its operations from 55 Water Street, which was consistent with WSI and DDK Hotels' prior agreement that the business would be headquartered in Brooklyn. West Elm provided Phoebus, Bowd and Wasserman with west elm Hotels business cards, which listed the 55 Water Street, Brooklyn address.

29. WSI also leases space at 67 34th Street in Brooklyn, which is used, in part, to house three west elm Hotel model rooms. The model rooms were installed in the Summer of 2016 and have been in continuous use and operation by the west elm Hotels joint venture through the date hereof. Representatives of WSI, West Elm and the west elm Hotels team used them to introduce potential Developers, investors, and lenders to the west elm Hotels concept.

30. West Elm and WSI appointed Beth Potillo-Miller ("Potillo-Miller") as one of its three Directors on the Board of the Company. Potillo-Miller is, and at all relevant times was, the Senior Vice President of Finance and Corporate Treasurer of WSI. The Company routinely held Board meetings at west elm Hotels headquarters in Brooklyn to discuss business of the west elm Hotels joint venture. Potillo-Miller never physically attended the Board meetings but would routinely dial in and participate telephonically. She participated telephonically in the Company's Board meetings in Brooklyn held on July 20, 2016, September 8, 2016, December 8, 2016, March 14, 2017, June 21, 2017, October 19, 2017, December 13, 2017, and September 26, 2018.

31. In addition, other officers and representatives of WSI also participated in person, or telephonically, in the Company's Board meetings at west elm Hotels headquarters in Brooklyn. Brett routinely attended the meetings through the March 14, 2017 meeting. Mary Shoemaker ("Shoemaker"), the Senior Vice President for Real Estate for WSI, and Joshua

Geursten (“Geursten”), Vice President of Store Design and Development for WSI, participated telephonically in the September 8, 2016, and December 8, 2016 Board meetings, Cope also participated telephonically in the December 8, 2016 Board meeting.

32. David King, Esq. (“King”), was, at all relevant times hereto, the Executive Vice President, General Counsel, and Secretary of WSI. Matthew Tasto, Esq. (“Tasto”) was initially an Assistant General Counsel and subsequently Associate General Counsel of WSI. Both King and Tasto dialed into and participated in the Company’s September 26, 2018 Board meeting in Brooklyn.

33. Beginning in the Spring of 2015, West Elm and WSI set a routine of a weekly Monday morning calls with representatives of West Elm, WSI, and DDK to review and discuss the business affairs, activities and initiatives of the west elm Hotels joint venture. Those weekly calls continued until the Summer of 2017. In addition to West Elm and DDK representatives in Brooklyn, numerous WSI executives dialed into and participated in those weekly calls, including Cope, Shoemaker, Geursten, Pottillo-Miller, Tasto, and Melissa Bellany, WSI’s Director of Real Estate.

34. During 2015 through 2018, Cope and Shoemaker routinely came to New York to meet with DDK Hotels to discuss and plan the business of the west elm Hotels joint venture. On at least ten occasions during that time frame, Cope and Shoemaker came to New York to transact business of the joint venture with DDK Hotels. WSI, West Elm and DDK diligently sought a New York City location for a west elm Hotel. During 2015 and 2016, Cope traveled to New York City to tour not less than four potential locations for a west elm Hotel in New York City.

35. On December 19, 2015, Geursten traveled to Brooklyn to meet with representatives of DDK and West Elm to discuss planning and programming of future west elm Hotels.

36. During the period 2015 and 2018, King and Tasto were actively and intimately involved in the business of the west elm Hotels joint venture. Their business activities included numerous emails sent to New York and numerous telephone conversations with persons located in New York, concerning, *inter alia*, the negotiations of the Term Sheet, the JV Agreement, the Trademark License Agreement between WSI and the Company, as well as the several letters of intent, HMAs and TSAs and trademark sublicense agreements for each of the west elm Hotels. Tasto also collected votes and consents of the Company's Board approving such agreements.

37. WSI routinely held its Fall Board of Directors meeting at West Elm's headquarters in Brooklyn. In Fall of 2016, WSI held a Board meeting in Brooklyn, which was attended by Alber. At that WSI Board meeting, the business of the west elm Hotels joint venture was discussed.

38. On October 25 and 26, 2017, WSI held a Board meeting at West Elm's headquarters in Brooklyn, which was attended by Alber. At that WSI Board meeting, the business of the west elm Hotels joint venture was discussed. In advance of that WSI Board meeting, King sent an email to Phoebus in New York, which said "Looking forward to seeing you next week!"

39. King traveled to New York and met with Phoebus on October 25, 2017. They discussed the business of the west elm Hotels joint venture. King was highly complimentary of DDK Hotels' efforts on behalf of the joint venture and encouraged her and DDK Hotels to continue to work to develop and expand the joint ventures brand, activities, and projects.

40. On October 18, 2016, West Elm held a party at its new Brooklyn headquarters, the purpose of which was, in part, to promote the west elm Hotels joint venture. The party featured a model of a west elm Hotel hotel room. Alber, Cope, WSI Board member Rose Marie Bravo, and WSI Executive Vice President Vicki McWilliams all traveled to New York to attend the party and promote the west elm Hotels brand.

41. On March 27, 2018, Alber traveled to Brooklyn to discuss matters with West Elm, including, but not limited to, the west elm Hotels joint venture.

The Expansion of the west elm Hotels Brand

42. To date, the west elm Hotels joint venture has eight boutique urban hotels in various stages of progress. Three sets of HMAs and TSAs have been signed with Developers in Indianapolis, Indiana, Detroit, Michigan, and Oakland, California. The west elm Hotel in Indianapolis is scheduled to open in the first quarter of 2020, followed by Oakland, then Detroit. Two additional sets of HMAs and TSAs for west elm Hotels in Minneapolis, Minnesota and Portland, Maine are ready to be finalized. Attached hereto as **Exhibit B** is a press release issued by WSI and currently on WSI's website announcing the addition of the Portland, Maine project to the west elm Hotels portfolio.

43. Because WSI owns the West Elm Trademark, it must be licensed to the Hotel Manager entity for each west elm Hotel. This is accomplished by a Trademark License Agreement between WSI and the Company and a Trademark Sublicense Agreement between the Company and each special purpose entity owned and controlled by DDK to manage each west elm Hotel. Section 14(d) of the Trademark License Agreement between WSI and the Company, provides:

This Agreement, and any disputes arising from it, shall be governed by the laws of the State of New York. Any claims arising

hereunder shall be resolved exclusively by a court of competent jurisdiction in New York, New York.

