

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

DEEPGULF, INC. and  
TOKE OIL AND GAS, S.A.,

Plaintiffs,

vs.

MARC M. MOSZKOWSKI,

Defendant.

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Case No.: 2018 CA 000543

Division:

**PROPOSED WRITTEN FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

Comes now, Plaintiffs, by and through their undersigned attorneys and submit these proposed findings of fact and conclusions of law to be considered by the court at the bench trial in this matter.

**PROPOSED FINDINGS OF FACT**

**1. Corporate and Party Background:**

- DeepGulf, Inc. is a Florida corporation with its principal place of business in Escambia County, Florida, engaged in energy transportation, including hydrocarbon handling.
- Toke Oil and Gas, S.A. is a wholly owned subsidiary of DeepGulf, domiciled in Timor Leste.
- Marc M. Moszkowski, a founder and former officer and director of DeepGulf, served as President until December 26, 2017, and as a director until July 7, 2020.

**2. Noncompetition Agreement:**

- On September 15, 2005, Moszkowski entered into a Noncompetition, Nondisclosure, and Developments Agreement with DeepGulf, governing his obligations regarding intellectual property and confidentiality.
- The agreement assigns all developments related to DeepGulf's business to the company and provides for injunctive relief in case of breach.
- The agreement also provides as follows:

5. Company Property. I agree that during my Business Relationship with the Company I shall not make, use or permit to be used any Company Property otherwise than for the benefit of the Company. The term "Company Property" shall include all notes, memoranda, reports, lists, records, drawings, sketches, specifications, software programs, software code, data, computers, cellular telephones, pagers, credit and/or calling cards, keys, access cards, documentation or other materials of any nature and in any form, whether written, printed, electronic or in digital format or otherwise, relating to any matter within the scope of the business of the Company or concerning any of its dealings or affairs and any other Company property in my possession, custody or control. I further agree that I shall not, after the termination of my Business Relationship with the Company, use or permit others to use any such Company Property. I acknowledge and agree that all Company Property shall be and remain the sole and exclusive property of the Company. Immediately upon the termination of my Business Relationship with the Company, I shall deliver all Company Property in my possession, and all copies thereof, to the Company.

- The agreement further provides that:

1. Noncompetition. During the period of my Business Relationship with the Company and for one year following the termination of my Business Relationship, regardless of the reasons for my termination, I shall not, directly or indirectly, alone or as a consultant, partner, officer, director, employee, joint venturer, lender or stockholder of any entity, (a) accept employment with any business or entity that is in competition with the products or services being conceived, designed, created, developed, manufactured, marketed, distributed or sold by the Company, or (b) engage in any business or activity that is in competition with the products or services being conceived, designed, created, developed, manufactured, marketed, distributed or sold by the Company.

### 3. **Toke Oil and Gas Formation and Misappropriation:**

- In 2007, Moszkowski traveled to East Timor on behalf of DeepGulf to explore a pipeline opportunity but established Toke Oil and Gas, S.A. for his personal benefit, owning 33% in his own name when it was formed.
- Toke completed three contracts worth \$14.9 million, from which Moszkowski received \$345,000 in "Director Salaries" without DeepGulf's approval, while being paid compensation by DeepGulf and while subject to the Noncompetition, Nondisclosure, and Developments Agreement.
- DeepGulf acquired 100% ownership of Toke by May 25, 2012.

**4. Breach and Conversion:**

- Moszkowski expressed intent to compete with DeepGulf and took an ownership interest in Toke Oil and Gas, S.A. in breach of the Noncompetition Agreement.
- He converted \$345,000 from Toke, intended for DeepGulf, and withheld financial records despite demands.
- By forming Toke Oil and Gas, S.A. without the permission or knowledge of DeepGulf, Inc., then by usurping the opportunity of DeepGulf for himself and by causing \$959,764.22 to be paid to two other directors of Toke Oil and Gas, S.A. he converted those funds from DeepGulf, Inc.

**5. Website and Data Access:**

- Moszkowski controls access to DeepGulf's websites (e.g., [www.deepgulf.net](http://www.deepgulf.net); [www.deep-gulf.com](http://www.deep-gulf.com); [www.deepgulf.com](http://www.deepgulf.com); and <http://pipepredictor.com>) and electronic data, refusing to relinquish this despite requests.
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## **PROPOSED CONCLUSIONS OF LAW**

### **1. Breach of Noncompetition Agreement (Counts II, X):**

- Moszkowski's formation of Toke and receipt of \$345,000 violate the noncompetition and nondisclosure clauses.
- Injunctive relief and damages are warranted under Paragraph 13(b) of the agreement.

### **2. Conversion and Civil Theft (Counts III-VI):**

- Moszkowski's appropriation of \$345,000 and refusal to provide records constitute conversion and civil theft under Florida Statutes § 772.11, entitling DeepGulf to treble damages.
- Moszkowski's appropriation of \$959,764.22 and causing that to be paid to the other two directors of Toke Oil and Gas, S.A. constitute conversion and civil theft under Florida Statutes § 772.11, entitling DeepGulf to treble damages.

### **3. Fraudulent Misrepresentation (Count VII):**

- Moszkowski's false representations in the Private Placement Memorandum induced investment, causing damages, supported by his concealment of Toke's operations.

### **4. Declaratory Relief and Accounting (Counts VIII-IX):**

- DeepGulf is the sole owner of Toke, resolving ownership disputes.
- Moszkowski's fiduciary duty requires an accounting of Toke's finances due to complex transactions and withheld records.

### **5. Injunctive Relief for Website Access (Count XI):**

- o Moszkowski's refusal to provide website access violates the agreement, justifying an injunction, requiring him to turn over the website information and any other electronic information regarding DeepGulf, Inc. and its business to the Chairman of the Board of Directors of DeepGulf, Inc.



**BRADEN K. BALL, JR.**

Florida Bar No. 89000

LITVAK BEASLEY WILSON & BALL, LLP

40 Palafox Place, Suite 300

Pensacola, Florida 32502

Telephone: (850) 432-9818

Facsimile: (850) 432-9830

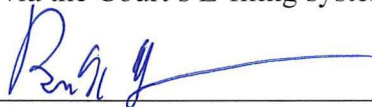
Attorneys for Plaintiffs

Primary E-mail: [braden@lawpensacola.com](mailto:braden@lawpensacola.com)

Secondary E-mail: [mandrews@lawpensacola.com](mailto:mandrews@lawpensacola.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have on this 6<sup>th</sup> day of June, 2025, a copy of the foregoing has been furnished to the Defendant, Marc M. Moszkowski, Le Verdos, 83300 Chateaudouble, France ([m.moszkowski@deepgulf.net](mailto:m.moszkowski@deepgulf.net)) via the Court's E-filing system.



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LITVAK BEASLEY WILSON & BALL, LLP

40 Palafox Place, Suite 300

Pensacola, Florida 32502

Telephone: (850) 432-9818

Facsimile: (850) 432-9830

Attorneys for Plaintiffs

Primary E-mail: [braden@lawpensacola.com](mailto:braden@lawpensacola.com)

Secondary E-mail: [mandrews@lawpensacola.com](mailto:mandrews@lawpensacola.com)