STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT

SECOND JUDICIAL DISTRICT

CASE TYPE: OTHER CIVIL

BREMER FINANCIAL CORPORATION, RONALD JAMES, JEANNE H. CRAIN, MARY BRAINERD, GLENN D. MCCOY, KEVIN A. RHEIN, WENDY SCHOPPERT, and CHARLES WESTLING,

Plaintiffs,

v.

S. BRIAN LIPSCHULTZ, DANIEL C. REARDON, and CHARLOTTE S. JOHNSON, individually and in their capacity as Trustees of the Otto Bremer Trust,

Defendants.

Court File No. _____

COMPLAINT

INTRODUCTION

1. This case concerns the disloyal scheme of three Bremer Bank directors to seize voting control of a venerable Minnesota banking institution and then sell it, enriching themselves at the expense of communities throughout the State and the region. Its resolution will shape the future of two important local institutions: Bremer Bank and the Otto Bremer Trust. The Trust has held a majority economic interest in the Bank for more than 75 years, and its three Trustees serve as directors of the Bank's parent company. These individuals recently orchestrated a series of events designed to wrest control of Bremer from its independent directors and force a sale that the Board does not support.

2. This scheme has nothing to do with protecting the Trust or serving its beneficiaries—the Bank's annual dividends have always been more than sufficient to enable the Trust to carry out its charitable mission—and is instead designed to enhance the Trustees' personal

wealth and public profile. In fact, any purported sale would violate the express terms of the governing Trust Instrument. That Instrument requires the Trust to hold its Bremer shares in perpetuity absent "unforeseen circumstances" that do not remotely exist here.

3. The Trust is a charitable organization that has held a majority of Bremer's shares since the Trust was created in 1944. Otto Bremer's vision was to create a permanent relationship between the Trust and the Bank that would promote his charitable vision by ensuring that the Bank's earnings would always be shared with the community. To protect the legacy that he envisioned, Otto Bremer included in the Trust Instrument a provision that directs the Trustees to retain all of the Trust's Bremer shares unless it becomes "necessary or proper" to sell them due to "unforeseen circumstances."

4. And for the past 30 years, the Trust has been disabled from exercising voting control of Bremer. Instead, voting control rests with Bremer's employee-shareholders, who have elected a board majority independent from the Trust. This structure was put in place for the specific purpose of complying with federal tax laws that prohibit charitable foundations from controlling the boards of for-profit companies while allowing the Trust to maintain its majority economic interest in the Bank.

5. Recently, however, the Trustees have taken a series of increasingly aggressive steps aimed at bending Bremer's Board to their interests, overthrowing the will of the employee-shareholders who control the Company's voting power, and forcing a sale of the Company. Their motives are entirely self-serving and contrary to the Trust's longstanding mission and Bremer's social purpose. Two of the three Trustees have a personal financial interest in selling the Trust's long-held interest in Bremer because their annual compensation—already extraordinarily high

relative to the norm for charitable trustees—is tied directly to the amount of non-Bremer assets owned by the Trust.

6. To achieve these selfish ends, the Trustees have embraced disloyal means. In the first half of 2019, without the Board's knowledge, the Trustees and their financial advisor held extensive unauthorized discussions with potential acquirers of Bremer. During these discussions, the Trustees falsely represented that Bremer was available for sale and shared the Bank's confidential information without authorization in violation of their fiduciary duties as Bremer directors. The Trustees then threatened the Board in an effort to force through a sale that would line their own pockets without regard to the foreseeable negative impacts on the Bank, its employees, and the communities they serve.

7. The disinterested directors on Bremer's Board stood firm. In August 2019, after receiving advice from advisors that are not beholden to the Trust, the Board determined that a sale of Bremer at this time would destroy shareholder value and would not be in the best interests of Bremer's employees or the communities where it operates. The Board accordingly resolved that the Company would not pursue further acquisition talks.

8. The Trustees were infuriated by the Board's refusal to advance their agenda, and so hatched a scheme to eliminate the disinterested directors and hijack Bremer. In October 2019, the Trustees purported to sell a portion of the Trust's nonvoting shares to 19 investment vehicles—hedge funds with no ties to the communities the Bank serves and no prior history of investing in Bremer—which then purported to convert those shares into voting shares. If these machinations were permitted to stand, the Trust and its accomplices would hold a majority of Bremer's voting power and could remove and replace any director who opposed the Trustees' scheme. The Trustees would then be free to operate Bremer for their own purposes and force through the self-

interested sale that the disinterested directors have already determined would be contrary to Bremer's best interests.

9. The purported sales are not valid. They are prohibited by the Trust Instrument. As detailed below, there are no unforeseen circumstances that would justify a reduction of the Trust's holdings of Bremer shares, and even if there were, a sale of those shares at this time is neither necessary nor proper.

10. Moreover, these purported sales must be set aside for the separate and independent reason that they are the product of an unlawful pattern of disloyal and oppressive behavior by the Trustees that includes an abuse of confidential information provided to the Trustees in their capacities as Bremer directors.

11. For these reasons, Plaintiffs—Bremer and its disinterested Board members—seek a declaration that the purported sales are invalid and an injunction against further efforts by the Trustees to replace the Board or pursue a sale of Bremer that is not supported by a majority of the disinterested directors.

PARTIES

A. Bremer Financial Corporation

12. Plaintiff Bremer Financial Corporation ("Bremer" or the "Company") is a privately held corporation organized under Minnesota law and headquartered in Saint Paul. Bremer is a regional financial services company with roughly $13 billion in assets that provides a comprehensive range of banking, mortgage, investment, wealth management, trust and insurance products and services throughout Minnesota, North Dakota, and Wisconsin. Bremer's clients include small businesses, large and mid-sized corporations, farmers and agribusinesses, nonprofits, public and government entities, and individuals and families. Bremer is the parent company of Bremer Bank, National Association ("Bremer Bank"), a nationally chartered bank.

13. Bremer has two classes of common stock: Class A and Class B. Class A shares are entitled to vote on all matters submitted to shareholders, while Class B shares may vote only on certain extraordinary transactions. Only the Class A shares are entitled to vote in director elections. There are 1.2 million Class A shares outstanding and 10.8 million Class B shares outstanding. Neither class of stock is registered to trade on a securities exchange. Bremer is not a "publicly held corporation" within the meaning of the Minnesota Business Corporation Act. *See* Minn. Stat. § 302A.011, subd. 40.