44. WSI approves and executes each Trademark Sublicense Agreement. Three such Trademark Sublicense Agreements have been negotiated and executed for the west elm Hotels in Indianapolis, Detroit, and Oakland. Section 15(d) of each Trademark Sublicense Agreement between West Elm and the Company and joined by WSI, provides:

This Agreement, and any disputes arising from it, shall be governed by the laws of the State of New York. Any claims arising hereunder shall be resolved exclusively by a court of competent jurisdiction in New York, New York.

45. WSI currently derives revenue from the west elm Hotels joint venture through the TSAs and will derive revenue from the joint venture through the trademark license and sublicense arrangements, in addition to the substantial revenue WSI derives from its transaction of other business in New York.

**WSI, West Elm and Bellos Decide to Change Course
and Force DDK Out of the west elm Hotels Joint Venture**

46. In June, 2017, Brett left West Elm and was replaced as President by Alex Bellos (“Bellos”). At all times relevant hereto, Bellos was a “Named Executive Officer” of WSI. Alber traveled to Brooklyn to introduce Bellos to the West Elm employees and DDK. While he was President of West Elm, Brett reported directly to Alber on matters concerning the west elm Hotels joint venture. Similarly, after Bellos became President of West Elm, he reported directly to Alber on such matters. At all times relevant hereto, Bellos lived in Brooklyn and worked at West Elm’s headquarters in Brooklyn.

47. Until the transition from Brett to Bellos, WSI, West Elm and DDK had worked collaboratively and in good faith to develop the west elm Hotels brand as boutique urban hotels. Continuously from early 2015 through the date hereof, DDK shared with WSI and West Elm its

significant knowledge and expertise concerning the development, management and operation of hotels and hotel chains.

48. In or before May of 2018, Bellos, acting on behalf of, and as an agent of, West Elm and WSI, decided that West Elm and WSI would materially change the boutique urban hotel vision for the west elm Hotel brand in favor of a more quick to market concept, force DDK out of the west elm Hotels joint venture, and replace it with another hotel operator. The means and methods by which they pursued that plan are set forth in paragraphs 55 through 102 below.

49. On May 17, 2018, the Company held a Board Meeting at west elm Hotels' headquarters in Brooklyn. All pending hotel projects were discussed. No one raised any questions or concerns about the direction of the joint venture or the west elm Hotels brand. But five days later, on May 22 and 23, 2018, Bellos blind-sided Bowd and Phoebus of DDK by informing them that he wanted to move the west elm Hotel brand in a materially different direction than was initially contemplated by the joint venture partners and wanted to develop a more scale-able, cookie-cutter model. In fact, however, what WSI, West Elm and Bellos had already decided upon was to eliminate DDK from the joint venture, to replace it, obtain a more favorable financial arrangement, and to accomplish that result by engaging in conduct that violated DDK's legal rights and the terms of the JV Agreement.

Section 9(a) of the JV Agreement

50. Section 9(a) of the JV Agreement provides:

During the Exclusivity Term (as defined herein), neither West Elm, individually or through any of its Affiliates, on the one hand, nor DDK, Kim Phoebus, David Wasserman or David Bowd, individually or through any of their respective Affiliates, on the other hand (i) shall effect or seek, offer or propose (whether publicly or otherwise) to effect, or cause or participate in or in any way assist any other Person to effect or seek, offer or propose (whether publicly or otherwise) to effect or participate in a Conflicting Interest, (ii) shall solicit, initiate or encourage

submission of any proposal or offer from any Person, group or entity relating to a partnership, joint venture or similar arrangement regarding a Conflicting Interest, or (iii) shall participate in any negotiations or discussions regarding, or furnish to any other Person any information with respect to, or otherwise cooperate in any way with, or assist or participate in, facilitate or encourage any effort or attempt by any other Person or entity to do or seek any such partnership, joint venture, similar arrangement, transaction or agreement regarding a Conflicting Interest, except through the Company.

51. The Exclusivity Term of the JV Agreement is “the period commencing on the Effective Date [, October 2, 2015,] and ending on the tenth anniversary of the Effective Date [, October 2, 2025], subject to extension or earlier termination....” The JV Agreement has not been terminated.

52. A “Conflicting Interest” is defined, in relevant part, in the JV Agreement as “the creation, ownership, operation, development or management of Urban Market Hotels.”

53. “Urban Market Hotels” is defined, in relevant part, in the JV Agreement as “a hotel located or to be located in one of the 30 largest Metropolitan Statistical Areas (‘MSA’) as designated by the Office of Management and Budget as of the date of determination.”

54. Section 16(b) of the JV Agreement permits an aggrieved party to “seek[] injunctive relief in a state or federal court located in New York, New York.”

West Elm’s Numerous Breaches of Section 9(a) of the JV Agreement

55. In breach of Section 9(a) of the JV Agreement, West Elm has:

- i. sought, offered or proposed to effect or participate in multiple Conflicting Interests;
- ii. caused, participated in or assisted another Person or Persons to effect or seek or offer or propose to effect or participate in multiple Conflicting Interests;
- iii. solicited, initiated or encouraged submission of proposals or offers from a Person, Persons, group, groups, entity or entities

relating to a partnership, joint venture or similar arrangement regarding multiple Conflicting Interests;

- iv. participated in negotiations or discussions regarding efforts or attempts by another Person, Persons, entity or entities to do or seek a partnership, joint venture or similar arrangement regarding multiple Conflicting Interests;
- v. furnished to another Person or Persons information with respect to a partnership, joint venture or similar arrangement regarding multiple Conflicting Interests; and
- vi. cooperated, assisted, facilitated or encouraged efforts or attempts by another Person or Persons to seek a partnership, joint venture or similar arrangement regarding multiple Conflicting Interests.

56. As detailed in paragraphs 118 through 131 below, West Elm was aided by Wasserman in its myriad violations of the JV Agreement. Wasserman abandoned his fiduciary duty and obligations to DDK and, instead, helped WSI, West Elm and Bellos work to force DDK out of the west elm Hotels joint venture. DDK was not, until recently, aware of that conduct and never consented to it. Wasserman had no apparent or actual authority to waive or release DDK/WE's rights under Section 9(a) of the JV Agreement. Moreover, WSI, West Elm, Bellos and Wasserman knew that Bowd and Phoebus did not consent to discussions with other hotel operators without their prior approval. For example, on June 13, 2018, Phoebus on behalf of herself and Bowd, sent an email to Bellos, with a copy to Wasserman, which concluded, "[A]s we previously communicated and all agreed, any future conversations with Provenance [Hotels] or similar groups should only occur after obtaining our prior approval."

