UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:21-cv-23472-RNS

Ryan Birmingham, Roman Leonov, Steven Hansen, Mitchell Parent, and Jonathan Zarley, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

Alex Doe, *et al.*,

Defendants.
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PLAINTIFFS' OPPOSITION TO BOONRUK RUAMKIT CO. LTD., IT OUTSOURCING CO. LTD., NATTPEMOL KRINARA, AND PAPAHRATSORN RAVIRATPORN'S MOTION TO DISMISS

INTRODUCTION

Ryan Birmingham, Roman Leonov, Steven Hansen, Mitchell Parent, Jonathan Zarley, and others similarly situated persons (collectively "Plaintiffs") respond [hereinafter "Response" or "Resp."] in opposition to Defendants Boonruk Ruamkit Co. Ltd. ("Boonruk"), IT Outsourcing Co. Ltd. ("IT Outsourcing"), Nattpemol Krinara ("Krinara"), and Papahratsorn Raviratporn's ("Raviratporn") (collectively, the "Moving Defendants") Motion to Dismiss the Plaintiffs' Amended Complaint [ECF No. 169] (hereinafter "Motion" or "Mot.").

The Amended Complaint pleads numerous specific facts that establish this Court has personal jurisdiction over Moving Defendants and establish prima facie claims for Violation of the Racketeering Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. § 1962(c) (Count I); RICO Conspiracy, 18 U.S.C. § 1962(d) (Count II); Conspiracy to Commit Fraud (Count IV); Aiding and Abetting Fraud (Count V); Conspiracy to Commit Conversion (Count VII); Aiding and Abetting Conversion (Count VIII); and Unjust Enrichment (Count IX) (together "Challenged Claims").

Moving Defendants' Motion lacks originality and heavily relies on the arguments made by the now dismissed defendant ePayments Systems Ltd. ("EPS"). *First*, unlike EPS, the Moving Defendants are not legitimate financial institutions unintentionally caught in the middle of this Money Laundering Enterprise. Instead and admittedly, Plaintiffs' ninety-four (94) page Amended Complaint spells out in painstaking detail each Moving Defendants' action, sufficient to establish

prima facie showing for the Challenged Claims. Boonruk was purposefully converted into a financial conduit by Krinara—to help the RoFx Operators transfer millions of dollars in RoFx customer funds across the globe. Once transactions reached an uncomfortable volume, Krinara and Raviratporn created IT Outsourcing to help shoulder the load. Not only did the Moving Defendants conspire with others to fraudulently receive more than $3 million in Rofx customer deposits, they also directly wired illusory "profits" to RoFx customers in the form of withdrawals across the United States. *Second,* Plaintiffs Roman Leonov ("Leonov"), Mitchell Parent ("Parent"), and Jonathan Zarley ("Zarley") are among numerous RoFx customers who are residents of Florida (and Zarley of Hawaii), that received website withdrawals directly from Moving Defendants. These facts alone are sufficient to allege personal jurisdiction under Florida's long arm statue and minimum contacts with the forum state. *Alternatively*, Rule (4)(k)(2) equally confers jurisdiction.

Accordingly, this Court should deny the Moving Defendants' Motion in its entirety.

RELEVANT FACTUAL ALLEGATIONS AND BACKGROUND

Between 2018 and 2021, an informal association of Ukrainians (the "RoFx Operators") operated a phony foreign exchange trading service via RoFx.net—a website hosted in Jacksonville, Florida. Am. Compl. ¶¶ 1, 3–4, 17–18, 121. The RoFx Operators claimed to have artificial intelligent software that could conduct foreign exchange trading on behalf of customers; the customers needed only to send funds to the RoFx Operators and, in return, the customers were promised passive income. *Id.* ¶ 2. The RoFx Operators perpetrated this multi-year-long fraud (the "RoFx Scheme") using a sophisticated website, active customer service team, invoices, account statements, foreign exchange activity reported on third-party websites, and promotions via advertisements and sponsored articles—and even allowed some customers to withdraw limited funds. *Id.* ¶¶ 2, 61–125. As explained in the Amended Complaint, all of this was elaborate stage dressing: the RoFx Operators never conducted foreign exchange trading and, instead, pocketed the customers' funds. *Id.* ¶¶ 102–27. By the time the RoFx.net website went dark in September 2021—and the RoFx Operators stopped responding to customers—the RoFx Operators stole at least $75 million from customers. *Id.* ¶¶ 126–27.

Such a large amount of stolen money does not disappear without help. The RoFx Operators created an intricate international network of shell companies and relationships with financial intermediaries to launder the illicit funds (the "Money Laundering Enterprise"). *Id.* ¶¶ 128–29. The Money Laundering Enterprise consists of: (1) a set of companies directly receiving customer

funds ("Front Companies"); (2) another set of companies with existing cross-border transaction volume that would obfuscate the flow of funds between RoFx customers, Front Companies, and ultimately to the RoFx Operators ("Layering Companies"); and (3) a final level of companies acting as the exit point for the laundered funds ("Cash-Out Companies"). *Id.*

In mid-March 2020, the RoFx Operators contacted Boonruk via its managing director Krinara. *Id.* ¶ 194. Boonruk "had an existing IT support and computer graphics business, including numerous international financial transactions." *Id.* ¶ 194. Accordingly, the RoFx Operators along with Krinara's help sought to use Boonruk as a Layering Company to utilize its legitimate software business transactions to disguise illicit RoFx transactions. *Id.* ¶ 195. By April 2020, they struck an agreement to do so: the RoFx Operators would send monies to Boonruk; Boonruk would direct the funds according to the RoFx Operators' instructions; and, in return, Boonruk could deduct 2% from all incoming funds as its service fee. *Id.*

Between April 2020 and July 2021, RoFx customers directly deposited funds with Boonruk, totaling at least €306,610 and $3,168,450.01 among 129 transactions. *Id.* ¶ 203(n). Additionally, from 2020 to 2021, Boonruk received at least 132 transactions, totaling $7,994,730, from four different Front Companies—Notus, Shopostar, Global E-Advantages, and Grovee. *Id.* ¶ 207 (citing Ex. 9 at 2).

By March 2021, the transaction volume became so overwhelming for Boonruk that Krinara, in conjunction with shareholder Raviratporn, incorporated IT Outsourcing and opened a bank account for the sole purpose of laundering funds for the RoFx Operators. *Id.* ¶¶ 197–98. The RoFx Operators used the IT Outsourcing bank account almost exclusively to receive RoFx customer transactions. *Id.* ¶ 198. Specifically, between 2020 to late 2021, RoFx customers sent deposits to IT Outsourcing totaling at least €116,360 and $144,858.76 among 56 transactions. *Id.* ¶ 203(o) (citing Ex. 6 at 7, 15–19). Krinara then sent these funds onward as directed by the RoFx Operators. *Id.*

The RoFx Operators also instructed Boonruk and IT Outsourcing to send some small amounts as "withdrawals" back to customers to maintain the illusion of a legitimate enterprise and encourage continued contributions. *See id.* ¶ 196(c). Most notably, from December 2020 to September 2021, Boonruk and IT Outsourcing sent RoFx withdrawals directly to Plaintiffs Leonov, and Parent, both citizens and residents of Florida, and Zarley (resident of Hawaii). *Id.* ¶¶ 13, 14, 15, 230, 242, 249.

