

**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.

Case No.: 2018 CA 000543

Division: "E"

**DEFENDANT'S RENEWED AND SUPPLEMENTAL MOTION TO STRIKE  
COMPLAINT AS A SHAM AND FOR SANCTIONS DUE TO SYSTEMIC  
MISREPRESENTATIONS AND PROCEDURAL ABUSE**

COMES NOW the Defendant, Marc Moszkowski, pro se, and, pursuant to Florida Rule of Civil Procedure 1.150, respectfully renews and supplements his prior Motion to Strike the Complaint as a Sham, and in support thereof states:

**I. PRELIMINARY STATEMENT**

This action, now in its eighth year, rests upon a Complaint that is not merely inaccurate but is knowingly false in multiple material respects. Over time, Plaintiff has compounded its falsehoods with contradictory statements, demonstrable fabrications, and a steadfast refusal to engage with or rebut

the extensive evidentiary record supplied by Defendant. This Motion renews the original, filed in June 2021, and brings to the Court's attention not only its enduring merit but the escalating gravity of Plaintiff's misuse of process.

## **II. LEGAL STANDARD**

A pleading may be stricken as a sham under Fla. R. Civ. P. 1.150 when it is "palpably or inherently false and from plain or conceded facts must have been known to the party interposing it to be untrue." See *Rhea v. Hackney*, 157 So. 190 (Fla. 1934). The rule is designed to prevent misuse of judicial process by parties who seek to litigate in bad faith.

## **III. UNDISPUTED CONTRADICTIONS AND SELF-INCRIMINATION WITHIN THE COMPLAINT**

- 1. Fabricated Ownership Narrative:** The Complaint alleges that Defendant misappropriated a business opportunity by falsely claiming to hold equity in Toke Oil and Gas S.A. on behalf of Plaintiff. Yet, based on the figures presented in the Complaint and corroborated by DeepGulf's own accounting records, it is arithmetically demonstrable that Defendant remitted to DeepGulf more than 50.3% of Toke Oil & Gas's available cash flow—significantly exceeding the 33.33% pro

rata share of profit allegedly owed, and explicitly demanded by Plaintiffs in their Complaint. This factual contradiction undermines Plaintiffs' claims and raises serious concerns about the integrity of their representations.

**2. Improper Financial Representations:** In order to artificially inflate accounts, Plaintiff's Chairman used financials from Toke Oil & Gas in Private Placement Memoranda long before any alleged acquisition. This is a self-incriminating admission of fraud, not by Defendant, but by Plaintiff's Chairman of the Board.

**3. Contradictory Claims of Directorship:** In separate filings and proceedings, Plaintiff claims Defendant is both a Director (to impose fiduciary duty) and not a Director (to deny access to corporate records and indemnification), depending on what suits the procedural strategy.

#### **IV. PROCEDURAL MISUSE AND DELAY**

**4. Extreme Delay in Response:** Plaintiff took three years, seven months, and two weeks to respond to the original Motion to Strike, a delay for which no justification has ever been offered.

**5. Absence of Rebuttal:** Plaintiff has failed to respond to over 70 substantive filings by Defendant, including affidavits, declarations,

and evidentiary exhibits showing document falsification and procedural misconduct.

## **V. MATERIAL OMISSIONS AND FABRICATIONS**

**6. Lack of Board Authorization:** The initiation of this litigation was never authorized by a Board vote, although Defendant owns between 46 and 49.9% of Plaintiff and is a sitting Director, according to Plaintiff's declarations.

**7. Forgery and Document Manipulation:** Plaintiff submitted altered Board minutes with fabricated dates, including documents allegedly from October 2007, when Defendant was verifiably in West Texas, 1,100 miles from the office and out of cell phone coverage. Later versions contradict originals found in contemporaneous emails.

**8. Foreign Fraud:** Plaintiff's confederate David Rumsey used the same false claims to sue Defendant in France and obtain a lien on Defendant's only home. Plaintiff's own financial documents prove that the money in question was wired by Rus Howard to Defendant as back salary, not by Rumsey.