57. In the Spring of 2018, Bellos, on behalf of West Elm and WSI, communicated with Arne Sorenson ("Sorenson"), the President and Chief Executive Officer of Marriott International ("Marriott"), about an arrangement between West Elm and Marriott to create, own, operate, develop or manage one or more Urban Market Hotels. On June 7, 2018, Bellos sent an

email from New York to Sorenson telling him that he “would love to connect and give you an update on West Elm Hotels and ways we could strategically partner....”

58. Bellos, and/or other West Elm and WSI representatives, had similar negotiations and discussions with Charles Elliott and John DePaul (“DePaul”) of Toll Brothers, Inc., and Steve Haggerty of Trinity Investments.

59. On September 11, 2018, Wasserman sent an email to Bellos in New York, which said:

You around next Monday to meet w Toll - an “alternative” [to DDK]

They are working in Boston and interested in the bigger picture

How does your day Look?

60. On September 14, 2018, Wasserman sent another email to Bellos in New York concerning Trinity Investments. Wasserman reported to Bellos:

spoke today - they want to talk to you and me ... I know the principal (former Hyatt) and they have management - gotta move this all forward in some way

Toll [Brothers] wants to compete too ...

JUST 2 Issues !!! [which is an obvious reference to Phoebus and Bowd of DDK]

61. Bellos subsequently met with the senior Toll Brothers representative at West Elm’s headquarters in Brooklyn on September 24, 2018. Bellos then arranged to have them tour the west elm Hotels’ model room in Brooklyn. Two days later, Bellos sent an email from New York to the senior Toll Brothers representatives:

Charles & John – Great to connect on Monday. I’m excited to explore areas of alignment going forward – hope all board meeting activities went well.

Looking forward to connecting again soon.

Alex

62. On October 18, 2018, Bellos, Wasserman and DePaul exchanged emails about scheduling a further discussion about “Toll ‘participation’ [sic].”

63. In September of 2018, West Elm began, in violation of Section 9(a) of the JV Agreement, negotiations, or at least discussions, with Rodrigo Real of Cindat USA (“Cindat”) about entering into a Conflicting Interest arrangement. Wasserman and his friend, Kenny Blatt (“Blatt”), made information requests pertinent to such an arrangement and West Elm sent the information back to Cindat. Bellos met with Cindat at West Elm’s headquarters in Brooklyn on September 24, 2018.

WSI and West Elm’s Efforts to Replace DDK with Provenance Hotels

64. During 2018, WSI, West Elm and Bellos aggressively pursued negotiations and discussions with the Aspen Lodging Group, LLC, d/b/a Provenance Hotels (“Provenance”), for a joint venture or similar arrangement that would constitute a Conflicting Interest. WSI, West Elm and Bellos knew that those negotiations and discussions violated Section 9(a) of the JV Agreement.

65. Frits van Paasschen (“Paasschen”) has been a member of WSI’s Board of Directors since May of 2017. He is also a member of the Board of Directors of Provenance, a competitor of DDK. In May 2018 or prior, Paasschen connected via email Bellos and Bashar Wali, the President and a Principal of Provenance, and encouraged the two of them to discuss a strategic partnership between West Elm and Provenance for the development and management of west elm Hotels.

66. During that same time period, Bellos, and/or other representatives of WSI or West Elm had several discussions and met with Bashar Wali of Provenance to discuss such a

relationship, including a visit, on or about May 18, 2018, to the west elm Hotels headquarters and model rooms in Brooklyn, without the knowledge of DDK.

67. On May 31, 2018, Bellos proposed to DDK that it talk to Provenance about west elm Hotels. DDK immediately conveyed their hesitancy to have any conversations with a competitor. And, DDK asked Bellos to disclose his communications with Provenance about west elm Hotels. In response, Bellos' disclosure of such communications was materially incomplete and misleading.

68. Misled by Bellos' misrepresentations and with the strong encouragement and approval of West Elm, DDK agreed to speak with Provenance. With Bellos and West Elm's consent, Phoebus and Bowd began discussions with Provenance about potentially selling their interest in DDK to Provenance. However, those discussions were terminated by Phoebus and Bowd on September 11, 2018 and that was reported to Bellos and West Elm that same day.

69. Despite that, WSI and West Elm, with the corrupt assistance of Wasserman, continued to pursue a Conflicting Interest arrangement with Provenance. On September 28, 2018, Wasserman sent an email to Bellos, which said, in part, "Indy Oakland Miami Boston Maybe Minni and Detroit and Philly and we are flying. We should cut our deal with Bashar [Wali of Provenance] - if we can next week. Time is critical i believe. Discuss with the Reverend."

70. On September 29, 2018, Wasserman informed Bashar Wali of Provenance, via an email, that:

Alex [Bellos] will do what it takes to "pay" for the [Provenance hotels] conversions....

We are in agreement, Alex and me, how we would amend the JV if you come in.

I just need to frame out my deal with you and I we will be in business in 30 days – assuming I remain in.

71. During the course of October of 2018, WSI and West Elm, including their in-house attorneys, King and Tasto, continued to negotiate and work on documenting a Conflicting Interest arrangement between West Elm and Provenance.

72. On October 8, 2018, Wasserman sent e-mails to Bellos, King, and Tasto, which included a term sheet for a “Proposed Joint Venture” between West Elm and Provenance. The term sheet described the “purpose” of the joint venture:

The purpose of the joint venture is to grow the West Elm (“WE”) hotel brand with immediate hotel contributions for conversion and access to a proven hotel management and development team poised for additional growth.

The term sheet proposed converting Provenance’s hotels in Portland, Oregon and Seattle, Washington to west elm Hotels. Those hotels are each located in one of the 30 largest MSAs and are therefore Urban Market Hotels. “[C]onverting” those Provenance “hotels to the West Elm brand,” as was discussed by West Elm and Provenance, would be a Conflicting Interest. Similarly, granting Provenance “the exclusive right to develop and manage WE branded hotels, anywhere,” as was discussed by West Elm and Provenance would be a Conflicting Interest.