Plaintiffs filed the present class action on September 29, 2021, after the RoFx Operators disappeared with their ill-gotten gains. Plaintiffs amended their complaint on February 14, 2022, with the Court's leave, bringing several claims against the Moving Defendants. *See generally id.*

The Moving Defendants moved for dismissal on strikingly similar grounds to those raised by EPS. Namely, the Moving Defendants' Motion argues lack of personal jurisdiction, shotgun pleading issues, failure to state a claim, and failure to satisfy Rule 9(b)'s heightened pleading requirements. *See generally* Mot. Nevertheless, the Moving Defendants' arguments are meritless, premised on a misreading of Plaintiffs' detailed factual allegations, which describe a level of participation several magnitudes greater than the facts currently known and alleged against EPS. Consequently, the Motion should be denied.

MEMORANDUM OF LAW

I. This Court Has Personal Jurisdiction Over the Moving Defendants

A plaintiff seeking to "establish personal jurisdiction over a nonresident defendant bears the initial burden of alleging in the complaint sufficient facts to make out a *prima facie* case of jurisdiction." *United Techs. Corp. v. Mazer*, 556 F.3d 1260, 1274 (11th Cir. 2009). When a personal jurisdiction attack is predicated on a failure to state a claim argument, "the court must [first] determine 'whether the allegations of the complaint state a cause of action.'" *PVC Windoors, Inc. v. Babbitbay Beach Const., N.V.*, 598 F.3d 802, 808 (11th Cir. 2010) (citations omitted). "[T]he burden [then] shifts to the defendant to challenge plaintiff's allegations by affidavits or other pleadings." *Carmouche v. Carnival Corp.*, 36 F. Supp. 3d 1335, 1338 (S.D. Fla. 2014), *aff'd sub nom.*, *Carmouche v. Tamborlee Mgmt., Inc.*, 789 F.3d 1201 (11th Cir. 2015). Where the defendant submits affidavits challenging the plaintiff's allegations,

> the burden traditionally shifts back to the plaintiff to produce evidence supporting jurisdiction unless those affidavits contain only conclusory assertions that the defendant is not subject to jurisdiction. Where the plaintiff's complaint and supporting evidence conflict with the defendant's affidavits, the court must construe all reasonable inferences in favor of the plaintiff.

Meier ex rel. Meier v. Sun Intern. Hotels, Ltd., 288 F.3d 1264, 1269 (11th Cir. 2002).

Here, Plaintiffs' allegations are sufficient to confer personal jurisdiction over the Moving Defendants under Florida's long-arm statute—for committing a tortious act in Florida—and under Federal Rule of Civil Procedure 4(k)(2)—for the Moving Defendants' participation in the Money Laundering Enterprise. *See* Am. Compl. ¶¶ 7, 9–10. *See* Mot. 4, 5.

Although the Moving Defendants hope to analogize their situation with that of EPS, their aspirations fall short. Namely, Plaintiffs' preliminary investigation revealed significantly more details regarding the Moving Defendants' conscious role in the conspiracy and their participation within it—which is several magnitudes greater than what was presently known and pled against EPS. Such allegations not only place the Moving Defendants at the epicenter of more than $11 million dollars' worth of wire transactions, but also the Amended Complaint pleads that they were responsible for executing RoFx.net withdrawals to customers all over the United States (and specifically Florida) in an effort to preserve the conspiracy's aura of legitimacy.

A. Florida's Long-Arm Statute Provides for Jurisdiction over the Moving Defendants

1. Plaintiffs' Adequately Allege the Moving Defendants' Participation in a Conspiracy Wherein Co-Conspirators Committed Acts in Florida in Furtherance of the Conspiracy

The Moving Defendants argue that Plaintiffs failed to adequately allege the Moving Defendants committed a tort warranting jurisdiction over the Moving Defendants under Fla. Stat. § 48.193(1)(a)(2), Mot. 4, 7–8. However, Plaintiffs sufficiently allege that the Court has jurisdiction over the Moving Defendants under Fla. Stat. § 48.193(1)(a)(2) for committing a tortious act within Florida. *See* Am. Compl. ¶ 9. Importantly, Courts have held that the "tortfeasor's physical presence in Florida is not required . . . jurisdiction may be found in certain instances where an out-of-state defendant commits a tort that produces an injury in Florida." *Horizon Aggressive Growth, L.P. v. Rothstein-Kass, P.A.*, 421 F.3d 1162, 1168 (11th Cir. 2005) (cleaned up). With regard to inchoate offenses such as conspiracy, the Eleventh Circuit explained:

> Florida courts have held that the state's long-arm statute can support personal jurisdiction over any alleged conspirator where any other co-conspirator commits an act in Florida in furtherance of the conspiracy, **even if the defendant over whom personal jurisdiction is sought individually committed no act in, or had no relevant contact with, Florida**.

Mazer, 556 F.3d at 1281–82. (emphasis added).

As later addressed in full, Plaintiffs adequately alleged that the Moving Defendants conspired with the RoFx Operators to defraud Plaintiffs and convert Plaintiffs' funds. *See infra* Section II.C. These allegations are plainly sufficient to make out a *prima facie* case for conspiracy-based personal jurisdiction over the Moving Defendants under Florida's long-arm statute. The Moving Defendants' accepted RoFx customer deposits directly, personally sent RoFx.net withdrawals to Florida customers, and their co-conspirators hosted the RoFx.net website in Jacksonville, Florida (*see supra* pp. 2).

Despite this overwhelming circumstantial evidence inferring their involvement in the conspiracy, the Moving Defendants offer sworn Declarations stating they "have never been involved with any website called RoFx.net". *See* Mot. Ex. 1 & 2. In response, Plaintiffs submit the Declaration of Mr. González, counsel for Plaintiffs, which includes documents submitted by RoFx.net customers. *See* Resp. at Ex. D, Decl. of Dennis A. González [hereinafter González Decl.]. One particular Florida customer submitted screenshots and activity reports of his RoFx.net account—evidencing three withdrawals from the platform and corresponding wire transfers from Boonruk. *See* González Decl. ¶ 6(b). Notably, the difference between the RoFx.net website and Boonruk's wire transfers are 2 days and $100. *See id.* The third one, includes a difference of 5 days and $20[1]. *See id.* Such evidence in combination with the well-pleaded Amended Complaint leads to one reasonable inference: the Moving Defendants executed wire transactions based on RoFx.net withdrawals in furtherance of the conspiracy.