## **VI. SYSTEMIC ABUSE OF PROCESS AND SELF-INCRIMINATION THROUGH PLAINTIFF'S OWN EXHIBITS**

**9. Litigation as Smokescreen for Chairman's Misconduct:** This lawsuit was engineered not to vindicate any genuine corporate injury, but to deflect responsibility from DeepGulf's Chairman, who personally orchestrated misleading fundraising efforts involving friends, family, and longtime associates—including the very individual who later sued Defendant in France under false pretenses. The Complaint operates as a smokescreen, intended to obscure the Chairman's own misrepresentations to investors while targeting Defendant—DeepGulf's former President and co-owner—as a scapegoat, conveniently exiled and rendered destitute. Notably, the Chairman also failed to honor his written and sworn personal guarantees to the U.S. Government to ensure Defendant's salary, now long unpaid and exceeding \$1 million. This is not a vehicle for justice; it is an instrument of evasion and retaliation.

**10. Strategic Abuse Disguised as Legal Dispute:** Plaintiff's actions reflect not legal confusion but strategic abuse. This lawsuit functions as an extension of a private vendetta, not a legitimate claim. Defendant's evidence has been ignored, his motions unacknowledged, and Plaintiff's own contradictions have been treated not as red flags but as background noise. Defendant's rights

have been eroded so consistently and systematically that the process has ceased to resemble fair adjudication.

- 11. Plaintiff's Own Exhibits Contradict Its Claims:** Perhaps the most damning aspect of the Complaint is its authors' complete failure to reconcile their own figures with the accusations they level. The numbers are explicit, and from Plaintiff's own records—yet Plaintiff either did not read them, did not understand them, or proceeded in reckless disregard of their implications.

According to Plaintiff's own Exhibits B and C, Toke Oil & Gas S.A. paid \$345,000.00 to Defendant and \$959,764.22 to the two original foreign founders, totaling \$1,304,764.22. DeepGulf's own accounting—obtained under threat of subpoena—shows it received \$1,318,169.45 from Toke. The combined total cash flow was therefore \$2,622,933.67. Thus, DeepGulf received 50.3% of all revenue—despite only being entitled to 33.33%. Had Defendant remitted only DeepGulf's pro rata portion, it would have received \$874,311.22. Instead, DeepGulf received \$443,858.23 more than its share.

In addition, DeepGulf received \$139,445.00 for consulting work

Defendant performed in exceptionally demanding environments—Singapore, China, Malaysia, Benin—for which he received no salary. DeepGulf was overcompensated, not deprived. Yet Plaintiff now sues Defendant for not having paid enough.

This is not merely illogical—it is factually inverted. In attempting to allege misappropriation, Plaintiff documents its own enrichment, then contorts the record to assign fault to the individual who secured that enrichment. It is as though a beneficiary were suing his benefactor for excessive generosity—while failing to grasp the elementary arithmetic that proves it.

The Complaint collapses under the weight of its own exhibits. If its logic is to be believed, the Plaintiff deserves restitution for being paid too much. This is not legal reasoning. It is clownwork.

**12. Misuse of Judicial Resources by a Fictitious and Unauthorized Plaintiff:** It must be emphasized that the parties responsible for consuming the time and resources of this Court, the U.S. District Court, and the U.S. Court of Appeals are not the Defendant, but the Plaintiffs—one of whom (Toke Oil & Gas, Inc.) is now fictitious, and the other acting under false pretenses of corporate

authorization. Defendant has submitted clear and repeated evidence that no valid board resolution ever authorized this lawsuit, and that the Plaintiff corporation is effectively suing its own 46 to 49.9% shareholder without proper standing. Every procedural complication, delay, and judicial burden stems from a case that never should have been filed in the first place. The suggestion that Defendant is the party obstructing justice is not merely false—it is an inversion of reality.