73. In his October 8, 2018 emails to King, Tasto and Bellos, Wasserman informed them that he was meeting with Wali on October 10, 2018. King, Tasto and Bellos knew that the topic of that meeting would be a Conflicting Interest joint venture arrangement between West Elm and Provenance.

74. On October 9, 2018, King sent an email to Wasserman in New York:

We need to connect with Alex [Bellos], who is traveling. We’ve sent him your term sheet and some questions – most of it business issues rather than legal – and are waiting to hear back from him. We are available tomorrow at 5 eastern.

75. Also, on October 9, 2018, King sent a second email to Wasserman in New York seeking to arrange a phone call with Wasserman to discuss a Conflicting Interest arrangement between West Elm and Provenance. King's second October 9, 2018 email to Wasserman said:

Calling my office tomorrow works. 415-616-8478.

Alex is going to reach out to you before then.

Tasto was copied on King's email.

76. At some point on October 10, 2018, King or Tasto spoke on the phone with Wasserman, while Wasserman was in New York. The subject matter of the call was a Conflicting Interest joint venture arrangement between West Elm and Provenance.

77. Two days later, on October 10, 2018, Tasto sent an email to Wasserman in New York with Microsoft Word versions of the JV Agreement between West Elm and DDK as well as the related Trademark License Agreement with WSI and Trademark Sublicense Agreement, with the intention that Wasserman send them on to Provenance. On the following day, Wasserman forwarded Tasto's email and the Microsoft Word files to Bashar Wali of Provenance.

78. All of that was done behind the backs of Phoebus and Bowd of DDK. They were not copied on any of the aforementioned emails nor included in, or apprised of, the negotiations and discussions between WSI, West Elm and Provenance.

79. All of WSI and West Elm's negotiations and discussions with Marriott, Trinity Investments, Toll Brothers, Cindat, and Provenance, alleged above, were breaches of Section 9(a) of the JV Agreement. WSI and West Elm knew that they were engaging in conduct that violated the JV Agreement and breached of their legal obligations to DDK. Accordingly, WSI, West Elm and Wasserman sought to conceal those negotiations and discussions from Phoebus and Bowd of DDK.

The September 26, 2018 Board Meeting

80. On September 11, 2018, upon learning that DDK's conversations with Provenance had ceased, Bellos called a Board meeting of the Company. In his September 11, 2018 email, which he sent from New York, Bellos stated:

Based on this development, I would like to call a board meeting on Friday 9/21. At that board meeting, I would like to review a detailed plan from DDK that addresses West Elm/Williams-Sonoma's concerns regarding 1) Deal velocity including the status of financing and specific construction schedules for each project, 2) The DDK plan to resource appropriately in order to deliver your operational commitments under the joint venture agreement and 3) The project plan to address all operational needs before the Indianapolis opening.

This was the first time that DDK's capabilities or performance had ever been questioned by West Elm.

81. The Company's Board meeting was held on September 26, 2018 at the Brooklyn headquarters. In advance of the meeting, DDK distributed to West Elm a status report entitled "west elm Hotels status update 9.26.2018." At the meeting, Bellos stated that he lacked "confidence" and "trust" in DDK. When challenged by Phoebus and Bowd, however, he could not provide any examples of what he was referring to or to support his alleged lack of confidence and trust in DDK. He also refused to talk about the status update document that DDK had provided, and was generally aggressive, rude and dismissive. Bellos stated that the boutique urban hotel vision that DDK, WSI and West Elm had created for the west elm Hotels brand was irrelevant, that it was his company, and that DDK had to do what he said. Phoebus and Bowd vehemently disagreed.

**West Elm's Wrongful, Bad Faith Campaign to Obstruct DDK
and Deprive DDK its Benefits from the west elm Hotels Joint Venture**

82. Section 3 of the JV Agreement describes, in part, the object and purpose of the Company to include “(a) to create, develop, manage and maintain Sublicensed Brand Elements and Brand Standards, (b) to sublicense Sublicensed Brand Elements to Hotel Manager [, i.e., DDK,] in order to permit it to manage and operate hotels as Branded Hotels....”

83. Section 10(a) of the JV Agreement states, in part, the “Company expects that, through each applicable HMA and the related Sublicense, Sublicensed Brand Elements will be sublicensed to Hotel Manager in order to permit it to manage and operate an Urban Market Hotel as a Branded Hotel.”

84. The HMAs with Developers are critical to DDK's participation in the west elm Hotels joint venture. Section 10(j) of the JV Agreement provides, in part:

The Members expect that each HMA will provide for a separately calculated Management Fee and Royalty Fee and that, subject to the Board determining otherwise, DDK will have exclusive rights to the Management Fee and West Elm will have exclusive rights to the Royalty Fee.

85. DDK reasonably expected to derive income from the HMAs.

86. DDK also reasonably expected to derive additional income from the west elm Hotels joint venture through technical services agreements (“TSAs”) for each Branded Hotel.

On that point, Section 10(g) of the JV Agreement states, in relevant part:

The Members also expect that the Hotel Manager will enter into a technical services agreement (“TSA”) for each Branded Hotel to assure planning and design in accordance with the Brand Standards in advance of opening of such hotel. Thirty percent (30%) of the fee payable to the Hotel Manager in respect of the TSA shall be payable to the Company and/or West Elm.

87. DDK had a reasonable expectation of the expansion of the west elm Hotel brand and the opening of west elm Branded Hotels for which a DDK owned entity would serve as

Hotel Manager and derive substantial income from the HMAs and TSAs. The implied covenant of good faith and fair dealing required West Elm to act honestly, fairly and in good faith and to refrain from arbitrary or unreasonable conduct, which would have the effect of preventing DDK from receiving the fruits of the joint venture and the JV Agreement.

88. In addition to violating Section 9(a) of the JV Agreement, WSI and West Elm's interactions, alleged herein, with other industry players were a part of WSI and West Elm's active campaign to replace DDK in the west elm Hotels joint venture with another operator who could fulfill DDK's management role and thereby deprive DDK of the benefits and future income streams from the joint venture.

89. The recent conduct concerning the opportunity to develop a west elm Branded Hotel in Denver illustrates WSI and West Elm's bad faith and efforts to obstruct DDK's attempts to bring hotel opportunities into the pipeline and realize the benefits of the west elm Hotels joint venture and the JV Agreement.

90. Phoebus and Bowd aggressively pursued developments with AIMCO, a well-financed public real estate investment trust headquartered in Denver, Colorado. Through their efforts and ongoing relationship, AIMCO became very enthusiastic about developing a west elm Hotel.