2. The Jurisdictional Allegations Satisfy Due Process

The Moving Defendants argue that the Court's jurisdiction over them would not comport with due process because of their purported lack of Florida contacts and the unfairness of having to defend the action in this forum. Mot. 5. The Moving Defendants are wrong because the conspiracy was properly pled (*see infra* Section II.D), and they disingenuously discount their numerous personal contacts with Florida.

The acts of a conspiracy in the forum may be imputed to nonresident defendants to establish minimum contacts. *Tavakoli v. Doronin*, No. 18-21592, 2019 WL 1242669, at *11 (S.D. Fla. Mar. 18, 2019). In *Tavakoli*, the Court considered whether jurisdiction over a nonresident defendant was appropriate based on its involvement in a civil conspiracy, despite the nonresident defendant's lack of direct forum contacts. *See id.* In analyzing whether jurisdiction over the nonresident defendant would comport with due process, the Court first explained that the plaintiff had sufficiently alleged a civil conspiracy between the non-resident defendants and other co-conspirators who committed substantial acts in furtherance of the conspiracy in Florida. *See id.* The Court then concluded that "[t]he acts of the conspiracy in Florida may be imputed to [the

[1] The Amended Complaint alleges that the Moving Defendants received a service fee for their participation in the conspiracy (*see supra* pp. 2–3), and such allegations are further supported by claimant documents evidencing minor differences between RoFx.net withdrawals and the Moving Defendants' wires (*see* González Decl. ¶ 6).

nonresident defendant] to establish minimum contacts." *Id.* (citing *J&M Assocs., Inc. v. Romero*, 488 F. App'x 373, 375–76 (11th Cir. 2012) (internal citations omitted). Finally, the Court determined that exercising jurisdiction over the nonresident was consistent with traditional notions of fair play and substantial justice because the nonresident defendant did not establish that defending the suit in Florida would unduly burden it, and because Florida had a significant interest in resolving the dispute due to the tortious conduct occurring in the forum. *Tavakoli*, 2019 WL 1242669, at *12.

This Court distinguished *Tavakoli* in its Order dismissing EPS. *See* ECF No. 140 at 4. Namely, it explained that "[a]bsent from the amended complaint is any mention of particular instances in which EPS purposefully targeted Florida consumers, communicated with persons in Florida, or otherwise "purposefully availed" itself of the privilege of conducting business in the state." *Id.* It further states that crucially missing from the allegations was "the existence of Florida contacts undertaken by any of EPS's principals to allow for the sort of imputed contacts found in *Tavakoli*." *Id.* at 5. In an effort to analogize with this ruling, the Moving Defendants submit Declarations swearing under penalty of perjury that they "have not conducted or engaged in any business in Florida or the United States, and are in no way active in Florida or the United States"; "do not have clientele in Florida, and never knowingly or purposefully engaged in any activities with anyone from Florida"; and "have never been involved with any website called RoFx.net". *See* Mot. Ex. 1 & 2. Plaintiffs competing Declarations reveal the exact opposite; and unlike EPS, the Amended Complaint does allege substantial Florida contacts directly linked to the Moving Defendants and their role in the conspiracy.

The Amended Complaint specifically alleges that the Moving Defendants had direct contact with Florida residents and effectively availed themselves of the forum. *See supra* pp. 2–3. Specifically, Moving Defendants Boonruk and IT Outsourcing sent illusory RoFx.net profits to Plaintiffs Leonov and Parent—both Florida residents. *Id.* Rebutting the Moving Defendants' Declarations and supporting this factual allegation, Plaintiffs submit Declarations from Leonov and Parent. *See* Resp. at Ex. A., Decl. of Roman Leonov and Ex. B, Declaration of Mitchell Parent. Additionally, and despite the limited investigation to date, Plaintiffs identified three additional Florida residents who received RoFx.net withdrawals from Boonruk. *See* González Decl. ¶¶ 6(a)–(c). Because this evidence is directly contradictory to the Moving Defendants' Declarations, the Court must construe all reasonable inferences in favor of the Plaintiffs. *See Meier*, 288 F.3d at

1269. It is clear that the Moving Defendants purposefully availed themselves of the Florida forum by consciously wiring RoFx.net withdrawals directly to Florida residents[2].

B. Alternatively, the Court has Personal Jurisdiction over the Moving Defendants under Federal Rule of Civil Procedure 4(k)(2)

Even if the Court concludes that the Moving Defendants are not subject to personal jurisdiction under Florida's long-arm statute, the Moving Defendants are subject to personal jurisdiction under Federal Rule of Civil Procedure 4(k)(2).

Rule 4(k)(2), commonly known as federal long-arm jurisdiction, provides that "serving a summons or filing a waiver of service establishes personal jurisdiction over a defendant" for a claim that arises under federal law if: (1) "the defendant is not subject to jurisdiction in any state's courts of general jurisdiction," and (2) "exercising jurisdiction is consistent with the United States Constitution and laws." Fed. R. Civ. P. 4(k)(2). Jurisdiction "consistent with the Constitution and laws of the United States" is that which "comports with due process." *Consol. Dev. Corp. v. Sherritt, Inc.*, 216 F.3d 1286, 1291 (11th Cir. 2000).

Counts I and II under the RICO statute plainly arise under federal law[3]. The Moving Defendants were also each served with a summons by email (ECF No. 122) pursuant to the Court's Order granting alternate service (ECF No. 38)[4]. It is also uncontested that the Moving Defendants

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[2] Additionally, the Moving Defendants provide scant evidence that defending this suit in Florida would be unduly burdensome, providing only a conclusory statement that doing so would be an "extraordinary burden." Mot. 9. However, Florida has a self-evident interest in resolving a dispute involving a scam website based in Florida, and one were fictitious profits were purposefully directed towards Florida. *See Tavakoli*, 2019 WL 1242669, at *12. Florida's interest in addressing this misconduct outweighs the Moving Defendants' unexplained burden of having to defend in this forum.

[3] Rule 4(k)(2) applies in RICO cases even though the nationwide service of process provision in 18 U.S.C. § 1965 is inapplicable to the Moving Defendants. *See, e.g.*, *In Re: ZF-TRW Airbag Control Units Prods. Liab. Litig.*, No. 19-02905, 2022 WL 522484, at *10 (C.D. Cal. Feb. 9, 2022).