## **VII. COMPLAINT FOUNDED ON A CONCEPTUALLY UNDEFINED ACCUSATION**

### **13. Undefined Central Allegation Undermines Entire Action:**

The central allegation animating this eight-year litigation—namely, that “*Defendant stole a business opportunity that he was to obtain for DeepGulf, Inc.*”—has never been defined, substantiated, or reduced to intelligible legal or factual terms. This phrase, first articulated in a pre-suit demand letter and reiterated in the Complaint, is the sole basis for Plaintiff’s cause of action. Yet neither the Complaint nor any subsequent filing offers:

- a description of the opportunity allegedly stolen;



- the date or manner of its supposed creation;
- its contractual or fiduciary nexus to DeepGulf;

#### 14. **Post-Hoc Fabrication of the “Business Opportunity”**

**Narrative:** The phrase “*business opportunity*” was not used contemporaneously at any time during the alleged events. The first appearance of this term occurred in a January 3, 2018 email from Rus Howard and Thomas Johnson—ten years after the execution of the first contract in East Timor. That email stated: “*The Board sent Mr. Moszkowski to East Timor to find an opportunity for DeepGulf to employ its technology, (Board Meeting Minutes Oct ‘07).*” However:

- The word “*opportunity*” does not appear in the referenced October 2007 minutes;
- The referenced minutes were forged long after the fact;
- At the time of the alleged Board directive, DeepGulf had no active operations, no funding to send anyone anywhere, and no salary was paid to Defendant;
- Defendant’s travel was funded personally by Defendant, without corporate reimbursement, and no such directive was ever given.

This statement is not only temporally implausible (as no such Board decision occurred and the travel was in 2007), but also demonstrably false: DeepGulf's proprietary technology was never used or even valued in East Timor. The statement is thus retroactive fiction crafted to fabricate a claim ten years after the fact.

**15. Repeated and Unanswered Requests for Clarification:** On April 22, 2025, Defendant formally filed a Notice seeking clarification of the alleged “\$1.3 million business opportunity.” Plaintiff did not respond. On May 8, 2025, Defendant submitted a second Notice specifically requesting judicial recognition of this fatal omission. The Court has not acknowledged this filing.

**16. Vagueness Renders the Complaint Nonjusticiable:** A claim that rests on an accusation so vague that it cannot be defined after eight years of litigation and thousands of pages is not merely insufficient—it is fundamentally nonjusticiable. If a court cannot discern the nature of the alleged wrong, it cannot render judgment. Plaintiff's inability—or refusal—to articulate the gravamen of its grievance proves that no viable grievance exists.

**17. Dispositive Failure of Pleading Merits Immediate Dismissal:** Defendant respectfully submits that this incoherence is dispositive

and warrants immediate dismissal under the Court's inherent authority to strike a pleading that is "so clearly devoid of merit as to be a sham."

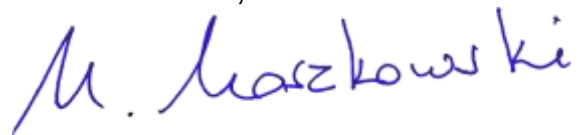
### **VIII. PRAYER FOR RELIEF**

WHEREFORE, Defendant respectfully requests that this Honorable Court:

- a.** Strike the Complaint in its entirety as a sham;
- b.** Impose sanctions upon Plaintiff and its counsel for bad faith and procedural abuse;
- c.** Order the release of all liens derived from or dependent on the sham Complaint;
- d.** Hold all further proceedings in abeyance pending evidentiary hearing on these issues;
- e.** Grant such further relief as the Court deems just and proper.

Respectfully submitted on this 5<sup>th</sup> day of June, 2025.

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### **CERTIFICATE OF SERVICE**

I hereby certify that, on this 5<sup>th</sup> day of June, 2025, a copy of this Motion has been furnished to Braden K. Ball, Jr., attorney for the plaintiffs, through the Florida Courts E-Filing Portal.