91. On February 28, 2018, Terry Considine ("Considine"), Chairman of the Board and CEO, Wesley Powell, Executive Vice President and Kelly Nagel, Regional Vice President (all of AIMCO) visited the West Elm headquarters and west elm Hotels model rooms in Brooklyn. The purpose of the meeting was to learn more about the west elm Hotels brand, team and the vision. In particular, the meeting was intended to discuss their Chestnut Hall project in Philadelphia. However, during that meeting, Considine mentioned another potential site at the

Fitzsimmons Medical Campus in Denver, Colorado. Present at that meeting from the west elm Hotels joint venture were Bellos, Peter Fowler (“Fowler”), Wasserman, Phoebus, and Rachel Rosen.

92. Following the meeting, AIMCO internally signed off on the Philadelphia hotel project, with the last hurdle being the consent of the University of Pennsylvania, which holds a minority interest in the site. Phoebus has continued to advance all discussions, even after being told by Bellos that she would not receive any assistance from West Elm or WSI on the Philadelphia hotel project.

93. On September 4, 2018, Phoebus received a phone call from Brett Leonhardt (“Leonhardt”), a Regional Vice President from AIMCO upon instruction by Considine. The purpose of the call was to jumpstart the discussion on the Fitzsimmons Medical Campus in Denver. AIMCO was ready to proceed with a lifestyle operator and wanted to understand the west elm Hotels joint venture’s level of interest. Immediately following that phone call, Phoebus shared the Denver opportunity in DDK’s weekly hotel update to West Elm.

94. On September 20, 2018, Phoebus, Bowd and Fowler of West Elm had a productive meeting with Leonhardt and his colleague, Stephen Hinterkopf, at the west elm Hotels offices regarding the Denver site as a west elm Hotel. Bellos was aware of the meeting in advance. That evening, Phoebus reported on the meeting to Bellos and West Elm via an email in which she advised Bellos:

Both sides left the meeting today in agreement that we should proceed. They would like us to fly to the site / their offices the first week of October to meet the architects and define the management term. AIMCO is the developer and funding the project. They want to move fast and believe this could be an immediate project for us to step into together.

Within less than an hour, Bellos responded via an email sent from New York and informed DDK, “I am not comfortable ‘agreeing to proceed’ without alignment on our side.” This reflected WSI and West Elm’s plan to stop the progress of the west elm Hotel joint venture with DDK and to replace DDK.

95. On October 2, 2018, Phoebus sent another email that said as follows:

I need to get back to the AIMCO team in Denver. As outlined before AIMCO is the developer and funding the project. They committed to a lifestyle hotel. It is entitled, part of a larger mixed-use development and with a strong partner. From a customer acquisition perspective, it is a unique opportunity for WSI as the University and Medical Center will be primary source of hotel and F&B guests. I have worked on the AIMCO relationship for a long time now and this opportunity has now presented itself. Regardless of what happens next, I believe this is a great west elm hotels opportunity and should be discussed further immediately.

96. Later that day, Phoebus sent another email to Bellos and others that asked the following question:

Philly will not advance to documents in the next two weeks – which is the timeline for Denver. We need to tell them [AIMCO] now whether we want to continue the discussion and fly out to see the site. Does West Elm want to pursue Denver or disregard?

Neither Bellos nor any representative of West Elm or WSI ever responded to Phoebus’ October 2, 2018 emails.

97. On October 16, 2018, Wasserman introduced Bellos and West Elm to a new, and different, hotel project in Denver -“The Rail Denver” [sic]. There were several back and forth emails regarding the site. On October 17, 2018, Bellos confirmed his attendance at a meeting scheduled for October 25, 2018 concerning the project. On October 25, 2018, Lehr Jackson, a representative of that Denver project showed up at west elm’s offices to meet with Bellos and Wasserman. However, the meeting did not proceed. Phoebus and Bowd were not invited nor

told about that scheduled meeting, in advance. Furthermore, Phoebus' emails of October 2, 2018 remained unresponded to. West Elm and WSI want to develop a hotel in Denver, just not with their co-joint venturer, DDK.

**WSI and West Elm Complete Their Strategy to Eject DDK from the
west elm Hotels Joint Venture and Deprive DDK of the Benefits of the Joint Venture**

98. Since at least May of 2018, WSI and West Elm have pursued a strategy to replace DDK as a full member and participant in the west elm Hotels joint venture, force DDK out of the joint venture, replace DDK with another hotel operator, and deprive DDK of the future income streams from the joint venture to which it is entitled. Bellos, King and Tasto are, and were, agents of WSI and West Elm and all of their acts, omissions, breaches, and tortious conduct are attributable to both WSI and West Elm.

99. On November 2, 2018, WSI and West Elm deactivated Phoebus and Bowd's access badges so that they would no longer be permitted to enter west elm Hotels' headquarters in Brooklyn without prior permission from, and advance arrangements with, West Elm. On that date, Tasto sent an email to Phoebus and Bowd in New York informing them of that unilateral action.

100. On November 7, 2018, West Elm evicted DDK's employee, Rachel Rosen, from west elm Hotels' headquarters in Brooklyn, escorted her out of the building, and refused to permit her to remove any of DDK's property or files.

101. WSI and West Elm have moved aggressively to accomplish their strategy. They now refuse to work on, or even discuss with DDK, any of the west elm Hotels in the pipe line, *e.g.*, Portland, Maine.

102. On January 18, 2019, West Elm filed a Verified Complaint For Judicial Dissolution against DDK/WE in the Delaware Chancery Court. That complaint seeks "entry of a

decree that the Company be dissolved and the business and affairs of the Company be wound up pursuant to 6. Del. C. § 18-802.”

The Buyout of Wasserman’s Interest in DDK

103. Until February 4, 2019, DDK Hotels was owned by three members, including the Pink Orange Green, LLC, which is an affiliate of Wasserman. Wasserman is the Managing Member of the Pink Orange Green, LLC.

104. On November 19, 2018, Wasserman, acting in his capacity as Managing Member of the Pink Orange Green, LLC, sent a “Buy-Out Notice,” pursuant to Section 9.1 of the LLC Company Agreement of DDK Hotels, to the two other members of DDK Hotels, which are affiliates of Phoebus and Bowd. Pursuant to that Buy-Out Notice and Section 9.1 of the LLC Company Agreement of DDK Hotels, those two other members had the right to elect to purchase Pink Orange Green LLC’s membership interest in DDK Hotels for the purchase price set forth in the Buy-Out Notice.