[4] The Moving Defendants argue that this method of service precludes application of Rule 4(k)(2), which the Moving Defendants insist requires service "pursuant to a federal statute that authorizes service of process[.]" Mot. 6–7 (quoting *Durham v. LG Chem, Ltd.*, No. 21-11814, 2022 WL 274498, at *2 (11th Cir. Jan. 31, 2022)). Their reliance on *Durham* is misplaced. The quoted portion of the *Durham* opinion discusses Rule 4(k)(1)(C), not Rule 4(k)(2). *Durham*'s discussion of Rule 4(k)(2) was limited to concluding it did not apply due to the lack of a federal claim in that case. *See* 2022 WL 274498, at *3; *see also Autombili Lamborghini S.p.A., et al., v. Lamborghini Latino America USA, et al.*, No. 1:18-cv-00062-TSE-TCB (E.D. Va. Aug. 21, 2019), ECF No. 144 (finding personal jurisdiction established under Rule 4(k)(2) over a defendant served via email

are not subject to any other state court of general jurisdiction[5]. In effect, only the last factor of Rule 4(k)(2) is in dispute; namely, whether the exercise of jurisdiction comports with due process.

As previously explained, asserting personal jurisdiction over the Moving Defendants satisfies due process. *See supra* Section I.A.2. However, notably, the test for minimum contacts here is more broad—with the forum being the United States as a whole rather than Florida specifically. *See Fraser v. Smith*, 594 F.3d 842, 849 (11th Cir. 2010). The Moving Defendants swore under oath that they do not conduct business in the United States nor have they been involved with any website called RoFx.net. *See* Mot. Ex. 1 & 2. Conversely, the Amended Complaint alleges the Plaintiff Zarley (resident of Hawaii) received RoFx.net profits from Boonruk, which is supported by his Declaration. *See* Resp. at Ex. C, Decl. of Jonathan Zarley. In addition to those contacts with Florida previously discussed, Plaintiffs offer additional evidence supporting the Moving Defendants' continued and systematic business in the US and their associations with RoFx.net. Namely, Boonruk and IT Outsourcing collectively sent RoFx.net withdrawals to 17 customers residing in 13 different states—Florida, Arizona, Utah, Pennsylvania, West Virginia, Tennessee, Illinois, California, Connecticut, Minnesota, Oregon, Missouri, and Washington. *See* González Decl. ¶ 6. Once again, it is clear that the Moving Defendants availed themselves of the US forum, and subjected themselves to jurisdiction under Rule 4(k)(2).

Moreover, under the doctrine of pendant personal jurisdiction, the Court may extend jurisdiction over Plaintiffs' state-law claims as they arise from the same common nucleus of operative facts as the RICO Counts. *See Thomas v. Brown*, 504 Fed. App'x 845, 847 (11th Cir. 2013) ("If the forum's long-arm statute provides jurisdiction over one claim, the district court has

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pursuant to the Court's alternate service motion); *Dolphin Cove Inn, Inc. v. Vessel Olymplc Javelin*, No. 3:19-cv-1018-J-34JRK, 2022 WL 4927590, at *4 (M.D. Fla. Aug. 21, 2020) (internal citations omitted) ("[C]ourts have found service by e-mail satisfies due process requirements.").

[5] Rule 4(k)(2) is "neither applicable nor relevant until a court finds that a defendant is not subject to personal jurisdiction in the courts of any state." *Giuliani v. NCL (Bahamas) Ltd.*, --- F. Supp. 3d ---, 2021 WL 4099502, at *9 (S.D. Fla. Sept. 8, 2021) (citation omitted). However, a district court is not required to "analyze the laws of all fifty states to ascertain whether any state court of general jurisdiction has jurisdiction over the defendant." *Oldfield v. Pueblo De Bahia Lora, S.A.*, 558 F.3d 1210, 1220 n.22 (11th Cir. 2009). Rather, when, as here, the "defendant contends that [it] cannot be sued in the forum state and refuses to identify any other where suit is possible, then the federal court is entitled to use Rule 4(k)(2)." *Id.* (citations omitted) (emphasis added).

personal jurisdiction over the entire case so long as the claims arose from the same jurisdiction-generating event.")[6].

II. The Amended Complaint Adequately Alleges Claims Against the Moving Defendants

"In ruling on a 12(b)(6) motion, the Court accepts the factual allegations in the complaint as true and construes them in the light most favorable to the plaintiff." *Speaker v. CDC*, 623 F.3d 1371, 1379 (11th Cir. 2010). The ultimate test is whether the complaint contains sufficient facts to state a claim that is "plausible on its face[.]" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). While the plaintiff need not provide detailed factual allegations, the allegations must contain more than a "formulaic recitation of the elements of a cause of action" and "must be enough to raise a right of relief above the speculative level[.]" *Twombly*, 550 U.S. at 545, 555.

The Moving Defendants' arguments ignore the Amended Complaint's detailed, plausible, and particularized allegations supporting each Challenged Claim, and the Court should deny their Motion.

A. Plaintiffs' Detailed and Specific Allegations Sufficiently State Claims Against the Moving Defendants Under Rule 9(b) and Provide the Requisite Notice of the Claims Brought Against Them

The Moving Defendants make related arguments under Rule 12(b)(6) and 9(b) that apply to every Challenged Claim. Specifically, the Moving Defendants argue that the Amended Complaint "fails to specify individualized fraudulent conduct by any of the [Moving Defendants]" in accordance with Rule 9(b) (*see* Mot. 14), is an impermissible shotgun pleading because its allegations lump the Moving Defendants together with multiple other Defendants without specifying which Defendants are responsible for which acts or omissions (*see id.* 9–12), and fails to sufficiently allege various elements of all claims (*see id.* 15–20). However, even a cursory reading of the Amended Complaint reveals this is not so.

Claims sounding in fraud "must state with particularity the circumstances constituting fraud[.]" Fed. R. Civ. P. 9(b). "Because fair notice is perhaps the most basic consideration underlying Rule 9(b), the plaintiff who pleads fraud must reasonably notify the defendants of their purported role in the scheme." *Brooks v. Blue Cross & Blue Shield of Fla.*, 116 F.3d 1364, 1381

[6] Plaintiffs respectfully inform the Court that the transactions and RoFx customers identified in this Response are based on a partial dataset. If the Court finds that there is insufficient evidence to support jurisdiction, *alternatively*, Plaintiffs seek leave for jurisdictional discovery.

(11th Cir. 1997) (cleaned up) (emphasis added). "Where multiple defendants are involved, the complaint must distinguish among defendants and specify their respective role in the alleged fraud." *First Am. Bank & Tr. by Levitt v. Frogel*, 726 F. Supp. 1292, 1295 (S.D. Fla. 1989). "Allegations of date, time or place satisfy the Rule 9(b) requirement that the *circumstances* of the alleged fraud must be pleaded with particularity, but alternative means are also available to satisfy the rule." *Durham v. Bus. Mgmt. Assocs.*, 847 F.2d 1505, 1512 (11th Cir. 1988) (citations omitted). Moreover, "allegations of knowledge and intent are not subject to the particularity requirement." *Cordell Consultant, Inc. Money Purchase Plan & Tr. v. Abbott*, 561 F. App'x 882, 884 (11th Cir. 2014) (citing Fed. R. Civ. P. 9(b)).

