

Molsby & Bordner, LLP

1 ROBIN D. SHOFNER, ESQ. (272552)
shofner@mobolaw.com
2 **MOLSBY & BORDNER, LLP**
1830 15th Street, Suite 100
3 Sacramento, CA 95811
4 Tel: (916) 447-0529
Fax: (916) 848-3500

5 Attorney for Defendant:
6 DEBRI-TECH, INC.

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION**

10 REAM HOLDINGS, LLC, an Arizona limited liability company,) Case No.: 5:17-cv-00825-SVW-FFM
11 liability company,)
12)
13 Plaintiff,) **DEBRI-TECH, INC.’S ANSWER TO**
14 v.) **COMPLAINT**

15 3R INTERNATIONAL GROUP, INC., a)
16 California corporation dba E-Waste Recovery)
17 Center, ALL E WASTE, INC., a California)
18 corporation; ATTAN RECYCLING CORP., a)
19 California corporation; CEC ELECTRONIC)
20 WASTE RECYCLING, INC., a California)
21 corporation; DEBRI-TECH, INC., a California)
22 corporation; EWASTE CENTER, INC., a)
23 California corporation; GLOBAL SURPLUS)
24 SOLUTIONS, INC., a California corporation;)
25 GREENVIEW RESOURCE MANAGEMENT)
26 INC., a California corporation; KYO)
27 COMPUTER INC., a California corporation;)
28 WEST COAST RECYCLING, LLC dba)
MISSION RECYCLING, a California limited)
liability company,)
Defendants.)

27 Defendant DEBRI-TECH, INC. (DEBRI-TECH) by and through its attorney of record
28 MOLSBY & BORDNER, LLP, answers Plaintiff REAM HOLDINGS, LLC (Plaintiff)’s

Molsby & Bordner, LLP

1 Complaint for Damages as follows:

2 **THE PARTIES**

3 1. Paragraphs 1 through 17 – DEBRI-TECH lacks sufficient knowledge and
4 information to either admit or deny the allegations contained in Paragraphs 1 through 17 of the
5 Complaint and on this basis, denies the allegations of those Paragraphs.

6 2. Paragraph 18 – DEBRI-TECH admits the allegations contained in Paragraph 18
7 of the Complaint.

8 3. Paragraph 19 – DEBRI-TECH admits that at *some* relevant times it “was
9 engaged in the business of electronic waste recycling and disposal and authorized to collect,
10 treat, and recycle universal waste-EDs, CRTs, and CRT glass.” DEBRI-TECH lacks sufficient
11 knowledge and information to either admit or deny that it was “at *all* relevant times” engaged in
12 said business and authorized to collect such materials and on that basis, denies the allegation
13 contained in Paragraph 19 of the Complaint to the extent the word “all” is used (DEBRI-TECH
14 was the victim of embezzlement and document theft, which has resulted in the loss of
15 documents necessary to conclusively admit or deny this allegation).

16 4. Paragraph 20 – DEBRI-TECH admits that at *some* relevant times it was a
17 “participant in the CEW Program under which it received payment form the State of California
18 as an approved collector and/or recycler of electronic hazardous waste.” DEBRI-TECH lacks
19 sufficient knowledge and information to either admit or deny that it was “at *all* relevant times”
20 such a participant and collector and on that basis denies the allegation contained in Paragraph 20
21 of the Complaint to the extent the word “all” is used (DEBRI-TECH was the victim of
22 embezzlement and document theft, which has resulted in the loss of documents necessary to
23 conclusively admit or deny this allegation).

24 5. Paragraph 21 – DEBRI-TECH admits the allegation in Paragraph 21 of the
25 Complaint.

26 6. Paragraphs 22 through 42 – DEBRI-TECH lacks sufficient knowledge and
27 information to either admit or deny the allegations contained in Paragraphs 22 through 42 of the
28 Complaint and on this basis, denies the allegations of those Paragraphs.

Molsby & Bordner, LLP

**OVERVIEW OF CALIFORNIA’S COVERED ELECTRONIC WASTE
RECOVERY AND RECYCLING PROGRAM**

7. Paragraphs 43 through 49 contain legal conclusions to which no response is required. To the extent a response is deemed required, DEBRI-TECH denies the allegations contained in Paragraphs 43 through 49 of the Complaint.

STATEMENT OF THE CASE

8. Paragraph 50 – DEBRI-TECH admits that at *some* relevant times it “collected universal waste-electronic devices, including CRTs and CRT glass, which [it] shipped to intermediate facilities authorized to receive and further manage, process, and treat the CRTs and CRT glass before being shipped to foreign destinations for ultimate disposal.” DEBRI-TECH, however, denies that it was “at *all* relevant times” it collected such materials and shipped them to intermediate facilities (DEBRI-TECH was the victim of embezzlement and document theft, which has resulted in the loss of documents necessary to conclusively admit or deny this allegation).