105. On December 7, 2018, pursuant to Section 9.1 of the LLC Company Agreement of DDK Hotels, the two other members of DDK Hotels delivered to Pink Orange Green, LLC a “Call Notice” informing Pink Orange Green, LLC of their election to purchase its membership interest in DDK Hotels on the terms set forth in the Buy-Out Notice.

106. The purchase of Pink Orange Green, LLC’s membership interest in DDK Hotels closed on February 4, 2019. As a consequence of that transaction, neither Wasserman nor Pink Orange Green, LLC have any interest, financial or otherwise, in DDK Hotels, DDK/WE, or DDK Management.

COUNT I

(Breach of JV Agreement – West Elm)

107. Plaintiffs reassert and incorporate by reference the allegations of paragraphs 1 through 106 of the Complaint.

108. The JV Agreement is a valid and binding contract.

109. West Elm breached the JV Agreement. WSI knew of, approved, and participated in West Elm's breaches. West Elm's breaches were in bad faith and with the knowledge that they were wrongful.

110. As a direct and proximate result of West Elm's breaches of the JV Agreement, DDK has suffered damages, including lost profits, impairment of the value of its interest in the west elm Hotels joint venture, and invested significant money, time, and resources in west elm Hotel projects which DDK incurred by reason of West Elm's gross negligence or willful misconduct.

111. WSI and West Elm contend that notwithstanding their breaches, DDK has no remedy at law.

COUNT II

(Breach of the Implied Covenant of Good Faith and Fair Dealing – West Elm)

112. Plaintiffs reassert and incorporate by reference the allegations of paragraphs 1 through 111 of the Complaint.

113. Inherent in the JV Agreement is an implied covenant of good faith and fair dealing.

114. West Elm breached the implied covenant of good faith and fair dealing. West Elm's breaches of the implied covenant of good faith and fair dealing were in bad faith and with

the knowledge that they were wrongful. WSI knew of, approved, and participated in West Elm's breaches.

115. As a direct and proximate result of West Elm's breaches of the implied covenant, DDK has suffered damages, including lost profits, impairment of the value of its interest in the west elm Hotels joint venture, and invested significant money, time, and resources in west elm Hotel projects which DDK incurred by reason of West Elm's gross negligence or willful misconduct.

116. WSI and West Elm contend that notwithstanding their breaches, DDK has no remedy at law.

COUNT III

(Aiding and Abetting Breaches of Fiduciary Duty – WSI and West Elm)

117. Plaintiffs reassert and incorporate by reference the allegations of paragraphs 1 through 116 of the Complaint.

118. Wasserman was an active participant and supporter of WSI and West Elm's tortious conduct and breaches. He abandoned the interests of DDK, breached his obligations to DDK, and conspired with WSI and West Elm to undermine and obstruct DDK's efforts on behalf of the joint venture and to negotiate for himself a more favorable financial arrangement after WSI and West Elm achieved its goal of forcing DDK out of the joint venture.

119. The evidence of Wasserman's true intentions and loyalties have been known to WSI and West Elm since at least the Spring of 2018. On May 22 and 23, 2018, Bellos revealed for the first time to Phoebus and Bowd that he no longer believed in the vision of the west elm Hotels brand that DDK, WSI and West Elm had agreed upon in 2015 and thereafter diligently pursued. On May 21, 2018, however, prior to any discussions with Phoebus or Bowd,

Wasserman sent Bellos an email that revealed that Wasserman desired to work against the interests of DDK and had already had discussions with Bellos about replacing, or at least diluting and marginalizing DDK, Phoebus and Bowd. Also, on May 21, 2018, Wasserman sent an email to himself with some of his thoughts about proposed equity changes of the joint ventures by bringing in Provenance, and thereby replacing, or diluting, DDK, Phoebus and Bowd.

120. Throughout 2018, Wasserman actively worked and conspired with WSI and West Elm to pursue Conflicting Interest arrangements with Provenance, Marriott, Toll Brothers, Trinity Investments, and Cindat.

121. On June 6, 2018, Phoebus and Bowd learned that Wasserman's friend, Blatt, had already had discussions with Sorensen of Marriott. Both Phoebus and Bowd promptly sent Wasserman emails instructing that "no conversations are to happen with anyone from west elm without our presence and approval." "This goes against every discussion we have had. We have significant contractual obligations and are in a Joint Venture to operate these hotels under the west elm hotels banner." Despite those instructions, Wasserman continued to have numerous conversations with other parties, without DDK's participation or knowledge.

122. Bellos' June 7, 2018 email to Sorensen sought to "strategically partner" with Marriott. Wasserman was copied on that email, but he did not share it with Bowd or Phoebus. Notably on June 6, 2018, when Phoebus and Bowd learned that Wasserman's friend, Blatt, had attempted to arrange a meeting between Bellos and Sorenson, they raised immediate and strong objections in emails to Wasserman. Wasserman claimed that it was merely a "courtesy introduction." However, the very next day Wasserman received copies of the emails between Bellos and Sorenson about a Bellos and West Elm's interest in "ways" West Elm "could strategically partner" with Marriott. He never disclosed that to Phoebus or Bowd.

123. On June 12, 2018, Wasserman asked Jason Lee, a junior member of the West Elm team, to be a “super Sleuth and see if they [DDK] really are building and the schedule!” In response to Wasserman’s request that he spy on DDK’s work and progress, Lee said “Will do David.” In addition, Wasserman routinely provided baseless opinions and misinformation to West Elm concerning DDK’s performance. For example, he repeatedly told West Elm that DDK would fail to arrange financing for various west elm Hotels projects.

124. On August 22, 2018, Wasserman forwarded to Provenance DDK’s confidential analysis and financial pro forma for a hotel in New Orleans, Louisiana.