Courts recognize that Rule 9(b)'s specificity requirements are applied less stringently under certain circumstances. The requirements are relaxed when "specific factual information about the fraud is peculiarly within the defendant's knowledge or control." *Hill v. Morehouse Med. Assocs., Inc.*, No. 02-14429, 2003 WL 22019936, at *3 (11th Cir. Aug. 15, 2003) (cleaned up); *see also Medalie v. FSC Sec. Corp.*, 87 F. Supp. 2d 1295, 1306–07 (S.D. Fla. 2000) ("This relaxed requirement is applied where 'strict application of Rule 9(b) could result in substantial unfairness to private litigants who could not possibly have detailed knowledge of all the circumstances surrounding the alleged fraud.'") (citations omitted). Courts are also more lenient applying Rule 9(b) when the fraud involves prolonged, multi-act schemes—in such circumstances "the complaint must set forth a representative sample detailing the defendants' allegedly fraudulent acts, when they occurred, and who engaged in them[.]" *Hill*, 2003 WL 22019936, at *3 n.6 (cleaned up). And, even when RICO Act claims are predicated on fraud, "particularity pleading [for such claims] under Rule 9(b) is limited to 'the circumstances constituting fraud,'[and] the non-fraud elements of a RICO claim can be alleged under Rule 8(a) standards." *Cardenas v. Toyota Motor Corp.*, 418 F. Supp. 3d 1090, 1098 (S.D. Fla. 2019).

Moreover, alleging the specific conduct of each defendant—providing the requisite notice—is all that is necessary, even if defendants are identified together by role for efficiency purposes. *See Sides v. Simmons*, No. 07-80347, 2007 WL 2819371, at *5 (S.D. Fla. Sept. 24, 2007). In *Sides*, the plaintiff brought fraud-related claims against numerous defendants, included specific allegations against each defendant, and then grouped defendants together based on their respective conduct. *Id.* at *4–5. Defendants moved to dismiss on grounds of improper group pleading and

failure to satisfy Rule 9(b). *Id.* The court denied the motion, explaining that a careful reading of the plaintiff's complaint demonstrated individual acts alleged against each defendant:

> [T]his [c]ourt does not believe that [the p]laintiff engaged in group pleading. Although the allegations in each count allege activity perpetrated by "defendants," **earlier paragraphs**, that [the p]laintiff had incorporated into each count by reference, **clearly outline each individual [d]efendant's alleged activity**, when it occurred, and why that activity induced [p]laintiff. . . . This information, *in toto,* should provide ample notice to all [d]efendants. Moreover, simply because multiple defendants are alleged to have committed the same violations in the same way **does not mean that combining their acts for efficiency purposes constitutes group pleading**.

Id. at *5 (emphasis added).

1. The Amended Complaint is stated with particularity in accordance with Rule 9(b)

The Amended Complaint contains ample and particularized allegations from which to infer the Moving Defendants' intent to engage in wrongdoing, agreement to engage in wrongdoing, and the requisite knowledge of wrongdoing. *See supra* pp. 2–3. Plaintiffs allege Boonruk and IT Outsourcing acted as a Layering Company and a Front Company, respectively, in the Money Laundering Enterprise. *See* supra pp. 2–3. Specifically, the allegations detail Krinara and Raviratporn's conscious roles within those companies: Krinara *agreed* to use Boonruk's account to receive RoFx customers' deposits directly; Boonruk, an IT support and computer graphics business, also *agreed* to act as the RoFx Operators' international transactions hub—received RoFx customer deposits from at least four other Front Companies and redirected them throughout the Money Laundering Enterprise. Once the substantial transaction volume began to reach concerning levels for Boonruk, Krinara and Raviratporn incorporated Front Company IT Outsourcing and opened a bank account to help diversify the transaction load—receiving at least €116,360 and $144,858.76 among 56 transactions from RoFx customers directly. Both IT Outsourcing and Boonruk sent RoFx withdrawals directly to its customers (including three of the named Plaintiffs). *See supra* pp. 2–3.

Taken together, these particularized and non-conclusory allegations—and the inferences drawn therefrom—detail the Moving Defendants' deliberate involvement in the Money Laundering Enterprise and RoFx-related conspiracies, including each Moving Defendants' respective role and knowledge of the illicitly acquired customer funds from the RoFx Scheme. *See, e.g.*, *Bank of Mongolia v. M&P Glob. Fin. Services, Inc.*, No. 08-60623-CV, 2008 WL 11363702, at *6 (S.D. Fla. Oct. 7, 2008) (finding that plaintiff's complaint satisfied Rule 9(b)'s

requirements and stated claims because it "describes Defendants' purported scheme and then provides the details as to the conduct of each Defendant and how that played into the enterprise").

The Moving Defendants also argue that these allegations fail to show that they "knew that the funds were in any way connected with any fraudulent scheme," and contend that Plaintiffs "offer no facts distinguishing any alleged acts of each [Moving Defendant] from lawful financial services." Mot. 14. This wholly inaccurate. The Amended Complaint alleges that Boonruk operates within the IT support and computer graphics business. *See supra* pp. 2. Their Motion confirms that this includes "software and graphics for online games, as well as building data centers, mobile networks, and computer networks, among other activities." Mot. 7–8. Therefore admittedly, and unlike EPS, the Moving Defendants are not in the business of financial services. Instead, for a fee, they converted their software business into an illicit financial clearing house for the RoFx Operators—serving as a conduit for laundering millions of dollars throughout the Money Laundering Enterprise. *See supra* pp. 2–3. Another nail on the coffin to establish that Moving Defendants knew the funds were connected with the fraudulent scheme and conducted unlawful financial services is that both Boonruk and IT Outsourcing directly sent wire transfers to RoFx customers in the form of withdrawals—including Plaintiffs Leonov, Parent, and Zarley. *Id.* If they were unaware of the RoFx Scheme, what then is the justification for executing these withdrawals? How would they have known the beneficiaries or amounts of the wires? The answer is simple.

In fact, the only reasonable conclusion here is that the Moving Defendants had *knowledge* of the RoFx Scheme and *deliberately agreed* to participate in illicit transactions for the RoFx Operators—not "legitimate business transactions" for their software business as they contend. *See* Mot. 16. This is well supported by the particularized allegations in the Amended Complaint and is required to be construed in the light most favorable to the Plaintiffs at this stage of litigation. *See Speaker*, 623 F.3d at 1379.

