

1 **BONITA P. MARTINEZ, ESQ., SBN 153346**
2 **2918 FIFTH AVENUE SUITE 204**
3 **SAN DIEGO, CA 92103**
4 **619-291-8166**
5 **FAX# 619-291-8167**

6 **ATTORNEY FOR DEFENDANT,**
7 **JACINTO TAN**

8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT COURT**

)	Case No.: 3:11-cv-02143-BEN-MDD
)	
11 PATRICK COLLINS, INC., a California)	DEFENDANT'S ANSWER TO
12 Corporation)	AMENDED COMPLAINT
)	
13 PLAINTIFF,)	
)	
14 vs.)	
)	
15 AJ BERNAL A.K.A. ABSALON JERRY)	
16 BERNAL , JACINTO TRANN AND JOHN)	
17 DOES 34-51,)	
)	
18 DEFENDANTS.)	

19
20 Defendant, Jacinto Tan, sued incorrectly as Jacinto Trann, an individual, hereby answers Plaintiff

21 Patrick Collins, Inc., a California Corporation Complaint as follows:

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23 **GENERAL DENIAL**

24 Pursuant to the provisions of California Code of Procedure 431.30(d), Defendant Jacinto Tan,
25 sued incorrectly as Jacinto Trann, denies generally and specifically each and every allegation of
26 the unverified complaint and the whole thereof; denies that the plaintiff was injured or damaged
27 by defendant in the amount or manner specified, or otherwise; and further denies that the
28

1 plaintiff is entitled to the relief claimed, or any relief, on the grounds alleged or otherwise.

2 Without waiving the preceding allegations, the Defendant alleges:

- 3 1. In response to paragraph I defendant denies the allegation in paragraph 1.
- 4 2. In response to paragraph 2 defendant denies the allegations in paragraph 2.
- 5 3. In response to paragraph 3 defendant denies the allegations in paragraph 3.
- 6 4. In response to paragraph 4 defendant denies the allegations in paragraph 4.
- 7 5. In response to paragraph 5 defendant denies the allegations in paragraph 5.
- 8 6. In response to paragraph 6 defendant denies the allegation in 6.
- 9 7. In response to paragraph 7 defendant denies the allegation in 7.
- 10 8. In response to paragraph 8 defendant denies the allegation in 8.
- 11 9. In response to paragraph 9 defendant denies each paragraph of paragraph 9.
- 12 10. In response to paragraph 10 defendant denies the allegation in paragraph 10.
- 13 11. In response to paragraph 11 defendant denies the allegation in paragraph 11.
- 14 12. In response to paragraph 12 defendant denies the allegation in paragraph 12.
- 15 13. In response to paragraph 13 defendant denies paragraph 13 based on information and
16 belief.
- 17 14. In response to paragraph 14 defendant denies the allegations in 14.
- 18 15. In response to paragraph 15 defendant denies the allegation in 15.
- 19 16. In response to paragraph 16 defendant denies the allegation in paragraph 16.
- 20 17. In response to paragraph 17 defendant denies the allegation in paragraph 17.
- 21 18. In response to paragraph 18 defendant denies the allegation in paragraph 18.
- 22 19. In response to paragraph 19 defendant denies the allegation in paragraph 19.
- 23 20. In response to paragraph 20 defendant denies the allegation in paragraph 20.

- 1 21. In response to paragraph 21 defendant denies the allegation in paragraph 21.
- 2 22. In response to paragraph 22 defendant denies the allegation in paragraph 22.
- 3 23. In response to paragraph 23 defendant denies the allegations paragraph 23.
- 4 24. In response to paragraph 24 defendant denies the allegation paragraph 24.
- 5 25. In response to paragraph 25 defendant denies the allegation paragraph 25.
- 6 26. In response to paragraph 26 defendant denies the allegation paragraph 26.
- 7 27. In response to paragraph 27 defendant denies the allegations paragraph 27.
- 8 28. In response to paragraph 28 defendant denies the allegations paragraph 28.
- 9 29. In response to paragraph 29 defendant denies the allegation paragraph 29.
- 10 30. In response to paragraph 30 defendant denies the allegations paragraph 30.
- 11 31. In response to paragraph 31 defendant denies the allegations paragraph 31.
- 12 32. In response to paragraph 32 defendant denies the allegation paragraph 32.
- 13 33. In response to paragraph 33 defendant denies the allegation paragraph 33.
- 14 34. In response to paragraph 34 defendant denies the allegations paragraph 34.
- 15 35. In response to paragraph 35 defendant denies the allegations paragraph 35.
- 16 36. In response to paragraph 36 defendant denies the allegations paragraph 36 and 36E.
- 17 37. In response to paragraph 37 defendant denies the allegations paragraph 37.
- 18 38. In response to paragraph 38 defendant denies the allegations paragraph 38.
- 19 39. In response to paragraph 39 defendant denies the allegation paragraphs 39.
- 20 40. In response to paragraph 40 defendant denies the allegations in paragraphs 40; 40A and
- 21 40B.
- 22 41. In response to paragraph 41 defendant denies the allegation paragraphs 41.
- 23 42. In response to paragraph 42 defendant denies the allegations paragraph 42.