125. On October 11, 2018, Wasserman forwarded DDK’s confidential limited liability company agreement, trademark license agreement, and trademark sublicense agreement to Bashar Wali of Provenance in Microsoft Word format. On that same day, Bowd and Phoebus sent an email to Wasserman reminding him “You do not have the authority to disclose confidential DDK or West Elm Hotels LLC information with anyone. You do not have the authority to renegotiate DDK’s JV Agreement with Williams-Sonoma.” Yet, on October 16, 2018, Wasserman sent another email to Bashar Wali with DDK’s west elm Miami design book and other confidential information about DDK’s plans for a Miami hotel. DDK had been working on the development of that hotel for approximately eighteen months. In his October 16, 2018 email to Bashar Wali, Wasserman advised Provenance that “This is an opportunity we can activate post our potential plans” He also indicated “we have not built into the model the club concept we have been working on for the rooftop which creates incremental profit” Despite Phoebus and Bowd’s October 11, 2018 email, Wasserman revealed highly confidential proprietary business information to DDK’s competitor, suggested that he wanted to pursue DDK’s Miami project after he, WSI and West Elm accomplished their goal of eliminating, or

reducing, DDK's interest in the west elm Hotels joint venture, and discussed a "club concept" that he has "been working on for the rooftop."

126. WSI and West Elm knew that Wasserman had no actual or apparent authority to (i) act on behalf of the Company, (ii) act on behalf of DDK/WE with respect to matters concerning the Company, or (iii) waive or release any of DDK/WE's rights under Section 9(a) of the JV Agreement.

127. Wasserman constantly and consistently worked against the interests of DDK, including but not limited to, its rights under the terms of the JV Agreement.

128. Wasserman owed fiduciary duties to DDK/WE and DDK Management.

129. Wasserman breached his fiduciary duties to DDK/WE and DDK Management.

130. WSI and West Elm knowingly participated in Wasserman's breaches of fiduciary duty. WSI and West Elm's participation in Wasserman's breaches of fiduciary duty was in bad faith and with the knowledge that it was wrongful.

131. As a direct and proximate result of Wasserman's breaches of fiduciary duty, DDK has suffered damages, including lost profits, impairment of the value of its interest in the west elm Hotels joint venture, and invested significant money, time, and resources in west elm Hotel projects which DDK incurred by reason of West Elm's gross negligence or willful misconduct.

132. WSI and West Elm contend that notwithstanding their breaches, DDK has no remedy at law.

COUNT IV

(Breach of Fiduciary Duty – WSI and West Elm)

133. Plaintiffs reassert and incorporate by reference the allegations of paragraphs 1 through 132 of the Complaint.

134. WSI and West Elm owed, and owe, fiduciary duties to DDK as co-venturers in the west elm Hotels joint venture. WSI and West Elm's fiduciary duties to DDK included their obligations of utmost good faith, fairness and honesty with respect to the joint venture.

135. WSI and West Elm breached the fiduciary duties they owed to DDK. WSI and West Elm's breaches were in bad faith and with the knowledge that they were wrongful.

136. As a direct and proximate result of WSI and West Elm's breaches of its fiduciary duties, DDK has suffered damages, including lost profits, impairment of the value of its interest in the west elm Hotels joint venture, and invested significant money, time, and resources in west elm Hotel projects which DDK incurred by reason of WSI and West Elm's gross negligence or willful misconduct.

137. WSI and West Elm contend that notwithstanding their breaches, DDK has no remedy at law.

COUNT V

(Unjust Enrichment – WSI and West Elm)

138. Plaintiffs reassert and incorporate by reference the allegations of paragraphs 1 through 137 of the Complaint.

139. WSI and West Elm received benefits without justification as a result of the efforts and investments of DDK.

140. WSI and West Elm have unjustly retained the benefits of the efforts and investments of DDK to the detriment of DDK.

141. WSI and West Elm have been unjustly enriched, and it is against equity and good conscience to permit WSI and West Elm to retain the benefits of the efforts and investments of DDK.

142. WSI and West Elm contend that DDK has no remedy at law.

WHEREFORE, the Plaintiffs pray for the following relief:


1. Judgment against Defendant, Williams-Sonoma, Inc. on Counts III, IV and V of the Complaint and an award of damages in an amount to be determined at trial;
2. Judgment against Defendant, Williams-Sonoma Stores, Inc. on Counts I through V of the Complaint and an award of damages in an amount to be determined at trial;
3. Preliminary and permanent injunctive relief against Defendants, Williams-Sonoma, Inc. and Williams-Sonoma Stores, Inc., enjoining Defendants, their agents, and all parties acting in cooperation with them, from effecting, seeking, offering, proposing, encouraging, participating in, negotiating, or discussing any partnership, joint venture, similar arrangement, transaction or agreement regarding a Conflicting Interest, as that term is defined in the JV Agreement;
4. An award of reasonable costs and expenses, including attorney's fees and costs, against Williams-Sonoma Stores, Inc. pursuant to Section 21(h) of the JV Agreement; and
5. Such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand trial by jury on all claims and issues so triable.

Dated: Islandia, New York
February 8, 2019

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Exhibit “A”



WEST ELM EXPANDS INTO TRAVEL AND HOSPITALITY WITH WEST ELM HOTELS

BROOKLYN, N.Y. — (September 26, 2016) — Today West Elm announced the expansion of its signature new modern aesthetic into the travel and hospitality industry with the launch of West Elm HOTELS (www.westelmhotels.com), a partnership with hospitality management and development company DDK. The first properties are expected to be located in Detroit, Michigan; Minneapolis, Minnesota; Savannah, Georgia; Charlotte, North Carolina; Indianapolis, Indiana, and are planned to begin opening in late 2018. Additional locations will be announced in the future.

“After twenty-six consecutive quarters of double-digit comparative growth, including our successful entry into the commercial furnishings market with West Elm Workspace, we’ve created an active bond with our customers that can extend beyond home and work,” said Jim Brett, president of West Elm. “By adapting the framework design of each hotel to reflect the mood and identity of its host city, we will continue to engage the adventurous spirit of our customers as they follow us to our next level of hospitality.”

As part of West Elm's ongoing commitment and relationship with makers around the world, each West Elm hotel will feature local design elements that celebrate community and reflect traditional décor, handicraft, cuisine and culture from the region. Artwork will be commissioned and curated locally for each guest room as well as for the communal, common areas in each hotel.

“There is a growing desire among modern travelers to immerse themselves in the place they are visiting. They want a boutique experience, and expect great, reliable service that caters to their needs,” said David Bowd, co-founder of DDK. “Our general managers will serve as innkeepers, and West Elm HOTELS will focus on making real community connections for visitors and residents alike.”