14. Bremer is a regional bank that operates like a community bank: its independence and unique structure have fostered a strong connection with local communities. Consistent with the vision of its founder, Otto Bremer, Bremer defines its purpose as "cultivating thriving communities." Bremer distinguishes itself from its competitors with its unique focus on business and agricultural customers and serving the banking needs of rural areas. It has an "outstanding" Community Reinvestment Act rating from bank regulators, based on its borrower income distributions and innovative new products focused on providing affordable financing for low- and moderate-income people. Bremer and its employees also have a commitment to charitable giving and community involvement, including partnerships with Habitat for Humanity, Farm Rescue, United Way, and Great Plains Food Bank. Bremer's employees are strongly encouraged to volunteer at local charities, and those employees donate more than 32,000 volunteer hours annually serving local communities.

B. The Otto Bremer Trust and Its Trustees

15. The Otto Bremer Trust (the "Trust") is a Minnesota trust created by Otto Bremer in 1944 for charitable, educational, and religious purposes. The Trust is headquartered in Saint Paul. Until 2015, its name was the Otto Bremer Foundation. Under federal tax law, the Trust is a

tax-exempt organization subject to the private-foundation provisions of the Internal Revenue Code.

16. On its year-end 2018 federal tax return, the Trust reported assets with a total book value of approximately $1.19 billion and a total fair market value of approximately $1.03 billion. Approximately 88 percent of the Trust's assets by book value (87 percent by market value) consists of Bremer stock. The Trust owns 20 percent of Bremer's outstanding Class A shares and all of Bremer's outstanding Class B shares.

17. The Trust has three trustees (the "Trustees"), who are the Defendants in this action. Since 2014, the three Trustees have also served as the Trust's co-CEOs. The Trustees are members of Bremer's Board. The Trustees do not have full-time jobs other than working for the Trust and serving as Bremer directors.

a. Defendant S. Brian Lipschultz has been a Trustee and a Bremer director since 2012. Lipschultz inherited his Trustee position from his father.

b. Defendant Daniel C. Reardon has been a Trustee since 1995 and a Bremer director since 1996. Reardon inherited his Trustee position from his father. Reardon previously worked as a registered securities broker. As revealed in Reardon's broker records on FINRA's BrokerCheck website, Reardon was fired for cause by one broker in 1990 for violating firm procedures and New York Stock Exchange Rules, and was then denied registration in Maryland after he failed to disclose to regulators the circumstances surrounding his termination. In 1995, Reardon stipulated to a finding that he violated various stock exchange rules. Reardon was fined for this misconduct and suspended from the exchange, and his broker registration was revoked until he paid the fine—seven years later.

c. Defendant Charlotte S. Johnson has been a Trustee since 1991 and a Bremer director since 1993. Johnson inherited her Trustee position from her father.

C. Bremer's Board of Directors

18. Bremer's Board of Directors (the "Board") has ten members, including the three Trustees. The seven non-Trustee directors are Plaintiffs in this action. In addition to being directors, all of the non-Trustee directors hold shares of Bremer Class A stock. Other than the Company's President and CEO, Jeanne H. Crain, the seven non-Trustee directors are all outside, independent directors.

a. Plaintiff Ronald James has been a director of the Company since 2004, a director of Bremer Bank since October 2014, and has served as Chair of Bremer's Board since 2015. James served as President, CEO, and a director of the Center for Ethical Business Cultures from 2000 to 2017. James is an adjunct faculty professor of business ethics at the University of St. Thomas. James currently serves as a board member of RBC Funds (a registered investment company of the Royal Bank of Canada) and Greater Twin Cities United Way, and serves on the Quality and Population Health Committee of Allina Health. James also serves as an advisory board member and special advisor to the executive director for the Center for Ethical Practices. James owns 6,000 shares of Bremer Class A stock.

b. Plaintiff Jeanne H. Crain has served as the President and CEO and a director of Bremer since November 2016. She joined Bremer in 2012. Crain brought 30 years of banking industry experience to Bremer, holding positions in commercial and private banking at First Bank Systems and Bank One, and regional president roles at Marquette Banks, M&I Bank, and BMO Harris Bank. Crain serves on the boards of the Minneapolis Federal Reserve Bank, the Saint Paul Downtown Alliance, and the YMCA of the Greater Twin Cities. She is a member of the Itasca Project, the Minnesota Business Partnership, and the Minnesota Women's Economic Roundtable.

She also recently co-chaired the Governor's Task Force on Housing. Crain owns 11,085 shares of Bremer Class A stock.

c. Plaintiff Mary Brainerd has been a director of the Company since January 2014 and a director of Bremer Bank since October 2014. Brainerd retired as President and CEO of HealthPartners in 2017. Brainerd is a former chair of the board of directors of the Federal Reserve Bank of Minneapolis. She serves as a director of the Bush Foundation, Securian, the Nature Conservancy, Minnesota Public Radio, and Stryker Inc, and is a former director of the Center for Economic Inclusion. Brainerd owns 1,000 shares of Bremer Class A stock.

d. Plaintiff Glenn D. McCoy has been a director of the Company and a director of Bremer Bank since June 2016. McCoy retired as chief financial officer of First Citizens BancShares, Inc. in 2014. From 2009 to 2012, he was chief financial officer at RBC Bank USA (now PNC Financial Services). From 1981 to 2009, he held a variety of leadership roles at Wachovia (now Wells Fargo). McCoy owns 1,000 shares of Bremer Class A stock.

e. Plaintiff Kevin A. Rhein has been a director of the Company and a director of Bremer Bank since May 2017. Rhein retired from Wells Fargo in 2016 after nearly four decades with the company. He was responsible for enterprise-wide information technology, data, analytics and operations, as well as several consumer-lending and payment-services business areas. Rhein has served on the boards at the National Foundation for Credit Counseling, the Center for Financial Services Innovation, First Children's Finance and the United Negro College Fund, and he has also served on the Federal Reserve's Consumer Advisory Council. Rhein owns 3,000 shares of Bremer Class A stock.

f. Plaintiff Wendy Schoppert has been a director of the Company and a director of Bremer Bank since May 2017. Schoppert retired as chief financial officer of Sleep

Number Corporation in 2014. Previously, she held several leadership positions at U.S. Bank, America West Airlines, Northwest Airlines, and American Airlines. Schoppert serves on the boards of The Hershey Company, Big Lots, Inc., and Nina Hale, Inc. She is a Board Governance Fellow with the National Association of Corporate Directors, co-chair of the Minnesota chapter of Women Corporate Directors, former vice chair of the President's Council of Cornell Women, a member of the Cornell University Council, and a member of the Breck School Board of Trustees. Schoppert owns 1,000 shares of Bremer Class A stock.

g. Plaintiff Charles B. Westling has been a director of the Company since April 2015 and a director of Bremer Bank since 2010. Westling is the former CEO and current chairman of the board of directors of Computype, Inc., a global provider of smart barcode and labeling service solutions for the healthcare and automotive industries. Previously, he was the CEO of Datalink Corporation, a publicly held technology infrastructure and IT services company. Westling served as a board member of Dunwoody College of Technology from 2008 to 2019, including as chair of the board of trustees. Westling owns 1,000 shares of Bremer Class A stock.