2. Plaintiffs' allegations are individualized toward each Moving Defendant and provide requisite notice of the claims brought against them

Although Plaintiffs grouped Defendants by role for narrative and drafting efficiency purposes, Plaintiffs also detailed each Moving Defendant's specific, individual misconduct—and thus the Amended Complaint is not a shotgun pleading. As in *Sides*, here Plaintiffs detail specific allegations, supported by exhibits listing known transactions, against the Moving Defendants and all other Defendants. *See supra* pp. 2–3. For efficiency purposes, Plaintiffs defined each group of

Defendants by role; and in every Challenged Claim, each Defendants' individual acts are incorporated by reference and connected to the alleged misconduct. *See* Am. Compl. ¶¶ 17–60, 128–29 (defining groups and roles); *id.* ¶¶ 259, 305, 317, 320, 322, 325, 333, 335, 337, 340, 342–44 (incorporating by reference the specific individual allegations against Defendants, including the Moving Defendants). As summarized herein, these individualized allegations provide the Moving Defendants with the requisite notice. Thus, the Amended Complaint is not a shotgun pleading and the Court should deny the Motion on this basis. *See, e.g.*, *Raimbeault v. Accurate Mach. & Tool, LLC*, No. 14-CIV-20136, 2014 WL 5795187, at *12–13 (S.D. Fla. Oct. 2, 2014) (denying motion to dismiss fraud claim under Rule 9(b) despite certain defendants being grouped together for narrative purposes, observing that "Rule 9(b) does not require that a [p]laintiff copy and paste the same language applicable to separate defendants into dozens of separate paragraphs"); *Begualg Inv. Mgmt., Inc. v. Four Seasons Hotel Ltd.*, No. 10-22153-CIV, 2012 WL 1155128, at *8 (S.D. Fla. Apr. 5, 2012) (rejecting the defendants' group pleading arguments, deciding the plaintiff adequately pled its fraud and RICO claims in conformity with Rule 9(b) because the allegations described the relationships between the defendants, their individual roles within the RICO enterprise, and the predicate acts they committed in furtherance of the overall conspiracy); *Sides*, 2007 WL 2819371, at *5–6 (denying motion to dismiss raising a similar Rule 9(b) group pleading argument).

As demonstrated, the Amended Complaint's allegations are sufficient at this stage to satisfy the heightened pleading requirements of Rule 9(b) and provide the Moving Defendants notice as to the claims brought against them. This is particularly true given the nature of the prolonged fraud specifically designed to evade detection, which continues to provide Moving Defendants with a cloak of obfuscation based on information and records held only by them. *See, e.g.*, *U.S. ex rel. Kozhukh v. Constellation Tech. Corp.*, 64 F. Supp. 2d 1239, 1243 (M.D. Fla. 1999) (denying motion to dismiss under Rule 9(b) and excepting the plaintiff from the usual heightened pleading requirements because certain information was "in the exclusive hands of the opposing party").

B. Count I Sufficiently Alleges a RICO Enterprise Claim Against the Moving Defendants

"A private plaintiff suing under the civil provisions of RICO must plausibly allege six elements: that the defendants (1) operated or managed (2) an enterprise (3) through a pattern (4) of racketeering activity that included at least two predicate acts of racketeering, which (5) caused (6) injury to the business or property of the plaintiff." *Cisneros v. Petland, Inc.*, 972 F.3d 1204,

1211 (11th Cir. 2020). The Amended Complaint, reviewed under the correct legal standard, shows that Plaintiffs have adequately alleged all elements for a 18 U.S.C. 1962(c) RICO claim. Specifically, Plaintiffs sufficiently alleged the two challenged elements, and the Moving Defendants' reliance on *Francois v. Hatami*, No. 21-cv-22528, 2021 WL 4502336, at *3 (S.D. Fla. Oct. 1, 2021) is misplaced.

First, Plaintiffs allege a Money Laundering Enterprise, separate and distinct from the RoFx Scheme intended to defraud RoFx customers. *See supra* pp. 2. The RoFx Scheme involved a robotically operated foreign exchange trading platform, called RoFx.net, which lured customers with promises of safety, ease, and highly lucrative profits. *See id.* This illusory product was managed by the RoFx Operators, Peter Mohylny, and the Promoter Defendants identified in the Amended Complaint. *See id.* Distinctively, the Money Laundering Enterprise—subject of this RICO Count I—agreed to "hide, launder, and otherwise wrongfully retain the proceeds of the RoFx Scheme." Am. Compl. ¶ 261. Plaintiffs detailed the relationships between the Moving Defendants and the other Defendants, their respective roles, and specific acts taken in furtherance of those roles to achieve the common purpose of the Money Laundering Enterprise. *See supra* pp. 2–3 & Section II.A.1. This is sufficient to meet Plaintiff's pleading burden at this stage[7].

Second, each of Count I's predicate acts require factual allegations that "give rise to a 'strong inference' that [Moving Defendants] possessed the requisite factual intent": either "fraudulent intent when committing the banking transactions . . . or, at a minimum, [that Moving Defendants] knew that the money involved in these transactions derived from unlawful activity." *Republic of Panama v. BCCI Holdings (Luxembourg) S.A.*, 119 F.3d 935, 949 (11th Cir. 1997). "One 'common method for establishing a strong inference of scienter is to allege facts showing a motive for committing fraud and a clear opportunity for doing so.'" *Cont'l Cas. Co. v. Cura Grp.*,

[7] *Compare In re Managed Care Litig.*, No. 00-1334, 2004 WL 7334075, at *3 (S.D. Fla. July 21, 2004), *report and recommendation adopted*, 2004 WL 7334073 (S.D. Fla. Aug. 17, 2004) (RICO enterprise alleged because the complaint identified the members of the enterprise, explained the relationship amongst the different members of the enterprise, defined their individual functions in the common scheme, and tied together Defendants with a common purpose), *and Montoya v. PNC Bank, N.A.*, 94 F. Supp. 3d 1293, 1313 (S.D. Fla. 2015) (RICO enterprise alleged because the plaintiffs "described an organized system with multiple players bound by a common purpose" that was "definite enough to enable it to function as a racketeering organization for other purposes" and able to "regroup" to perform other unlawful acts), *with Francois*, 2021 WL 4502336, at *3 ("There are no allegations, beyond conclusory pleadings, of an enterprise that existed among the Defendants for a reason beyond the perpetration of a fraud on the Plaintiff.").

No. 03-61846-CIV, 2005 WL 8155321, at *23 (S.D. Fla. Apr. 6, 2005)) (citation omitted). Another method to show scienter is via circumstantial evidence, as explained by Judge Altonaga in *Cont'l Cas. Co.*:

> [b]ecause one cannot know another's subjective intent, circumstantial evidence must be relied upon to indicate intent. "[T]he requirement of specific intent under the mail fraud statute is satisfied by the existence of a scheme which was reasonably calculated to deceive persons of ordinary prudence and comprehension and this intention is shown by examining the scheme itself."