9. Paragraph 51 – DEBRI-TECH lacks sufficient knowledge and information to either admit or deny the allegations contained in Paragraph 51 of the Complaint and on this basis, denies the allegations of that Paragraph.

10. Paragraph 52 – DEBRI-TECH admits the allegations contained in Paragraph 52 of the Complaint (DEBRI-TECH was the victim of embezzlement and document theft, which has resulted in the loss of documents necessary to conclusively admit or deny this allegation).

11. Paragraphs 53 through 54 – DEBRI-TECH lacks sufficient knowledge and information to either admit or deny the allegations contained in Paragraphs 53 through 54 of the Complaint and on this basis, denies the allegations of those Paragraphs.

12. Paragraphs 55 through 56 – DEBRI-TECH denies the allegations contained in Paragraphs 55 through 56 of the Complaint.

13. Paragraph 57 – DEBRI-TECH lacks sufficient knowledge and information to either admit or deny the allegations contained in Paragraph 57 and on this basis, denies the allegations of that Paragraph.

JURISDICTION AND VENUE

1
2 14. Paragraphs 58 through 60 – DEBRI-TECH lacks sufficient knowledge and
3 information to either admit or deny the allegations contained in Paragraphs 58 through 60 of the
4 Complaint and on this basis, denies the allegations of those Paragraphs.

5 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

6 15. Paragraph 61 – DEBRI-TECH admits that at *some* times between 2009 and 2013
7 it “participated in the CEW Program.” DEBRI-TECH lacks sufficient knowledge and
8 information to either admit or deny that from the *entire* period of 2009 through 2013, it was
9 such a participant and on that basis, denies the allegation contained in Paragraph 61 of the
10 Complaint to the extent the phrase “2009 to 2013” is used (DEBRI-TECH was the victim of
11 embezzlement and document theft, which has resulted in the loss of documents necessary to
12 conclusively admit or deny this allegation).

13 16. Paragraph 62 – DEBRI-TECH admits the allegations contained in Paragraph 62
14 of the Complaint.

15 17. Paragraphs 63 through 64 – DEBRI-TECH lacks sufficient knowledge and
16 information to either admit or deny the allegations contained in Paragraphs 63 through 64 of the
17 Complaint and on this basis, denies the allegations of those Paragraphs.

18 18. Paragraph 65 – DEBRI-TECH lacks sufficient knowledge and information to
19 either admit or deny the allegations contained in Paragraph 65 and on this basis, denies the
20 allegations of that Paragraph (DEBRI-TECH was the victim of embezzlement and document
21 theft, which has resulted in the loss of documents necessary to conclusively admit or deny this
22 allegation).

23 19. Paragraph 66 – DEBRI-TECH lacks sufficient knowledge and information to
24 either admit or deny the allegations contained in Paragraph 66 of the Complaint and on this
25 basis, denies the allegations of that Paragraph.

26 20. Paragraphs 67 through 70 – DEBRI-TECH denies the allegations contained in
27 Paragraphs 67 through 70 of the Complaint and on this basis, denies the allegations of those
28 Paragraphs.

Molsby & Bordner, LLP

Molsby & Bordner, LLP

1 21. Paragraph 71 – DEBRI-TECH lacks sufficient knowledge and information to
2 either admit or deny the allegations contained in Paragraph 71 and on this basis, denies the
3 allegations of that Paragraph.

4 **ENVIRONMENTAL RISKS POSED BY CRTs**

5 22. Paragraphs 72 through 75 – DEBRI-TECH lacks sufficient knowledge and
6 information to either admit or deny the allegations contained in Paragraphs 72 through 75 of the
7 Complaint and on this basis, denies the allegations of those Paragraphs.

8 **FIRST CAUSE OF ACTION – Negligence**

9 23. Paragraph 76 – DEBRI-TECH admits that Plaintiff realleges and incorporates by
10 reference paragraphs 1 through 75 of the Complaint but admits or denies the specific contents of
11 those paragraphs as set forth above.

12 24. Paragraph 77 – DEBRI-TECH admits that at *some* relevant times it was an
13 “approved collector in the CEW Program.” DEBRI-TECH lacks sufficient knowledge and
14 information to either admit or deny that it was “at *all* relevant times” such an approved collector
15 and on that basis denies the allegation contained in Paragraph 20 of the Complaint to the extent
16 the word “all” is used (DEBRI-TECH was the victim of embezzlement and document theft,
17 which has resulted in the loss of documents necessary to conclusively admit or deny this
18 allegation).

19 25. Paragraph 78 contains legal conclusions to which no response is required. To the
20 extent a response is deemed required, DEBRI-TECH denies the allegations contained in
21 Paragraph 78 of the Complaint.