JURISDICTION AND VENUE

19. This Court has subject-matter jurisdiction under Minn. Stat. § 484.01, subd. 1.

20. This Court has personal jurisdiction over Defendants because they are residents of Minnesota.

21. Venue is proper in Ramsey County under Minn. Stat. § 542.09 because this action arose in this County, where both Bremer and the Trust are headquartered.

FACTUAL ALLEGATIONS

I. HISTORICAL BACKGROUND

A. Otto Bremer's Founding of Bremer and the Trust

22. Otto Bremer was an American success story, a German immigrant who moved to Minnesota in 1886 and built a thriving regional banking business. Bremer was incorporated in December 1943, under the name Otto Bremer Company, to consolidate Otto Bremer's majority stockholdings in community banks throughout Minnesota, Wisconsin, and North Dakota. Otto Bremer believed that banking has the power and responsibility to help communities thrive in good times and bad. That guiding principle still inspires the Company's work today.

23. Otto Bremer was originally the Company's sole shareholder. In 1944, he created the Trust to benefit communities in Minnesota, Wisconsin, North Dakota, and Montana. Upon the Trust's formation, Otto Bremer transferred to it 51 percent of the Company's capital stock. He transferred more of the Company's capital stock to the Trust in 1949 and the remainder upon his death in 1951.

24. Between 1951 and 1989, the Trust was Bremer's sole shareholder. This unusual structure made Bremer a uniquely community-oriented institution, which it remains to this day. By operating its regional banking business, Bremer extends credit and offers financial products to grow the economy and improve the lives of individuals in the communities where it is located. The Trust then takes the earnings it receives from Bremer and distributes the money back into the community in pursuit of its charitable mission. This synergistic relationship between the Company and the Trust defines the legacy of Otto Bremer.

B. The Trust Instrument Directs the Trust to Retain Its Bremer Shares

25. The Trust is governed by the Otto Bremer Foundation Trust Instrument, dated May 22, 1944 (the "Trust Instrument"). The Trust Instrument is attached hereto as Exhibit A.

26. In the Trust Instrument, Otto Bremer instructed that the Trust would always be charitable in nature and would always hold its shares of Bremer stock, ensuring that his Company's earnings would always be used for charitable purposes. Paragraph 16 of the Trust Instrument requires the Trustees to retain the Company's stock:

> The Trustee is directed to retain the shares of stock in the Otto Bremer Company hereinbefore described and any additional shares of stock in said company purchased on the exercise of stock rights or which Trustor may hereafter make a part of the Trust Estate herein created even though the same be unproductive of income or be of a kind not usually considered suitable for trustees to select or hold or be a larger proportion in one investment than a trust estate should hold, and any securities or stock received in exchange for said shares of stock shall also be so held.
>
> Such stock or any part thereof may only be sold if, in the opinion of the Trustee, it is necessary or proper to do so owing to unforeseen circumstances, and the opinion of the trustee shall not be questioned by reason of the fact that the trustee may personally own stock in said company. . . .

27. Importantly, this provision expressly "direct[s]" the Trustees "to retain" the Bremer shares in three circumstances that Otto Bremer anticipated might cause a future trustee to consider selling them, absent his contrary instruction. First, the Trustees may not sell the shares on the ground that they pay insufficient dividends ("even though the same be unproductive of income"). Second, the Trustees may not sell the shares on the ground that they are too risky ("be of a kind not usually considered suitable for trustees to select or hold"). And third, the Trustees may not sell the shares on the ground that the Trust's assets are overly concentrated in Bremer stock ("be a larger proportion in one investment than a trust estate should hold").

28. Instead, Otto Bremer authorized the Trustees to sell Bremer shares only if both "unforeseen circumstances" exist and a sale is "necessary or proper" to address them.

C. The Trust Relinquishes Control of Bremer's Board in the 1989 Reorganization

29. In 1969, Congress enacted tax legislation that included extensive new rules governing private charitable foundations. Seeking to eliminate abuses that often resulted when charitable trusts owned private corporations, the new law provided that private foundations would face substantial excise taxes if they owned more than 20 percent of the voting stock of a for-profit company after 1989, or if they failed to distribute at least five percent of their assets' fair market value to charitable causes annually. *See* 26 U.S.C. §§ 4942, 4943.

30. To comply with this law, Bremer underwent a major reorganization in 1989. This was memorialized in a Plan of Reorganization dated February 8, 1989 (the "Plan of Reorganization"), attached hereto as Exhibit B, and related amendments to Bremer's articles of incorporation (the "Amended Articles"), attached hereto as Exhibit C. The reorganization reduced the Trust's voting power in director elections to 20 percent.

31. The reorganization achieved this reduction in the Trust's voting power by recapitalizing Bremer's share capital into two classes of common stock: Class A shares, which may vote on all matters, and Class B shares, which may vote only on "Extraordinary Transactions," defined as (i) mergers or similar fundamental corporate transactions, or (ii) amendments to Bremer's articles of incorporation that affect the Company's capital structure or the voting power of its shares. Ex. C Art. VI §§ 4-5. The Trust exchanged its existing Bremer shares for 1.2 million Class A shares and 10.8 million Class B shares, and then sold 80 percent of the Class A shares to Bremer employees and directors and the Company's employee stock-ownership plan and profit-sharing plan.

32. The Trust thus retained a 92 percent economic interest in Bremer, ensuring that the bulk of the Company's dividends would continue to support charitable causes, in keeping with

Otto Bremer's vision. But the Trust held only 20 percent of the Company's voting power on most matters, including director elections.

33. After the reorganization, the Trust remained a bank holding company subject to regulation under the Bank Holding Company Act because it still had "control" over Bremer within the meaning of that law. As a bank holding company, the Trust must "serve as a source of financial and managerial strength to its subsidiary banks and shall not conduct its operations in an unsafe or unsound manner." 12 C.F.R. § 225.4(a)(1). This obligation gives Bremer a direct claim against the Trust's assets in times of financial difficulty.

D. Following the 1989 Reorganization, the Trust Continues to Hold Its Bremer Shares for 30 Years

34. For 30 years, the structure implemented in 1989 has permitted Otto Bremer's vision to endure. For 30 years, while many of its peers have been absorbed by larger institutions, Bremer has remained independent, allowing it to maintain its historical commitment to its communities. And for 30 years, the Trust has retained its 92 percent economic interest in Bremer while other shareholders have controlled the outcome of director elections.