Id. (citations omitted); *see also id.* at *24 ("Rule 9(b) permits '[m]alice, intent, knowledge, and other condition of mind' to be 'averred generally.' In this regard, we have noted that it would be unworkable and unfair to require great specificity in pleading scienter, since 'a plaintiff realistically cannot be expected to plead a defendant's actual state of mind.'" (quoting *Stern v. Leucadia Nat'l Corp.*, 844 F.2d 997, 1003 (2d Cir. 1988)).

Here, Plaintiffs allege that Boonruk agreed to operate as a Layering Company in the RoFx Scheme, utilizing their software business transactions to disguise illicit RoFx transactions. *See supra* pp. 2–3 & Section II.A.1. However, this side-business—laundering funds for the RoFx Operators—quickly subsumed the Moving Defendants' core software business, and effectively converted it into a full-time international clearing house for the Money Laundering Enterprise. *Id.* Specifically, Boonruk received more than $11 million from both RoFx customers, directly, and at least four other Front Companies. *Id.* Growing worried for the shocking volume of transactions, the Moving Defendants set up IT Outsourcing to diversify the risk—also directly receiving hundreds of thousands of dollars in RoFx customer deposits. *Id.* The Moving Defendants also wired RoFx.net withdrawals directly to RoFx customers—three of which are named Plaintiffs in this action. *Id.* Such well-pleaded facts position the Moving Defendants squarely at the epicenter of the Money Laundering Enterprise—receiving RoFx.net deposits directly from RoFx customers and Front Companies on one end, and distributing RoFx.net withdrawals on the other. These facts satisfy Plaintiffs' burden to show a strong inference that the Moving Defendants had the requisite specific intent for Count I's predicate acts. *See, e.g.*, *Cont'l Cas. Co.*, 2005 WL 8155321, at *23–28 (denying motion to dismiss and determining sufficient circumstantial evidence of intent existed against certain defendants to satisfy the scienter requirement of RICO Act predicates).

Accordingly, at this stage, Plaintiffs have provided a sufficiently detailed "preliminary sketch of a RICO enterprise" demonstrating the Moving Defendants' involvement to satisfy their

pleading burden. *In re Managed Care Litig.*, 298 F. Supp. 2d at 1275–76 (determining the plaintiffs had adequately pled a RICO enterprise and noting that "the pleadings are justifiably limited at this [motion to dismiss] stage because Plaintiffs have not had the aid of discovery"). In addition to the enterprise and the Moving Defendants' conscious participation within it, Plaintiffs adequately pled the remaining unchallenged elements of their RICO Count I[8], and the Court should deny the Motion as to this Count. *See, e.g.*, *Cont'l Cas. Co.*, 2005 WL 8155321, at *23 (denying motion to dismiss as to certain defendants who were alleged to be "active participants in the fraudulent scheme, not legitimate businesses caught in the middle of a fraudulent scheme").

C. Count II Sufficiently States a RICO Conspiracy

The Moving Defendants argue that Plaintiffs also failed to state a RICO conspiracy claim under § 1962(c) as they continue to turn a blind eye to Plaintiffs' detailed factual allegations. Mot. 17.

As explained in the preceding section, Plaintiffs do adequately allege all elements of Count I. *See supra* Section II.B. Moreover, the Amended Complaint incorporates specific factual allegations into Count II, *see* Am. Compl. ¶¶ 305, 307–10, providing circumstantial evidence that the Moving Defendants *agreed* with the other Money Laundering Enterprise participants to launder the proceeds from the RoFx Scheme with knowledge of their origin. *See supra* Section II.A.1 and II.B (explaining that the Moving Defendants both accepted several million dollars' worth of RoFx customer and Front Company funds, redirected them throughout the enterprise as directed by the RoFx Operators, and distributed RoFx.net withdrawals directly to its customers—inferring the existence of a conspiracy). The Amended Complaint also sufficiently states that the Moving Defendants agreed to commit two predicate acts in furtherance of this goal. *See id.* Such allegations are sufficient at this stage of litigation to state a RICO Conspiracy. *See In re Managed Care*, 2004 WL 7334075, at *3 (finding a RICO conspiracy shown by alleging an "agreement among the [d]efendants to commit the predicate acts, and by inference an agreement as to the overall objective of the conspiracy").

[8] The Amended Complaint alleges that the Moving Defendants executed hundreds of international wire transactions—amounting to millions of dollars in funds. *See supra* pp. 2–3. They actively participated in this enterprise from at least March 2020 to September 2021. *Id.* As a result of their actions, they caused the Plaintiffs financial harm. *See* Am. Compl. ¶¶ 300–04.

D. Counts IV and VII Adequately Allege Conspiracy Claims for Fraud and Conversion

Under Florida law, pleading a civil conspiracy requires alleging, *inter alia*, "an agreement between two or more parties" to do an unlawful act. *Raimi v. Furlong*, 702 So. 2d 1273, 1284 (Fla. 3d DCA 1997). "Each coconspirator need not act to further a conspiracy; each need only know of the scheme and assist in it in some way to be held responsible for all of the acts of his coconspirators." *Charles v. Fla. Foreclosure Placement Ctr.*, 988 So. 2d 1157, 1160 (Fla. 3d DCA 2008) (internal quotation omitted).

Here, the Moving Defendants recycle the same arguments they used to challenge the RICO conspiracy, *see* Mot. 17, and those arguments fail for the same reasons stated above. *See supra* pp. 2–3 & Section II.C. Although unchallenged directly by the Moving Defendants (*see* Mot. 17), the Amended Complaint states numerous overt acts taken in furtherance of this conspiracy. Plaintiffs allege Krinara and Raviratporn directed Boonruk and IT Outsourcing to receive and redistribute RoFx customer funds to assist in the Money Laundering Enterprise. *See supra* Section II.A.1 (explaining that Krinara and Raviratporn used Boonruk and IT Outsourcing to receive, launder, and fraudulently distribute illusory paper profits to RoFx customers in order to maintain the criminal conspiracy's aura of legitimacy and avoid detection for themselves and their co-conspirators). Taken together, these allegations provide compelling circumstantial evidence of the Moving Defendants' conscious agreement to join the conspiracy, their role, and the overt acts taken in furtherance of it. *See, e.g., Trinity Graphic, USA, Inc. v. Tervis Tumbler Co.*, 320 F. Supp. 3d 1285, 1297–98 (M.D. Fla. 2018) (citing *U.S. v. Baxter Int'l, Inc.*, 345 F.3d 866, 881–82 (11th Cir. 2003) (denying motion to dismiss conspiracy claims, observing that "general allegations about the nature of the conspiracy are sufficient, even under Rule 9(b)" and that it is sufficient for plaintiffs "to detail the relevant aspects of the underlying fraud . . . to explain the factual basis for concluding that defendants were aware of the fraud; and to explain the factual basis for determining that they substantially assisted"); *Raimbeault*, 2014 WL 5795187, at *14 ("The pleading standard must accommodate the reality that conspiracies take place behind closed doors.").