A network of locally managed properties, West Elm HOTELS revolves around three key tenets:

- Wholehearted hospitality: Great service, personalized attention, regional knowledge and community connections will help guests feel like a local and at home.
- Distinctive, thoughtful design: Each property will have its own design point of view, from the exterior architecture to custom installations, such as locally crafted art and bespoke furnishings.
- Community connection: Communal spaces and one-of-a-kind experiences will bring guests and neighbors together in a relaxed, collective setting.



True to the West Elm brand, these tenets will be reflected in the design, programming and overall guest visit to offer an inviting and accessible hospitality experience. Guests will also be able to purchase the furnishings and artwork found in any room on-line at www.westelm.com.

About West Elm

Headquartered in Brooklyn, NY since 2002, West Elm opened its first store in DUMBO, the neighborhood it still proudly calls home. With the mission of helping customers express their personal style at home, work and away, everything West Elm does is designed to make an impact in everyday life, from creating unique, affordable designs for modern living to its commitment to Fair Trade Certified, from LOCAL and handcrafted products to community-driven in-store events and collaborations. The brand operates 93 retail stores in the United States, Australia, Canada and the UK, ships internationally to customers around the world and operates stores in Mexico, the Middle East and Philippines through unaffiliated franchisees. In addition to home furnishings retail, West Elm operates [West Elm Workspace](#) in the commercial furnishings industry. [West Elm](#) publishes the blog [Front+Main](#) and is part of an active community on [Facebook](#), [Instagram](#), [Pinterest](#), [Twitter](#) and [YouTube](#). West Elm is a member of the Williams-Sonoma, Inc. portfolio of brands.

About DDK

Founded in 2014, DDK is a full service management company providing operations expertise and technical services for boutique hotel management and development. Co-founders and company principals Kim Phoebus, David Bowd & David Wasserman have helped to create, launch and operate more than 70 properties globally, creating a unique hospitality experience with each project. DDK excels in producing hotel environments that truly reflect the local neighborhood and surrounding areas through locally-inspired design, cuisine and services, along with hiring of local staff to help create an engaging experience from the moment guests walk inside. In addition to hotel planning and programming, DDK provides leadership in all aspects of operations, including: pre-opening coordination, sales and marketing, revenue management, online presence and distribution, financial and asset management and human resources. For additional information, visit www.ddkhotels.com.

Forward-Looking Statements

This press release contains forward-looking statements that involve risks and uncertainties, as well as assumptions that, if they do not fully materialize or prove incorrect, could cause Williams-Sonoma, Inc.'s results to differ materially from those expressed or implied by such forward-looking statements. Such



forward-looking statements include statements relating to the anticipated opening of West Elm HOTELS locations and the success of such hotels. The risks and uncertainties that could cause the company's results to differ materially from those expressed or implied by such forward-looking statements include the risks that the hotels do not open on schedule or are not successful. Other risks and uncertainties are described more fully in Williams-Sonoma, Inc.'s Annual Report on Form 10-K for the fiscal year ended January 31, 2016, all subsequent quarterly reports on Form 10-Q and current reports on Form 8-K. All

forward-looking statements in this press release are based on information available to the company as of the date hereof, and Williams-Sonoma, Inc. assumes no obligation to update these forward-looking statements.

Contacts

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West Elm Contacts:

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Exhibit “B”

2/6/2019

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STOCK INFORMATION

Williams-Sonoma, Inc. (WSM)

Exchange NYSE

Price \$55.04

Change \$-0.40

Change (%) -0.72%

Volume 5.45k

Data as of 02/6/19 9:32AM EST

Minimum 15 minute delay

[Refresh quote](#)

WEST ELM HOTELS ANNOUNCES ADDITION OF PORTLAND, MAINE TO HOSPITALITY PORTFOLIO

8/1/17 6:30 PDT

DATELINE:

BROOKLYN, N.Y.

[Email Alerts](#)
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INFORMATION**

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**INVESTOR RELATIONS
CONTACT**
investorrelations@WSGC.com**PUBLIC COMPANY INFORMATION:**

NYSE: WSM

BROOKLYN, N.Y.--(BUSINESS WIRE)--Today West Elm announced Portland, Maine as the newest location for its West Elm Hotels portfolio, expected to open in 2020. The 150 room, full-service boutique hotel will be developed on Portland's waterfront by Portland Foreside Development Company LLC, and operated by hotel development and management company DDK, West Elm Hotels' exclusive operator.

"Portland has experienced a renaissance within the past decade, creating a distinct and modern vibe, while honoring its maritime history"

"Portland has experienced a renaissance within the past decade, creating a distinct and modern vibe, while honoring its maritime history," said Peter Fowler, vice president of West Elm Hospitality. "Our collaboration with Portland Foreside Development Company brings forth local knowledge and expertise that will deliver an original experience for guests, as well as the surrounding seaside community. Together, we will celebrate the city's past and create opportunities for discerning guests to discover Portland."

The property will be located in Portland Foreside, a new neighborhood development in the area form known as the Portland Company Complex. The Foreside neighborhood will be a vibrant area of town a wide mix of retail, food and beverage, residential, office, hospitality, and a deep-water marina, all designed to encourage year-round enjoyment and community engagement. Portland Foreside is positioned to become the city's premier destination for locals and tourists to appreciate Portland's history, engage in the harbor's many activities, celebrate special events, enjoy retail and entertainment offerings, and indulge in the renowned local food fare.

"Portland Foreside Development Company is excited about West Elm's commitment to the City of Portland. We share the vision of connecting travelers to the daily life of Portland by focusing on a unique experience, highlighting the city's local character, and delivering one-of-a-kind amenities and services modern travelers crave most," said Casey Prentice, manager of Portland Foreside Development Company.

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POTTERY BARN POTTERY BARN KIDS POTTEEN WILLIAMS SONOMA WILLIAMS SONOMA HOME WEST ELM MARK AND GRAHAM REJUVENATION

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WILLIAMS
SONOMA
A T J C O M P A N Y

WILLIAMS
SONOMA
HOME

POTTERY BARN

pottery barn kids



west elm

Mark & Graham

REJUVENATION

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development of the 10-acre waterfront site and beginning deep water mooring at 30 feet depth, part of the downtown area of Portland, Maine. The development envisions fulfilling the Master Development Plan that was approved by the City of Portland in December of 2016, which calls for the creation of a vibrant, waterfront neighborhood with a diverse mix of uses that encourages year-round enjoyment and community engagement. More information about Portland Foreside Development Company LLC is available here: www.portlandforeside.com.

CONTACT:

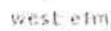
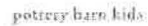
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