22 26. Paragraph 79 – DEBRI-TECH admits that at *some* relevant times it was a
23 “participant in the CEW Program as [an] approved collector[] and/or recycler[], collecting and
24 cancelling CRTs and/or CRT -containing CEWs and dismantling them to be bare CRT, and
25 subsequently shipp[ed] them to DOW’s recycling facility.” DEBRI-TECH lacks sufficient
26 knowledge and information to either admit or deny that it was “at *all* times relevant” such a
27 participant and collector and on that basis denies the allegation contained in Paragraph 20 of the
28 Complaint to the extent the word “all” is used (DEBRI-TECH was the victim of embezzlement

Molsby & Bordner, LLP

1 and document theft, which has resulted in the loss of documents necessary to conclusively admit
2 or deny this allegation). DEBRIS-TECH also lacks sufficient information to either admit or
3 deny that DOW’s recycling facility is “located on Plaintiff’s Property” or that “Defendants had
4 shipped approximately five million pounds of treatment residual CRTs to DOW’s warehouse
5 facility” and on that basis, denies these allegations in that Paragraph.

6 27. Paragraph 80 – DEBRI-TECH admits the allegations contained in Paragraph 80
7 of the Complaint (DEBRI-TECH was the victim of embezzlement and document theft, which
8 has resulted in the loss of documents necessary to conclusively admit or deny this allegation).

9 28. Paragraph 81 – DEBRI-TECH lacks sufficient knowledge and information to
10 either admit or deny the allegations contained in Paragraph 81 of the Complaint and on this
11 basis, denies the allegations of that Paragraph.

12 29. Paragraphs 82 through 83 – DEBRI-TECH denies the allegations contained in
13 Paragraphs 82 through 83 of the Complaint.

14 30. Paragraphs 84 through 91 – DEBRI-TECH denies the allegations contained in
15 Paragraphs 84 through 91 of the Complaint.

16 **SECOND CAUSE OF ACTION – Trespass**

17 31. Paragraph 92 – DEBRI-TECH admits that Plaintiff realleges and incorporates by
18 reference paragraphs 1 through 91 of the Complaint but admits or denies the specific contents of
19 those paragraphs as set forth above.

20 32. Paragraph 93 – DEBRI-TECH denies the allegations contained in Paragraph 93
21 of the Complaint.

22 33. Paragraph 94 – DEBRI-TECH lacks sufficient knowledge and information to
23 either admit or deny the allegations contained in Paragraph 94 of the Complaint and on this
24 basis, denies the allegations of that Paragraph.

25 34. Paragraphs 95 through 100 – DEBRI-TECH denies the allegations contained in
26 Paragraphs 95 through 100 of the Complaint.

27 **THIRD CAUSE OF ACTION – Private Nuisance**

28 35. Paragraph 101 – DEBRI-TECH admits that Plaintiff realleges and incorporates

Molsby & Bordner, LLP

1 by reference paragraphs 1 through 100 of the Complaint but admits or denies the specific
2 contents of those paragraphs as set forth above.

3 36. Paragraphs 102 through 103 – DEBRI-TECH denies the allegations contained in
4 Paragraphs 102 through 103 of the Complaint.

5 37. Paragraph 104 – DEBRI-TECH lacks sufficient knowledge and information to
6 either admit or deny the allegations contained in Paragraph 104 of the Complaint and on this
7 basis, denies the allegations of that Paragraph.

8 38. Paragraphs 105 through 114 – DEBRI-TECH denies the allegations contained in
9 Paragraphs 105 through 114 of the Complaint.

10 **FOURTH CAUSE OF ACTION – Public Nuisance**

11 39. Paragraph 115 – DEBRI-TECH admits that Plaintiff realleges and incorporates
12 by reference paragraphs 1 through 114 of the Complaint but admits or denies the specific
13 contents of those paragraphs as set forth above.

14 40. Paragraphs 116 through 118 – DEBRI-TECH denies the allegations contained in
15 Paragraphs 116 through 118 of the Complaint.

16 41. Paragraph 119 – DEBRI-TECH lacks sufficient knowledge and information to
17 either admit or deny the allegations contained in Paragraph 119 of the Complaint and on this
18 basis, denies the allegations of that Paragraph.

19 42. Paragraphs 120 through 130 – DEBRI-TECH denies the allegations contained in
20 Paragraphs 120 through 130 of the Complaint.

21 **FIFTH CAUSE OF ACTION – Violation of CA Bus. & Prof. Code §§17200, et seq.**

22 43. Paragraph 131 – DEBRI-TECH admits that Plaintiff realleges and incorporates
23 by reference paragraphs 1 through 130 of the Complaint but admits or denies the specific
24 contents of those paragraphs as set forth above.

25 44. Paragraphs 132 through 138 – DEBRI-TECH denies the allegations contained in
26 Paragraphs 132 through 138 of the Complaint.