35. In these 30 years, the Trust has always been able to meet its charitable-distribution obligations under federal tax law. Since 1989, the Trust has consistently reported on its federal tax returns, under penalty of perjury, that the fair market value of its Bremer shares was lower than their book value. The Trust's fair market value calculations have not been arbitrary or careless. Rather, as the Trustees have emphasized, those calculations have been based on the advice of counsel and rigorous analysis by Trust employees and third-party valuation experts. The Trust's decision to mark its Bremer stock below book value has never been challenged by the IRS.

36. The Trust has never claimed that Bremer's dividends were insufficient to cover the Trust's statutory charitable-distribution requirement. Nor did the Trustees ever conclude, in the

three decades between 1989 and 2019, that selling the Trust's shares of Bremer had become "necessary or proper . . . owing to unforeseen circumstances." Those three decades included, among other things, the 2001 stock-market crash, the Great Recession, and the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. Even during those times of financial, economic, and regulatory upheaval, the Trustees never concluded that there were "unforeseen circumstances" justifying a sale of the Trust's Bremer shares.

37. To the contrary, the Trustees repeatedly affirmed in court that there were no "unforeseen circumstances." Under Minnesota law, the Trust must file annual accountings with the Probate Division of the Ramsey County District Court and petition for this Court to approve them periodically. In these petitions, the Trustees have consistently told this Court—most recently in 2017—that there were no "unforeseen circumstances," and the Court has agreed. The Court's decision from December 2017 confirming that there were no "unforeseen circumstances" is attached hereto as Exhibit D.

II. THE TRUSTEES' RECENT EFFORTS TO FORCE A SALE OF BREMER

38. Since Lipschultz became a Trustee in 2012, the Trustees have consolidated their power over the Trust in an effort to increase their public profile and pay themselves ever-higher salaries. They have also tried to coerce Bremer's Board into serving the Trust's agenda without regard to the best interests of Bremer as a whole. These efforts have culminated in an aggressive push by the Trustees to sell Bremer to a larger financial institution, and thus to end its 76-year independent existence and its unique 75-year relationship with the Trust.

A. The Trustees' Compensation and Incentives

39. Consistent with best, and nearly universal, governance practices for a charitable foundation of its size, the Trust once had an independent management team. But in June 2014, the three Trustees restructured the Trust, removed its executive director, and appointed themselves co-

CEOs. The move prompted the National Committee for Responsive Philanthropy ("NCRP"), a watchdog group, to urge the IRS to investigate the Trust based on "ongoing suspicious, and potentially illegal, behavior of the three trustees." The NCRP highlighted the "lack of accountability and fiduciary oversight in the new structure that gives the foundation's three trustees complete control" over the Trust's assets.

40. The NCRP also highlighted a staggering 1000-percent increase in the Trustees' compensation over the prior ten years, resulting in total compensation of over $1.2 million for the three Trustees in 2013—more than 50 times higher than the median trustee compensation among America's largest foundations. The NCRP's executive director said this was "just an outrageously high level of compensation for trustee service." Subsequent reporting by MPR News noted that "[t]wo of the Trustees gave themselves 157 percent raises in 2009, a recession year when the foundation's assets and grant payments dropped." Commenting on the Trustees' extreme self-dealing, a Minneapolis *Star Tribune* columnist called for the Trust to "clean up its act," place independent checks on the Trustees' power, and reduce their compensation.

41. The Trustees ignored these calls for reform and continued to help themselves to more and more Trust money each year. In 2018, Lipschultz earned $524,567, Reardon earned $531,663, and Johnson earned $346,704, for a total of over $1.4 million.

42. Lipschultz and Reardon earn more than Johnson because they supposedly play a larger role in managing the Trust's investments. Reardon and Lipschultz have thus secured approval to pay themselves an "investment advisory fee" equal to "thirty (30) basis points (0.30%) . . . of the non-Bremer Financial Corporation stock assets of the Foundation . . . , with such fee to be divided equally between those Trustees." Ex. D at 7.

43. This investment advisory fee gives Lipschultz and Reardon a powerful financial incentive to trade away the Trust's Bremer stock for non-Bremer assets. Since Bremer stock makes up almost 90 percent of the Trust's assets by market value, converting that stock into other securities would allow Lipschultz and Reardon to increase their annual investment advisory fee by nearly a factor of ten.

B. The Trustees' Unauthorized Efforts to Find a Buyer for Bremer

44. Coinciding with Lipschultz's tenure, the Trustees have sought to exert increasing influence over Bremer's Board. They have consistently argued that the Board should cater to their whims because of the Trust's economic ownership position—notwithstanding the 1989 reorganization that limited the Trust's voting power to 20 percent in director elections specifically so it could *not* control the Board. The Trustees' improper efforts escalated earlier this year when they attempted to usurp the Board's authority over the fundamental question of whether Bremer should continue as an independent company.

1. The June 25 Board Meeting

45. In April and May 2019, a similarly sized regional bank ("Company A") approached Bremer to discuss a potential stock-for-stock merger transaction. These discussions ended in June 2019 without any definitive proposals by either side.

46. The three Trustees, led by Lipschultz, seized on the discussions to begin pushing for a sale of Bremer. At a June 25 Board meeting, the Trustees announced that they were not interested in a stock-for-stock merger. Instead, the Trustees told the Board that it must pursue an outright sale of Bremer for cash.

47. The Trustees attempted to force the sale through, even though they constitute only a small minority of the directors and have only 20 percent of the Company's voting power. They said they had hired a financial advisor, the investment bank Keefe, Bruyette & Woods ("KBW"),

to evaluate a potential sale, and that KBW had already engaged in preliminary discussions with potential buyers. The Trustees claimed these discussions confirmed KBW's conclusion that a sale would be more attractive than a stock-for-stock merger.

48. The Board knew none of this: the Board did not know that the Trustees and their financial advisor had been exploring a sale of the Company, and had never authorized the Trustees or KBW to have any conversations with potential buyers of the Company, exploratory or otherwise. Nor had the Board authorized the Trustees or KBW to disseminate confidential Bremer information to third parties, as it became clear they had done. Nonetheless, at the Trustees' urging, the Board agreed to discuss at its next meeting the possibility of beginning a process to evaluate a potential sale.