- 1 43. In response to paragraph 43 defendant denies the allegations paragraph 43.
- 2 44. In response to paragraph 44 defendant denies the allegation in paragraph 44.
- 3 45. In response to paragraph 45 defendant denies the allegation in paragraph 45.
- 4 46. In response to paragraph 46 defendant denies the allegation in paragraph 46.
- 5 47. In response to paragraph 47 defendant denies the allegation in paragraph 47.
- 6 48. In response to paragraph 48 defendant denies the allegations in paragraph 48.
- 7 49. In response to paragraph 49 defendant denies the allegation in paragraph 49.
- 8 50. In response to paragraph 50 defendant denies the allegations in paragraph 50;
- 9 In response to paragraph 50A, defendant denies the allegations in paragraph 50A;
- 10 In response to paragraph 50B, defendant denies the allegations in paragraph 50B;
- 11 In response to paragraph 50C, defendant denies the allegations in paragraph 50 C;
- 12 In response to paragraph 50D, defendant denies the allegations in paragraph 50D.
- 13 In response to paragraph 50E, defendant denies the allegations in paragraph 50E.
- 14 In response to paragraph 50F, defendant denies the allegations in paragraph 50F.
- 15 51. In response to paragraph 51, defendant denies the allegations in paragraph 51.
- 16 52. In response to paragraph 52, defendant denies the allegation in paragraph 52.
- 17 53. In response to paragraph 51 defendant denies the allegation in paragraph 51.
- 18 54. In response to paragraph 52 defendant denies the allegation in paragraph 52.
- 19 55. In response to paragraph 53 defendant denies the allegation in paragraph 53.
- 20 56. In response to paragraph 54 defendant denies the allegation in paragraph 54.
- 21 57. In response to paragraph 55 defendant denies the allegation in paragraph 55.
- 22 58. In response to paragraph 56 defendant denies the allegation in paragraph 56.
- 23 59. In response to paragraph 57 defendant denies the allegation in paragraph 57.

1 60. In response to paragraph 58 defendant denies the allegation in paragraph 58.

2 61. In response to paragraph 59 defendant denies the allegation in paragraph 59.

3 62. In response to paragraph 60 defendant denies the allegation in paragraph 60.

4 63. In response to paragraph 61 defendant denies the allegation in paragraph 61.

5 64. In response to paragraph 62 defendant denies the allegation in paragraph 62.

7 FIRST AFFIRMATIVE DEFENSE

8 1. The complaint as a whole, and each purported cause of action alleged therein fails to state
9 facts sufficient to constitute a cause of action against Defendant upon which relief may be
10 granted.
11

12 SECOND AFFIRMATIVE DEFENSE

13 2. Plaintiff's complaint and each alleged cause of action are barred in whole or in part by
14 the applicable statute of limitations, including, without limitation, Code of Civil Procedure §§337,
15 338, 339, 340 and 343 .
16

17 THIRD AFFIRMATIVE DEFENSE

18 3. Any recovery on Plaintiff's complaint, or any purported cause of action is barred because
19 Plaintiff failed to conform.
20

21 FOURTH AFFIRMATIVE DEFENSE

22 4. Plaintiff is barred in whole or in part from recovering any damages, or any recovery must
23 be reduced, by virtue of Plaintiff's failure to exercise reasonable diligence to mitigate her alleged
24 damages.

25 FIFTH AFFIRMATIVE DEFENSE

26 5. Plaintiff's complaint and each alleged cause of action are barred in whole or in part
27 because Plaintiff is estopped by her own conduct to claim any right to damages or any relief
28 against Defendant.

SIXTH AFFIRMATIVE DEFENSE

6. Plaintiff's complaint and each alleged cause of action are barred in whole or in part by

1 the doctrines of laches.

2
3 SEVENTH AFFIRMATIVE DEFENSE

4 7. Plaintiff's complaint and each alleged cause of action are barred in whole or in part by
5 the doctrine of waiver.

6 EIGHTH AFFIRMATIVE DEFENSE

7 Plaintiff's complaint and each alleged cause of action are barred in whole or in part by the
8 doctrine of consent.

9 NINTH AFFIRMATIVE DEFENSE

10 9. Plaintiff comes to this Court with unclean hands, and is therefore, barred from recovery
11 under this complaint, or any cause of action thereof.

12 TENTH AFFIRMATIVE DEFENSE

13 10. Plaintiff's complaint and each alleged cause of action are barred in whole or in part
14 and/or recovery is precluded because the conduct of the Defendant was not willful.

15 ELEVENTH AFFIRMATIVE DEFENSE

16 11. If and to the extent Plaintiff has sustained damages, these damages were not proximately
17 caused by any conduct of Defendant as alleged or otherwise.

18 TWELFTH AFFIRMATIVE DEFENSE

19 12. At all times and places mentioned in the complaint, Defendant acted in a manner
20 authorized and/or required by the applicable law, with regard to the matters alleged in the
21 complaint.

22 THIRTEENTH AFFIRMATIVE DEFENSE

23 13. Plaintiff, voluntarily and with full knowledge of the matters alleged in its complaint,
24 assumed any and all risks, hazards, perils of the circumstances alleged, and therefore assumed
25 the risk of any injuries or damages sustained, if any there were.

26 FOURTEENTH AFFIRMATIVE DEFENSE

27 14. Defendant presently has insufficient knowledge or information upon which to form a
28 belief as to whether he may have additional affirmative defenses available. Defendant reserves
the right to assert additional affirmative defenses in the event discovery or further analysis
indicated that additional unknown or unstated affirmative defenses would be applicable.

PRAYER

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by its complaint;
2. That the complaint be dismissed in its entirety with prejudice;
3. That Plaintiff be denied each and every demand and prayer for relief contained in the complaint;
4. The Defendant be awarded all costs of suit incurred herein including reasonable attorney's fees; and
5. that Defendant is awarded such other and further relief as the Court deems just and equitable.

Date: February 28, 2012

LAW OFFICE OF BONITA P. MARTINEZ

s/”Bonita P. Martinez”

Bonita P. Martinez, Esq.
Attorney for Plaintiff,
Jacinto Tan

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