27 ///

28 ///

Molsby & Bordner, LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

As a first separate and affirmative defense, DEBRI-TECH alleges that the Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

As a second separate and affirmative defense, DEBRI-TECH alleges that each and every claim is barred by the doctrine of estoppel.

THIRD AFFIRMATIVE DEFENSE

As a third separate and affirmative defense, DEBRI-TECH alleges that each and every claim is barred by the doctrine of waiver.

FOURTH AFFIRMATIVE DEFENSE

As a fourth separate and affirmative defense, DEBRI-TECH alleges that Plaintiff's claims are barred by the equitable doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE

As a fifth separate and affirmative defense, DEBRI-TECH alleges that Plaintiff has failed to join necessary parties.

SIXTH AFFIRMATIVE DEFENSE

As an sixth separate and affirmative defense, DEBRI-TECH alleges that Plaintiff has assumed the risks and damages, if any, complained of in the Complaint.

SEVENTH AFFIRMATIVE DEFENSE

As a seventh separate and affirmative defense, DEBRI-TECH alleges that Plaintiff has failed to mitigate or attempt to mitigate damages, and if in fact any damages have been or will be sustained, any recovery by Plaintiff must be diminished or barred by reason thereof.

EIGHTH AFFIRMATIVE DEFENSE

As an eighth separate and affirmative defense, DEBRI-TECH alleges that Plaintiff failed to exercise the degree of care and diligence that would be exercised by a person or entity of reasonable prudence under the same circumstances, and was negligent, and thereby violated a positive legal duty in connection with the matters that are the subject of the Complaint.

Molsby & Bordner, LLP

1 Therefore, as a result of Plaintiff's contributory negligence, Plaintiff is barred, in whole or in
2 part, from obtaining any relief from DEBRI-TECH.

3 **NINTH AFFIRMATIVE DEFENSE**

4 As a ninth separate and affirmative defense, DEBRI-TECH alleges that Plaintiff or
5 entities other than DEBRI-TECH were negligent, at fault, and otherwise engaged in wrongful
6 conduct, and such negligence, fault, or wrongful conduct proximately caused or contributed to
7 the damages, if any, alleged in the Complaint. Therefore, recovery herein, if any, should be
8 reduced to the extent such damages were proximately caused by the negligence, fault, or
9 wrongful conduct of Plaintiff or such other entities.

10 **TENTH AFFIRMATIVE DEFENSE**

11 As a tenth separate and affirmative defense, DEBRI-TECH alleges that the damages, if
12 any, were proximately caused by unforeseeable, independent, intervening, and/or superseding
13 events beyond the control of and unrelated to any actions or conduct of DEBRI-TECH.

14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 As an eleventh separate and affirmative defense, DEBRI-TECH alleges that at all times,
16 DEBRI-TECH acted with due care, complied with all statutory, regulatory, and common law
17 requirements concerning the activities that are the subject of the Complaint, and otherwise
18 conducted itself responsibly under the circumstances.

19 **TWELFTH AFFIRMATIVE DEFENSE**

20 As a twelfth separate and affirmative defense, DEBRI-TECH alleges that Plaintiff
21 expressly and/or impliedly consented to any alleged conduct or actions of DEBRI-TECH.

22 **THIRETEENTH AFFIRMATIVE DEFENSE**

23 As a thirteenth separate and affirmative defense, DEBRI-TECH alleges that Plaintiff
24 lacks standing and/or capacity to sue.

25 **FOURTEENTHAFFIRMATIVE DEFENSE**

26 As a fourteenth separate and affirmative defense, DEBRI-TECH alleges that each and
27 every cause of action alleged by Plaintiff is barred by the applicable statute of limitations.

28 ///

FIFTEENTH AFFIRMATIVE DEFENSE

As a fifteenth separate and affirmative defense, DEBRI-TECH alleges that each and every act complained of by Plaintiff was performed by another party over whom DEBRI-TECH has not authority or control and that as a result, DEBRI-TECH is not liable for said acts.

ADDITIONAL AFFIRMATIVE DEFENSES

DEBRI-TECH reserves the right to assert other applicable affirmative defenses as may become available or apparent during discovery proceedings. DEBRI-TECH further reserves the right to amend its Answer and/or affirmative defenses accordingly and/or delete affirmative defenses that it determines are not applicable during the course of discovery proceedings.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff take nothing by the Complaint;
2. For dismissal of the Complaint with prejudice; and
3. For any other relief the Court may deem just and proper.

Dated: July 7, 2017

MOLSBY & BORDNER, LLP

/s/ Robin D. Shofner
 Robin D. Shofner, Esq.
 Attorney of Record for:
 Defendant DEBRI-TECH, INC.

Molsby & Bordner, LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28