2. The July 23-24 Board Meeting

49. The Trustees wanted no part of a deliberative process. At the Board's next meeting on July 23-24, Lipschultz tried to coerce the Board into pursuing a sale using threats. Under Bremer's Amended Articles, a transferee of the Trust's Class B nonvoting shares can convert them into Class A voting shares. Ex. C, Art. VI § 6(a). Lipschultz said that if the Board did not immediately resolve to pursue a sale, the Trustees would sell the Trust's Class B shares to a third party who would convert them into Class A shares, replace the Board, and effect a whole-company acquisition. Moreover, even though KBW worked for the Trustees, not Bremer, and even though the Trustees' interest in a sale might differ substantially from Bremer's, Lipschultz demanded that KBW should "lead the transaction process" on behalf of Bremer.

50. The rest of the Board resisted Lipschultz's threats. The Board did not resolve to pursue a sale, but it agreed to continue carefully considering whether a sale process might be in the best interests of Bremer as a whole. Because that question could not be answered without

independent financial advice, the Board resolved to retain an independent financial advisor to evaluate strategic alternatives.

51. To allow enough time for the Board's financial advisor to complete its work and for the Board to deliberate about this critical decision, the Board asked the Trustees to instruct KBW not to have any further discussions with potential acquirers while the Board undertook its review of strategic alternatives. Lipschultz expressly represented that he would provide this instruction to KBW.

52. The Board also asked the Trustees how the Trust could sell its Bremer shares given the Trust Instrument's mandate that the shares cannot be sold unless it is "necessary or proper to do so owing to unforeseen circumstances." Lipschultz avoided the question, but the Board said it could not readily consider a sale of the Company without confidence that the Trust Instrument permitted it. Lipschultz eventually agreed that he would authorize the Trust's outside counsel to meet with Bremer's outside counsel to explain the Trust's position.

53. As described below, Lipschultz swiftly reneged on both of these pledges.

3. The Trustees Continue to Push for a Sale of Bremer

54. On August 5, 2019, the Trust's lawyers met with Bremer's outside counsel. Far from the illuminating exchange that Lipschultz had promised, the Trust's lawyers simply stated that the Trustees had discretion to declare that "unforeseen circumstances" existed. They refused to disclose the full basis for the Trust's determination that there actually *were* "unforeseen circumstances." They did disclose one factor among many behind the Trustees' determination: that the discussions with Company A had purportedly led the Trustees to reevaluate the fair market value of the Trust's Bremer shares, and thus to question whether the Company's dividends were adequate for meeting the Trust's charitable-distribution requirements. But according to the Trust's

lawyers, the Board did not need to know all the reasons for the Trustees' determination. The Board had to simply accept the Trustees' decision.

55. Nor did Lipschultz instruct KBW to stop contacting potential acquirers, as he had promised. To the contrary, KBW stepped up its efforts and found what the Trustees claimed was a potential acquirer before the Board could meet again. On August 8, 2019, a larger financial institution ("Company B") sent KBW, in its "capacity as financial advisor to the trustees of the Otto Bremer Trust," a preliminary, non-binding indication of interest for a potential acquisition of Bremer.

56. This indication of interest was obtained on false pretenses and in breach of the Trustees' duty of confidentiality as Bremer directors. KBW told Company B that Bremer's Board had already resolved to pursue a sale of the Company, and that KBW was authorized to contact potential transaction partners. Both assertions were false. Additionally, before Company B submitted its letter, KBW had shared a "Bremer Profile" with Company B, which included confidential Bremer information that the Trustees had obtained as Bremer directors. KBW and the Trustees distributed similar "Bremer Profiles" with confidential information to multiple other potential bidders in their effort to force a sale.

57. When other Board members reminded Lipschultz that he had agreed to have KBW stop soliciting offers to allow the Board time to deliberate, Lipschultz falsely denied that he had made any such pledge. Instead, with Company B's letter in hand, he ratcheted up his efforts to preempt the Board's deliberative process. Without citing any basis for urgent action, Lipschultz demanded to hold a Board meeting as soon as possible and again threatened to sell the Trust's shares unilaterally if the Board did not move quickly enough. The Board scheduled a meeting for August 29, 2019.

58. When the Board's financial advisor distributed a standard draft engagement letter, Lipschultz used it as another opportunity to bully the other directors. He threatened to sue the disinterested directors if they approved an engagement letter that contemplated a sell-side advisory role for the Board's financial advisor, insisting once more that KBW should represent the Company. And he again threatened that, if the Board did not acquiesce to the Trustees' demand to sell the Company immediately, "the result will be a sale of our voting and non-voting shares, a subsequent conversion of those shares to voting, drag-along rights impacting other shareholders, a likely replacement of the entire current Board, and [Bremer] sold to whomever [the Trust] believes is the best buyer."

4. The Board Determines Not to Pursue a Sale of Bremer

59. The Board met on August 29, 2019 to review strategic alternatives. It received advice from its independent financial advisor and independent outside counsel. The Board and its advisors discussed Bremer's financial strength and its advantageous market position. They discussed the fact that the current M&A environment was difficult for banks, and that only a handful of potential acquirers could likely afford to acquire Bremer at an attractive price. The Board and its advisors also discussed the "synergies" that any acquirer would seek to achieve, which would include firing employees, closing branches, and taking other steps that would adversely affect the communities that Bremer currently serves.

60. The Board's financial advisor presented an illustrative valuation showing that Bremer's standalone value was almost exactly the same as the price that would be expected in a sale of the Company. But in a sale scenario, Bremer would almost certainly lose its brand and culture, and would lose the opportunity for future upside.

61. The Board and its advisors also discussed the risks of a failed sale process, including distraction from the Company's strategic plan, employee attrition, and reputational

damage. They also discussed the Trust Instrument's "unforeseen circumstances" standard and the risk that a court might enjoin a sale if the Board determined to pursue one.

62. The Trustees had no patience for these deliberations and continued to push forcefully for a sale throughout the meeting. Lipschultz told the other directors that the Trust needed more cash and so Bremer's Board should agree to a sale—completely ignoring his duty to act in the long-term interest of Bremer. Lipschultz justified this extraordinary demand by claiming that the Trust had decided it had been undervaluing its assets by almost 50 percent on its tax returns.

63. The Board was skeptical of this radical change of position, particularly given Lipschultz's representations that the Trust's prior fair market valuations were based on multiple recognized benchmarks and informed by the advice of counsel and third-party valuation experts. The Trustees, however, refused to explain how they had arrived at their new fair market value determination, beyond stating in conclusory fashion that it was based on the advice of their advisors.

64. Despite its skepticism, the Board explored options that would address the Trustees' purported concerns. For instance, the Board discussed the possibility of paying a higher dividend to allow the Trust to satisfy its purportedly higher charitable-distribution obligations. The Trustees remained singularly focused on an outright sale of Bremer.