E. Counts V and VIII Adequately Allege Aiding and Abetting Claims for Fraud and Conversion

Pleading an aiding and abetting claim under Florida law requires (1) alleging an underlying tort, (2) that the defendant had knowledge of the tort, and (3) that the defendant provided substantial assistance to advance the commission of the tort. *See Chang v. JPMorgan Chase Bank,*

N.A., 845 F.3d 1087, 1097–98 (11th Cir. 2017). Plaintiffs must plead actual knowledge of the underlying tort, but alleging circumstantial evidence of actual knowledge is sufficient. *See Wiand v. Wells Fargo Bank*, 938 F. Supp. 2d 1238, 1245 (M.D. Fla. 2013). And the Eleventh Circuit explains that a defendant provides "substantial assistance" when it "affirmatively assists, helps conceal or fails to act when required to do so, thereby enabling the [tort] to occur." *Chang*, 845 F.3d at 1097–98.

The Moving Defendants contend the Amended Complaint is devoid of any factual allegations showing that the Moving Defendants actually knew of the underlying torts of fraud in Count V or conversion in Count VIII. Mot. 18. The Moving Defendants' regurgitated arguments fare no better here than when previously presented, as they are based on a complete misreading of Plaintiffs' allegations. First, Plaintiffs previously explained how the Amended Complaint's allegations and related inferences provide circumstantial evidence that the Moving Defendants actually knew of the RoFx Scheme. *See supra* pp. 2–3 & Section II.A.1. Second, Plaintiffs allege the Moving Defendants substantially assisted in the concealment of the fraud and conversion when Krinara and Raviratporn exercised their control over Boonruk and IT Outsourcing's bank accounts to provide the RoFx Operators the means to launder stolen funds throughout the global financial network and evading regulatory scrutiny. *See supra* pp. 2–3.

Plaintiffs have satisfied their burden at this early stage to plead aiding abetting claims against the Moving Defendants; the Motion should be denied as to Counts V and VIII. *See, e.g.*, *Belin v. Health Ins. Innovations, Inc.*, No. 19-61430-CIV, 2019 WL 9575236, at *9 (S.D. Fla. Oct. 22, 2019), *report and recommendation adopted*, 2019 WL 9575230 (S.D. Fla. Dec. 30, 2019) (denying motion to dismiss aiding and abetting claims because the allegations provided a strong inference of the defendant's knowledge of the scheme and the defendant substantially assisted the scheme's operators by dealing directly with victimized customers); *see also Trinity Graphic*, 320 F. Supp. 3d at 1296–97 (noting that gauging the substantiality of assistance for an aiding and abetting claim is generally inappropriate on a motion to dismiss).

F. Count IX Adequately Alleges an Unjust Enrichment Claim

A cause of action for unjust enrichment arises where the plaintiff has directly conferred a benefit on the defendant, who has knowledge of the benefit and voluntarily accepted and retained the benefit. *Fagan v. Central Bank of Cyprus*, No. 19-80239-CIV, 2021 WL 2845034, at *15 (S.D. Fla. June 28, 2021) (explaining that Florida courts have not specifically defined the term "benefit"

for purposes of an unjust enrichment claim, thereby deeming it an ambiguous term left to judicial interpretation). To hold for the plaintiffs on this claim, a court must find that the circumstances are such that it would be inequitable for the defendant to retain the benefit conferred without paying the value thereof. *Pupke v. McCabe*, No. 13-80860-CIV, 2014 WL 12621479, at *4 (S.D. Fla. Jan. 30, 2014). Retention of a benefit is inequitable when there is no value given in exchange for the benefit. *Pincus v. Am. Traffic Sols., Inc.*, 25 F. 4th 1339, 1341 (11th Cir. 2022).

The Moving Defendants contend, again with a recycled argument, that the Plaintiffs' allegations regarding conferred benefits are conclusory, and that the Amended Complaint provides no facts regarding the benefits conferred on the Moving Defendants specifically. Mot. 19.

Here, the Amended Complaint successfully states an unjust enrichment claim. The Amended Complaint incorporates specific factual allegations into Count IX, providing circumstantial evidence that Plaintiffs conferred benefits upon the Moving Defendants, who voluntarily accepted and retained the benefits. Am. Compl. ¶¶ 342–44. Specifically, both Boonruk and IT Outsourcing, under Krinara and Raviratporn's control, received large sums of RoFx customer funds and deducted a 2% service fee from those funds. *See supra* pp. 2–3 & Section II.A.1. As alleged in the Amended Complaint, retention of such funds would be inequitable because the Moving Defendants did not direct those funds to be used in profitable foreign exchange trading. Am. Compl. ¶ 345–47. Such allegations are sufficient at this stage of litigation to state a claim. *See Pupke*, 2014 WL 12621479, at *4.

CONCLUSION

The Moving Defendants' Motion is based on a selective reading of the allegations in the Amended Complaint. A proper read of the Amended Complaint reveals well-pled, detailed allegations about the Moving Defendants and the magnitude of their role in this fraudulent scheme—laundering more than $11 million across the globe. Accepting all allegations as true and construing facts in the light most favorable to the Plaintiffs, this Court should find that each of the Challenged Claims against the Moving Defendants are properly pled, and that it can properly assert personal jurisdiction over them because of their purposeful availment to Florida and the United States as a whole. Accordingly, the Motion should be denied in its entirety.

Dated: August 4, 2022.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on or about August 4, 2022, a true and accurate copy of Plaintiffs' Opposition to Boonruk Ruamkit Co. Ltd., IT Outsourcing Co. Ltd., Nattpemol Krinara, and Papahratsorn Raviratporn's Motion to Dismiss was served on counsel of record via the CM/ECF system. For parties that do not receive Notices of Electronic Filing, the undersigned further certifies that a copy of the foregoing documents was served upon Defendants at the addresses listed below via mail or as otherwise indicated:

Art Sea Group Ltd. Via publication on Plaintiffs' website	**Auro Advantages, LLC** Via publication on Plaintiffs' website
Easy Com, LLC c/o Registered Agent 159 Main Street, Unit 100, Nashua, NH 03060	**Marina Garda** Via publication on Plaintiffs' website
Global E-Advantages LLC c/o Registered Agent North West Registered Agent LLC 8 The Green, Suite B, Dover, DE 19901	**Grovee, LLC** c/o Registered Agent Delaware Business Incorporators 3422 Old Capitol Trail, Suite 700 Wilmington, DE 19808
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Notus, LLC c/o Registered Agent Colorado Registered Agent LLC 1942 Broadway Street, Suite 314C, Boulder, CO 80302	**Profit Media Group LP** 4 Queen Street, Suite 1, Edinburgh, GB, EH21JE
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