65. At the end of the meeting, after considering the long-term interest of Bremer and all its stakeholders, the Board resolved to terminate any further discussion regarding a sales transaction, and to direct Bremer's management not to participate in any further sales discussions without explicit approval by the Board. All six non-Trustee directors present at the meeting voted for this resolution. All three Trustees voted against it.

66. After the meeting, the Board's financial advisor called Company B to report that the Board had determined not to pursue a sale. Company B said that it had contacted KBW to withdraw its non-binding indication of interest several days before the August 29 Board meeting, for unrelated reasons. The Trustees never told the rest of the Board that Company B had withdrawn its indication. The Trustees had pretended there was a deal available when they knew there was not—apparently with the intention of duping their fellow directors to approve a sale process on the basis of bad information.

III. THE TRUSTEES PURPORT TO TRANSFER A PORTION OF THE TRUST'S CLASS B SHARES TO HEDGE FUNDS IN A SCHEME TO FORCE A SALE OF BREMER

67. Infuriated by the Board's decision not to sell the Company, the Trustees began pursuing unilateral action to remove the disinterested directors from the Board. As noted, Lipschultz had repeatedly threatened to sell the Trust's Class B nonvoting shares to a third party who would convert them into a controlling block of Class A voting shares and effect a whole-company acquisition. But the Trustees and KBW evidently could not find a buyer for all the Trust's shares. No one would make such a large investment without the Company's cooperation, which the Board had resolved not to provide.

68. Accordingly, the Trustees conceived of a new plan. Instead of one buyer for all the Trust's shares, they canvassed the market for multiple entities each willing to buy a smaller number of shares. If they could find enough friendly buyers of Class B shares, the Trustees could assemble a coalition with enough voting power, acting in concert, to remove the Board's disinterested directors and force through a sale themselves.

69. That is exactly what the Trustees have now purported to do. On October 28, 2019, the Trustees sent a letter to Bremer's Board, attached hereto as Exhibit E, which stated that "on October 25, 2019, [the Trust] sold approximately seven percent of [Bremer's] Class B common

stock to a number of investors in separate, independent transactions." The Trustees asserted that they had orchestrated this attack on Bremer—the Company they purport to serve as fiduciaries—because they believed it was in the best interests of the Trust. The Trustees also sent a purported "Stock Transfer Notification" asserting that the Trustees had transferred 725,000 Class B shares to 19 entities, primarily small hedge funds such as "Financial Hybrid Opportunity SPV," "Malta Offshore Fund," and "Banc Fund X." This purported Stock Transfer Notification is attached hereto as Exhibit F.

70. Nearly simultaneously, these 19 entities wrote to Bremer purportedly electing to convert their Class B shares into Class A shares. If each of these purported transfers and subsequent conversions were valid, then the 19 entities and the Trust would collectively own 50.13 percent of Bremer's voting power.

71. The Trustees have evidently received assurances from these 19 entities that they will support the Trustees' agenda to remove the other directors so the Trustees can sell the Company themselves. In their letter to the Board, the Trustees said they were calling a special meeting of Bremer's shareholders "to remove the non-[Trustee] Directors," and that "[t]he remaining Directors [*i.e.*, the Trustees] will then direct the management team to commence a meaningful exploration of strategic options for [Bremer], including a potential sale or merger, under the oversight of the new Board." The Trustees separately sent the Company a "Demand for Special Meeting," which is attached hereto as Exhibit G.

72. To secure the 19 entities' support, the Trustees agreed to accept less than what they have claimed is full value for the Trust's shares. The purported purchase price for the 725,000 shares, on a per-share basis, is exactly $120, implying a $1.44 billion valuation for the entire Company. Yet the Trustees have maintained that Bremer would fetch far more than that in an

acquisition. In effect, the Trustees are paying the 19 entities, out of the corpus of the Trust, to help them vote out the Board and effectuate a sale of Bremer.

73. In pursuit of their scheme, the Trustees were also content to dilute the Trust's own voting interest in Bremer. If the transfers were valid and if the 19 entities were able to convert the Class B shares into Class A shares, the Trust's voting power on most matters would decrease from 20 percent to roughly 12.5 percent.

74. Moreover, the Trustees again violated their fiduciary duties as Bremer directors by providing the 19 entities with Bremer's confidential financial information. The Trustees had already disclosed confidential information to potential whole-company acquirers, demonstrating their willingness to violate their fiduciary obligations in pursuit of selling the Company. And it is inconceivable that the 19 entities would have been willing to invest millions of dollars in Bremer without more detailed financial information than is available publicly.

75. Around the time they sent their letter to the Board, the Trustees publicly announced their actions in a press release. Although Bremer's Board had resolved not to pursue a sale, the press release announced that the Trust itself had purportedly "commenced a process to explore strategic options for [Bremer]" and would be seeking a "strategic combination with a larger financial institution."

76. To mask the Trustees' selfish motivations for their decision, Lipschultz disingenuously claimed that the Trustees were pursuing a sale because Bremer could not survive as a standalone company. The press release quoted Lipschultz as saying: "Because of the changes in the financial services industry, it can be daunting for a stand-alone regional bank to succeed. Through this initiative, [Bremer] can be part of a stronger banking organization that better serves its customers and successfully competes for new ones." Rather than acknowledging why the

Trustees were actually pushing for a sale, Lipschultz preferred to imply that Bremer was a weak organization that served customers poorly and would struggle to compete in the future—a falsehood that clearly demonstrates his abdication of his fiduciary duties to Bremer.

77. The Trustees then doubled down in shocking statements on the Trust's website. Ignoring Bremer's strong financial performance, the Trustees claimed that Bremer employees' jobs were at risk if the Company did not sell itself. The Trustees also faulted the disinterested directors for not believing that "the needs of the [Trust] should take priority" over those of Bremer's other stakeholders. And the Trustees again recklessly disclosed confidential information for their own benefit, bragging that the Trust "has no Matters Requiring Attention (MRAs) outstanding." This is confidential supervisory information that federal law prohibits the Trust from disclosing. *See* 12 C.F.R. § 261.22(e).

78. The Company has already suffered harm from the Trustees' actions. Prospective clients with loans waiting to close have put those transactions on hold because they perceive that Bremer may soon disappear. Even some existing clients have taken their business elsewhere. Attracting new recruits has become more difficult, since candidates do not want to accept jobs that might soon be cut by an acquirer. And top revenue producers are receiving a stream of calls from recruiters seeking to tempt them elsewhere, causing disruption and distraction.

79. As these events show, the Trustees are intent on immediately selling Bremer regardless of the impact on its employees, customers, community, and other shareholders. And they are trying to throw out Bremer's loyal fiduciaries to get their way.

IV. THE PURPORTED TRANSFERS BY THE TRUST ARE INVALID UNDER BREMER'S BYLAWS AND THE TRUST INSTRUMENT

80. Under Minnesota law, Bremer is charged with keeping the official register of its shares. *See* Minn. Stat. § 302A.461, subd. 1(a). To effectuate a share transfer, the proposed

transferor must surrender to the Company a stock certificate evidencing the transferred shares. Bremer then determines whether the transfer is valid. If it is, the Company issues a new stock certificate to the transferee and records the transfer on its register.

81. Under Section 4.5 the Company's Amended and Restated Bylaws, attached hereto as Exhibit H, the Company must receive for each proposed transfer "proper evidence of succession, assignment or authority to transfer," and must confirm that the proposed transfer "complies with the Corporation's Articles of Incorporation, Bylaws and any and all other plans and agreements applicable to the transfer of the Corporation's shares." Without such evidence, the Company may not issue a new certificate to the transferee or record the transfer on its register.

82. The purported Stock Transfer Notification sent by the Trustees to Bremer's transfer agent on October 28, 2019 claimed to surrender the Trust's Class B stock certificate and requested that Bremer (i) issue stock certificates to each of the 19 purported transferees, (ii) issue a new certificate to the Trustees evidencing the Trust's Class B shares that were not purportedly transferred, and (iii) record these transactions on the Company's share register. Separately, the 19 entities have written to Bremer seeking to convert the purportedly transferred Class B shares into Class A shares, and asking Bremer to send them new stock certificates evidencing such Class A shares.

83. Under Section 4.5 of the Company's Bylaws, Bremer cannot comply with these requests because the purported transfers do not comply with all "plans and agreements applicable to the transfer of the Corporation's shares." Those "plans and agreements" include the Trust Instrument.

84. The Trust Instrument prohibits the Trustees from selling the Trust's Bremer shares because there are no "unforeseen circumstances" that would make a sale "necessary or proper."

The Trustees affirmed to this Court in 2017—and the Court agreed—that there were no unforeseen circumstances at that time. No new circumstances have arisen in the last two years that might make it necessary or proper for the Trust to sell its shares now.

85. In arguing otherwise, the Trustees' central claim is that the fair market value of the Trust's Bremer stock has suddenly become twice as high as they reported to the IRS under penalty of perjury as recently as year-end 2018. This explanation is clearly pretextual. Although federal tax law permits discretion in valuing non-publicly-traded equity securities, the Trust's prior valuations have been based on extensive well-advised analysis, and those valuations have never been challenged by the IRS.

86. If they wanted to, the Trustees could have easily continued to use the same unchallenged valuation methodology they have used historically. Neither the IRS nor this Court has ever raised concerns about the Trust's valuations or annual giving. The Trustees instead changed course after decades of stability to further their own personal interests. Lipschultz and Reardon realized they could increase their public profiles and earn millions in additional investment advisory fees annually if the Trust exited its long-held stake in Bremer and invested in different assets. They and Johnson seized on the Company A discussions as a pretext to push for a sale of Bremer, while hiding behind the advice of counsel to avoid divulging details. When the Board refused to acquiesce, the Trustees found 19 entities willing to support their agenda and purported to sell shares to them in an effort to replace the Board. The Trustees' desire to replace Bremer's Board so they can pursue a sale of the Company for self-interested reasons is not an "unforeseen circumstance."

87. Nor can the Trustees establish that an outright sale of Bremer would be "necessary or proper" to solve any tax issues created by the purported increase in the value of the Trust's

Bremer shares. Since they first seized on the idea of selling Bremer, the Trustees have refused to consider other ways to address those purported issues, such as seeking an increase in Bremer's dividends. This confirms that the Trustees' tax arguments are a pretext for their real aim—selling Bremer at all costs.

88. Even less can the Trustees establish that their purported transfers to the 19 hedge funds are "necessary or proper" to address their purported tax concerns. The Trustees have steadfastly maintained that those concerns can only be addressed by selling the Trust's entire stake in Bremer. Voting out Bremer's disinterested directors will not accomplish that. Even assuming that the Trustees have already committed to selling Bremer at any price if their scheme succeeds (in clear breach of their fiduciary duties as directors), there is no guarantee that any buyer will be interested or that regulatory authorities will approve a transaction. A hypothetical future transaction does not make it "necessary or proper" for the Trust to sell a small portion of its shares now.

89. The purported transfers are accordingly invalid under the Trust Instrument, and for this reason, Bremer cannot give effect to them under Section 4.5 of its Bylaws.

COUNT ONE
Declaratory Judgment (by Bremer)

90. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 89 of this complaint as if fully set forth herein.

91. Under Section 4.5 of Bremer's Amended and Restated Bylaws, transfers of Bremer shares are valid only if they "compl[y] with the Corporation's Articles of Incorporation, Bylaws and any and all other plans and agreements applicable to the transfer of the Corporation's shares."

92. The Trust Instrument is a "plan[] or agreement[] applicable to the transfer of the Corporation's shares." Bremer also has standing to enforce the provisions of the Trust Instrument

directly because the Trust's status as a bank holding company for Bremer gives Bremer a "right in or claim against the assets of the trust." Minn. Stat. § 501C.0201(b). The Trust Instrument prohibits the Trustees from transferring Bremer shares unless "it is necessary or proper to do so owing to unforeseen circumstances."

93. There have been no "unforeseen circumstances" that make it "necessary or proper" for the Trust to transfer its Bremer shares. The Trustees' purported determination that unforeseen circumstances exist was arbitrary and capricious, not made in good faith, and is therefore invalid. The Trust's true purpose in declaring that unforeseen circumstances exist is to effectuate a disloyal scheme to usurp the Board's authority to manage the Company, so that the Trustees can remove the disinterested directors and force through a self-interested transaction at the expense of the Company's other shareholders and constituencies.

94. Because the Trust Instrument prohibits the Trustees' purported share transfers, those purported transfers are of no force and effect, and the Company has no obligation to issue a new certificate to the purported transferees or record the transfers on its register.

95. The existing controversy regarding the effectiveness of the Trustees' purported share transfers is substantial, justiciable, and of sufficient immediacy to warrant the issuance of a declaratory judgment. The judgment will terminate the controversy and remove an uncertainty regarding the enforceability of the purported share transfers.

96. Plaintiffs have no adequate remedy at law.

COUNT TWO
Breach of Fiduciary Duty: Misuse of Confidential Information (by Bremer)

97. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 96 of this complaint as if fully set forth herein.

98. The Trustees owe fiduciary duties of care and loyalty to the Company as directors. As such, the Trustees must discharge their duties in a manner they reasonably believe to be in the best interests of the Company, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

99. The Trustees owe these same fiduciary duties as controlling shareholders. The Trustees' control of over 20 percent of the Company's voting power and all of the Company's Class B shares, combined with rights in the Company's governing documents that the Trustees obtained when they controlled a majority of the Company's voting power, gives the Trustees the power to exert control over the Company's decision whether to pursue a potential sale. The Trust is deemed to control Bremer under the Bank Holding Company Act, and the Trustees have represented that they control the Company. The Trustees have exerted that control by unilaterally engaging in unauthorized discussions with potential acquirers, and by purporting to transfer Class B shares with the intention of removing the Company's independent directors to enable the Trustees to force through a self-interested transaction. The Trust also acknowledges on its tax return that Bremer is a "controlled entity" of the Trust.

100. The Trustees' duty of loyalty includes a duty to keep sensitive Company information confidential and not share such information with third parties unless so authorized by the Board.

101. The Trustees breached their duty of loyalty by repeatedly disseminating confidential Company information to third parties without Board authorization. The Trustees shared confidential Company information with potential acquirers, including after the Board instructed the Trustees (and Lipschultz agreed) not to engage in further discussions with potential acquirers. The Trustees also shared confidential Company information with the purported

transferees of its shares. The Trustees engaged in these actions as part of a disloyal scheme to usurp the Board's authority and force through a self-interested transaction at the expense of the Company's other shareholders and constituencies.

102. The Trustees' unlawful and inequitable actions threaten irreparable harm to the Company, its shareholders, and its constituencies. The dissemination of the Company's internal financial and other sensitive information to potential competitors endangers the Company's standing in the marketplace. Moreover, if not enjoined, the Trustees have made clear that they intend to continue to share the Company's confidential information with third parties as part of the Trustees' scheme to unilaterally force a sale of the Company for disloyal reasons. Such a transaction will forever destroy the prospect of greater long-term value for Bremer's other shareholders, as well as Bremer's unique relationship with its employees and the community that defines Otto Bremer's legacy.

COUNT THREE
Breach of Fiduciary Duty: Disloyalty and Self-Dealing (by Bremer)

103. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 102 of this petition as if fully set forth herein.

104. As alleged above, the Trustees owe fiduciary duties of care and loyalty to the Company as directors and controlling shareholders.

105. Consistent with their duty of loyalty, the Trustees cannot exploit their positions to secure private benefits at the expense of the Company's other shareholders and constituencies.

106. The Trustees are violating, and threaten to continue to violate, their fiduciary duties by abusing their positions as directors and controlling shareholders to usurp the Board's authority and pursue a self-interested transaction at the expense of the Company's shareholders and constituencies. The Trustees have engaged in discussions with potential acquirers without Board

authorization, and despite an express instruction by the Board (which Lipschultz agreed to honor) not to have such discussions. Moreover, the Trustees have threatened to remove independent directors or bring lawsuits against them in an attempt to intimidate the directors to accede to the Trustees' disloyal demands. Further, the Trustees have attempted manipulative purported transfers of Class B shares to third parties with the goal of removing the Company's independent directors to enable the Trustees to force a sale of the Company, regardless of its impact on the Company's other shareholders and constituencies.

107. The threat of such action by the Trustees is inequitable. Relief from such a threat is necessary to protect the Company, its shareholders, and its other constituencies from exploitation by the Trustees, who have undertaken, and will continue to undertake, a course of conduct to violate their fiduciary duties to the Company.

108. The Trustees' unlawful and inequitable actions threaten irreparable harm to the Company, its shareholders, and its constituencies. Bremer's independent directors have concluded that a sale of the Company at this time is not in the best interest of the Company's shareholders and other constituencies. If not enjoined, the Trustees have made clear that they nonetheless intend to unilaterally force through such a transaction for disloyal reasons. Such a transaction will forever destroy the prospect of greater long-term value for Bremer's other shareholders, as well as Bremer's unique relationship with its employees and the community that defines Otto Bremer's legacy.

COUNT FOUR
Minn. Stat. § 302A.751, subd. 1(b)(3):
Shareholder Oppression (by the Individual Plaintiffs)

109. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 108 of this complaint as if fully set forth herein.

110. The individual Plaintiffs are shareholders of the Company.

111. The Company is not a publicly held corporation as defined in Minn. Stat. § 302A.011, subd. 40.

112. The Trustees are directors of the Company and, as alleged above, the Trustees exercise control over the Company.

113. The Trustees have acted in an unfairly prejudicial manner towards the individual Plaintiffs in their capacities as shareholders and/or directors of Bremer. Based on the Plan of Reorganization, the individual Plaintiffs had a reasonable expectation that the Trustees would follow Board directives and respect the Board's authority to manage Bremer on behalf of all shareholders, including with respect to a potential sale of the Company. Moreover, based on the Plan of Reorganization and the Trust Instrument, the individual Plaintiffs had a reasonable expectation that the Trust would not declare in bad faith that "unforeseen circumstances" existed in order to manipulatively transfer Class B shares to remove independent directors and force through a self-interested transaction opposed by an independent Board.

114. The Trustees' unlawful and inequitable actions threaten irreparable harm to the Company, its shareholders, and its constituencies. Bremer's independent directors have concluded that a sale of the Company at this time is not in the best interest of the Company's shareholders and other constituencies. If not enjoined, the Trustees have made clear that they nonetheless intend to unilaterally force through such a transaction for disloyal reasons. Such a transaction will forever destroy the prospect of greater long-term value for Bremer's other shareholders, as well as Bremer's unique relationship with its employees and the community that defines Otto Bremer's legacy.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray this Court enter an Order:

a. Declaring that the Trustees' purported share transfers are invalid under the Trust Instrument and Bremer's Bylaws, and/or otherwise unenforceable in law or in equity.

b. Enjoining the Trustees and each of their agents, servants, employees, attorneys, advisors, and persons in active concert or participation with them, from attempting further transfers of the Trust's Bremer shares absent approval by the Court.

c. Enjoining the Trustees and each of their agents, servants, employees, attorneys, advisors, and persons in active concert or participation with them, from engaging in discussions with potential acquirers of Bremer or the Trust's Bremer shares without express authorization from the Board.

d. Enjoining the Trustees and each of their agents, servants, employees, attorneys, advisors, and persons in active concert or participation with them, from sharing confidential Bremer information with third parties without express authorization from the Board.

e. Awarding Plaintiffs their attorneys' fees and costs from prosecuting this action; and

f. Granting Plaintiffs such other and further relief as this Court deems just and appropriate.

Dated: November 19, 2019

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

s/Charles N. Nauen

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that, pursuant to Minn. Stat. § 549.211, subd. 2, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

s/Charles N. Nauen
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